

**Carolyn Gowing 10/25/2023**

*IP Vol 1 and 2 - General Comment - Entire Plan*

We have had to put up with Zply for a number of years. Have had techs out to our house to address the extreme slow internet, have been told sorry you're at the end of the line..meaning slow slow internet..have had it down for days.. contact the company to be told there's absolutely was no outage. There was an outage, a subcontractor cut the line by accident and many were without. Zply took over a week to send techs out to find the cut line. I then had to fight to get credit on the bill, because they wouldn't admit to the outage!! Zply basically ignored many people complaining and gave lip service to "satisfy". Apparently there was a more important outage in Washington that took precedence. Daily buffering and more buffering to try to do most everything. Maddening!! Sent from my iPad

**Sherry MaupinValley County Commissioner 10/12/2023**

*IP Vol 1 and 2 - General Comment - Entire Plan*

Members, Counties are hearing of more and more online programs that will be required from the State. The DMV and drivers' licenses are moving steadily toward all online services. This puts a tremendous strain on rural Idaho that is already suffering from a shortage in available broadband capacity. Residents are encouraged to view property tax statements, look at GIS pages for road maintenance schedules etc. We are asking residents to go online to work interactively with State government, all with limited areas of broadband. Please continue to make this a top priority for funding rural Idaho to upgrade available broadband services.

**Patti Spaulding 10/8/2023**

*IP Vol 1 and 2 - General Comment - Entire Plan*

"I have Sparklight in Star. It constantly freezes, has no connection at times. The price is ridiculous \$78.25 for the bandwidth, 600 mps. Because of so many internet sites, it becomes difficult to get any leverage in pricing and performance. I would welcome a solution for the city of Star and/or area Treasure Valley.

Thanks for resident's input."

**Nikea Jones 10/20/2023**

*IP Vol 1 and 2 - General Comment - Entire Plan*

Being an Idaho resident we have limited resources as far as the Internet with only 2 providers to choose from as far as being able to afford the monthly rates. And the bandwidth isn't exactly what we pay for. We only have one fiber line coming in from Grand View Idaho to Owyhee Nevada and it isn't reliable because sometimes construction workers cut the fiber line and it cuts down our fiber connection in Southern Idaho, Owyhee County, Idaho. And we have to wait for hours for it to be repaired and for us to have service again.

**John Grimm, AMI Machining, Inc. 10/6/2023**

*IP Vol 1 and 2 - General Comment - Entire Plan*

"My Name is John Grimm,

I am qualified to comment on this subject based on the following:

I am a seasoned IT administrator; for the past 30 years, I have built and maintained the communications network for my company. Before broadband was routinely available, I built an ISP that served a large metropolitan area; we offered ISDN business connections, web hosting, DNS, Email, etc. I later sold that business to a larger ISP. I am experienced in the networking requirements for TCP/IP. UDP, all primary network protocols DNS, etc, and other advanced protocols such as SIP/VOIP, Database, Video, RDP, etc.

The definitions of "broadband" and whether an area is served are woefully outdated and becoming increasingly so by the minute. As an employer, I routinely have employees who work from home; their ability to adequately perform tasks is directly related to their ISP's level of service and quality. File sharing, teleconferencing, and especially database operations are adversely impacted primarily by latency.

Recommendations:

Speed requirements should be a minimum of 50/50 Mbps, emphasizing symmetry.

An area should be considered underserved when available speeds are less than 100/100

An area is underserved when symmetrical connections are unavailable.

Within five years, an area will be underserved at speeds of less than 500/500

Latency in all cases must be less than 50ms loaded and 10ms unloaded.

The above requirements need to be properly specified. Merely requiring an end user's screenshot of speed and latency needs to be corrected. The condition for testing should be from the on-prem equipment or customer router to the final point of the ISP backbone connection for regional providers. For national providers, the test would be to the nearest significant peering connection.

These requirements are well within the capabilities of all properly managed fiber, wireless, low-altitude satellite, and cable service providers.

Set these requirements, and the ISP's will meet them; even spectrum will be able to provide this level of service should they be adequately pressured to do so.

Sincerely,"

**Jim Bob Infanger 10/5/2023**

*IP Vol 1 and 2 - General Comment - Entire Plan*

"I am Jim Bob Infanger and I live in Salmon Idaho. I have lived here all my life. I have two children that would like to live by us. We are only a few miles from the main office for Century Link. I want to voice my frustration with Century. century link used to have 12 employees locally. They have cut it back to two employees. They give nothing back to the community. They charge for high speed internet but living just a couple miles from town it's slow slow speeds. They take weeks to do any locates. They don't have fiber to anyone.

I hope the board considers Custer tel. Exact opposite company. Best service anywhere and fiber to every doorstep. They are a co op so they give everything back to the community. .

We need high speed internet worse than anyone. We are very remote. This broadband would help create jobs for the community and very little impact n the rest of the services in the valley.

With high speed internet I think my kids who work from home would consider moving home.

Please keep us in formed"

**Jason Taylor, IBEW Local 291 10/6/2023**

*IP Vol 2, Section 2.7.1*

"Letter (b)It begins "... The IOB will require information on applicants for subgrants... "

This section goes on to say "... , at minimum, information on compliance with federal labor and employment laws by those entities regarding broadband deployment.. "

IBEW Local 291 has the following comment and suggestion:

This section creates a wide carve out to allow entities with a poor history of compliance in industries other than broadband roll-out, such as telecommunications repair or replacement work, line or energy installation and repair, or anything else widely considered to be the work of organizations who will be considering these grants.

We would recommend changing this section to require applying entities to provide all information regarding their compliance and performance under federal labor and employment standards. "

**Jason Taylor, IBEW Local 291 10/6/2023**

*IP Vol 2, Section 2.16.2*

"Letter (b)

It begins "... The Inclusion of claw back provisions.. "

In this section the Proposal speaks to failures to meet performance guidelines as a mechanism to create claw backs for sub grantees.

IBEW Local 291 has the following comments and suggestions:

Claw back provisions that include labor standards, or other/all violations of qualifying measurements under the BEAD qualifying standards.

Provisions that include claw back standards for primary grantees as well as sub grantees of the program.

The program has extensive mention of labor standards and fair employment methods. Leaving grantees without any penalty for violating those standards, especially those grantees with no prior experience in the industry or no history to measure, provides no resource should any of the commitments, especially the forward commitments asked for would be detrimental to ensuring that the labor standards are upheld throughout the course of the effort.

Thanks in advance for your time and consideration.

**Ariane Shafer, GFiber "Public Policy & Government Affairs" 10/9/2023**

*IP Vol 1 and 2 - General Comment - Entire Plan*

"Dear Ramon and the Idaho Broadband Team,

Google Fiber is pleased to submit the recommendations below for Idaho broadband leaders to consider as you structure your BEAD Five-Year Action Plans and Initial and Final Proposals. We would be happy to meet over the following weeks to discuss any questions or ways GFiber can support implementation of these efforts.

Google Fiber is an Alphabet company that brings GFiber and GFiber Webpass internet services to homes and businesses across the United States. Our mission is to deliver fast, reliable, fairly priced, and open internet service—using the best technologies, methods, and people to accomplish that. We continue to develop better ways to build out internet infrastructure and are actively expanding our network in both our existing markets and in entirely new ones. Visit our website, at [fiber.google.com](http://fiber.google.com), to learn more.

Over the past decade, GFiber has launched gigabit-speed internet service in nearly 20 major metropolitan areas, setting a new standard for internet speeds, climbing to the top of industry rankings in customer satisfaction, injecting meaningful competition into a fossilized industry, and driving other providers to upgrade the speeds and service they offer their customers.

As a company that has long been a leader and innovator in broadband deployment and access, and one that believes that choice and competition in the broadband space create a rising tide that lifts all boats, we believe there are several infrastructure and deployment policies that will help broadband leaders achieve their goal of bringing affordable, high-quality internet access to all residents. Removing barriers for broadband deployment will help stakeholders bring connectivity to as many households as possible – more quickly and with less disruption.

The following six recommendations answer a straightforward question: What can state broadband leaders do right now to remove barriers for broadband deployment? We hope you will find these suggestions helpful as you continue to expand broadband access across your state.

#### 1. Work with State 811 One Call Center to Address Locates Constraints

811 is the national phone number designated by the Federal Communications Commission that connects professionals and homeowners with their local One Call Center. In many states, the 811 One Call Center is a non-profit organization mainly funded by the member facility owners and managed by a board of directors. Their motto is “Call Before You Dig.”

Each state’s 811 center requires that all utility companies, and anyone else who has infrastructure in the ground, mark their assets before a new excavation project occurs in the same area. You might have seen orange or pink temporary paint on streets and sidewalks, or sometimes little marker flags in the softscape – these markings and other identifiers are part of what is known as the utility “locates” process. Locates are marked to protect public safety and avoid accidents that may result from new construction disrupting underground facilities like gas or water lines.

The current locates system is not designed to handle the vast amount of new project work anticipated in the next few years. Accordingly, to avoid delays and major problems, key stakeholders will need to

develop new solutions. Given the workforce constraints across the industry, it is no surprise that there is also a shortage of locator personnel. It will be imperative to limit unnecessary locates as well as ensure locators are given additional time to prepare. We recommend updating the existing locates process to accommodate the increased construction activity and improving practices and processes to protect communities and maintain public safety. We suggest the following:

Discuss best practices with new deployers including the following:

Ask new excavators for regular participation with the Utility Coordinating Committee (UCC) meetings in the local areas where they are deploying.

Ask the excavators coming into the state to take the state's free 811 training prior to creating tickets. Every state has some kind of training in their specific laws, and with so many broadband deployers and sub-contractors crossing state borders to work, understanding the nuances should be promoted.

Suggest pre-construction meetings between operator/excavator and locators for large projects. Also encourage mandatory notifications from the operators/excavators to peer utilities/locators that establish paths and schedules through each leg of the project.

Encourage Data sharing between the State and 811.

In an effort to avoid delays, and before the commencement of construction, the State Broadband Office should share with the State's 811 center the locations where publicly funded projects are going to be built. The State could even share this information before awards are announced since the location is what matters in the locates process, not who the broadband deployer is. This can be particularly important in rural areas where gas and water lines may be older, and the facility owner may need additional time to prepare to map the asset. With this location information, the State 811 can provide outreach to members within the communities where the work is taking place – providing a much-needed “heads up” to let smaller entities know what's coming.

Consider using broadband funding to support the locates process.

Consider grant funding for in-house locators in municipalities as well as for utilities that may see a temporary influx of infrastructure deployment. Small and rural utilities are likely to feel the most

pressure. Also consider a standardized template for communities to use to ensure that the vendors they are hiring align with the state's deployment goals.

Continue Partnerships between State 811 Centers and State Broadband Offices.

With the arrival of new construction crews coming in from other states, it is crucial that they know the best practices and how to safely operate in the state.

Consider including a one-page summary written by the State 811 advising the winning recipients of the basic steps to ensure safe digging across the state.

Consider a joint effort to modernize 811's technology. Provide opportunities for network builders to "see" in real-time, all locate requests submitted and the status for each. Reporting chronic damagers would also be useful information for companies who make decisions about vendor hiring and risks associated with third-party projects.

Hold regular meetings between the State 811 and State Broadband Office to discuss ongoing broadband deployment rollout and best practices.

## 2. Streamline Permitting: Create Standardized Resources for Cities and Counties to Simplify the Permitting Process

Permitting is one of the biggest challenges to broadband deployment. Long and opaque permitting processes delay broadband deployment and are a disincentive for providers to come to your state. To streamline the permitting process, you can encourage (and possibly fund) efforts to:

Create an online one-stop shop for submitting permits.

Streamline the application, inspection, and review process. Urge local governments to identify a single point of contact within one department to coordinate all approvals. This will make it easier for broadband deployers to get the permits they need.

Arrange regular meetings with broadband deployers to escalate concerns before they become issues. This will strengthen the partnership between communities and broadband deployers and help avoid problems for residents before they arise.

Support automatic online tracking tools to ensure all tracking on a single system. The system would include permits, inspections, traffic control specifications, and other city requirements. This will make it easier for broadband deployers and their vendors to adhere to all necessary requirements.

Distribute a model “requirements checklist” to local governments for them to use when broadband deployers try to engage. Insight into the entire process is critical.

### 3. Promote Broadband Choice and Competition for Multifamily Property Residents

Residents of apartment buildings are familiar with the “welcome folder” that greets them upon moving in: it contains information on trash and recycling pick-up, how to turn on the gas, and how to set up their internet. While there might be multiple Internet Service Providers (ISPs) in the building, residents are often presented with only one option—and this is no accident. A single ISP has likely paid a sizable amount to the building owner to ensure the residents are aware of only one option. This is often known as an exclusive marketing agreement.

Exclusive marketing agreements hurt consumers by limiting choice and disincentivizing competition. We urge state leaders to encourage transparency by restricting ISPs’ ability to implement these agreements when they have been awarded public funding. We encourage state leaders to create model agreements that ISPs and multifamily property owners can use that are free from these restrictions.

### 4. Assign a Designated State Official to Liaise with Cities on Broadband Build-Out

To help support cities, the state should designate a liaison to coordinate with cities on broadband build-outs, best practices in permitting, and guidance on navigating general challenges. Permits help ensure public safety by reducing potential hazards of unsafe construction. Each permit needs to be approved by the local permitting office and, right now, many municipal offices are understaffed and under-resourced. When permitting offices cannot keep up with the number of permits—as is often the case with city-wide deployments—they slow down construction.

### 5. Create and Promote a State and Local Government “Broadband Innovation Resource List” to Keep Cities and Counties Up to Date on the Latest Technological Developments

There are a number of deployment innovations that can be used to expand broadband access. Encourage communities in your state to consider innovative deployment processes and construction techniques, such as microtrenching, that speed deployment and cut construction time. Not every deployment method is the right fit for every community, so communities should ask the broadband deployer to see examples of past deployments and come prepared with questions.

Supporting innovation can also include flexibility in building locations. This could mean having city officials available to meet a construction crew on short notice for a redesign approval. It will almost always be helpful to engage the city public works teams early, and promoting investment in faster networks that are built to last may require an “all of the above” deployment strategy.

#### 6. Set up a State-County-City Task Force that Meets Regularly to Share Information and Troubleshoot Issues

This unprecedented effort to connect every household will require information sharing. A taskforce can discuss best practices, brainstorm solutions, and share timely updates.

#### Final Thoughts

To close the digital divide, we need close partnership among state broadband leaders, local governments, and broadband deployers. With historic investment in broadband deployment, partnerships will help meet immediate connectivity and affordability needs. But our goals are aligned – bring connectivity to as many households as possible, and as quickly as possible."

#### **Nancy Mitchell, United States Infrastructure Corporation (USIC) 10/12/2023**

##### *IP Vol 1 and 2 - General Comment - Entire Plan*

"I am writing to express concern over what appears to be a lack of focus by state broadband offices on ensuring the underground utility locating resources necessary for supporting broadband infrastructure deployment over the next five years. As state broadband offices develop, refine, and implement their five-year action plans for administering Broadband Equity, Access, and Deployment (BEAD) Program funds, the need to address utility locating resources is imperative.

Upon reviewing the BEAD initial proposals and five-year action plans submitted to date, we at USIC, the nation's leader in underground utility damage prevention, believe it is important to bring attention to the need to ensure sufficient utility locating resources for supporting broadband deployment. This is an essential step in ensuring the safety of excavators and our communities and the ability to maintain stringent project timelines required by federal grants. The stakes are high, and mitigating the potential risks will require collaboration between state broadband offices, National Telecommunications and Information Administration Federal Program Officers, internet service providers (ISP), utilities, and contract utility locators.

USIC provides utility locating services for more than 1,400 utilities across 48 states with a team of more than 10,000 highly trained, skilled technicians. Our ability to increase staffing levels in support of BEAD

Program infrastructure deployment will rely on the accessibility of project forecasts by ISPs and their contractors, especially in rural areas.

Our technicians undergo six weeks of training to become certified and up to six months of on-the-job training to become proficient. Additionally, USIC is challenged in recruiting qualified candidates, like all American industries, by a shortage of skilled workers. According to the Bureau of Labor Statistics job openings report for August 2023, there were nearly one million job openings in construction and manufacturing and about 9.6 million open jobs overall.

As USIC focuses on building our workforce to meet increased demand driven by record infrastructure investment, we are working to develop collaborative partnerships with state broadband offices and ISPs with the goal of ensuring sufficient resources for performing the underground utility locating required for the safe deployment of broadband infrastructure. As such, I would appreciate the opportunity to meet with your state's broadband leaders.

Please contact me at 423.580.2802 or [nancymitchell@usicllc.com](mailto:nancymitchell@usicllc.com) with any questions and to arrange a meeting.

Thank you,"

**Eyler White 10/20/2023**

*IP Vol 1 and 2 - General Comment - Entire Plan*

"Hi,

I support the BEAD program. As a resident of Clearwater County near Orofino, my family and many of my neighbors struggle with slow(6mbps or less), expensive(\$100 or more a month plus startup costs for satellite), or intermittent internet connectivity issues. A hardwired internet connection such as fiber or equivalent that could provide 100mbps -1gbps download speeds for less than \$100 dollars a month is necessary to keep up with technology, education and my current employment situation.

Please take this comment into consideration to provide broadband access to the underserved rural lands of Clearwater County outside of the rural towns.

Sincerely,

Eyler White"

**Colten Davis 10/20/2023**

*IP Vol 1 and 2 - General Comment - Entire Plan*

"To Whom It May Concern,

I wanted to submit a few comments regarding the Broadband Proposal's Vol 1 and 2.

I'm a homeowner in rural Star. There is fiber only 2 miles down the road, but our neighborhood was built almost 30 years ago with no conduit, and only copper DSL lines for phone/internet service. No ISP has any plans to work with us because we are existing homes, spread out over the hills of star. Our neighborhood had 315 homes, a significant amount of willing customers should a ISP decide to invest in us.

I think for us homeowners, and individuals seeking access to broadband, there needs to be a clear definition of what is considered unserved vs under served. For example, our neighborhood does have access to broadband via the following: copper DSL phone lines with speeds of maybe 1-5 Mbps download/1 Mbps upload, unlicensed fixed-point wireless with speeds marketed at 100 Mbps down/20 Mbps up ( however, numerous homeowners have challenged that on the FCC map, speeds are not even close to what the map shows ), and satellite providers such as Hughes Net, Viasat and Space X where speeds vary.

My comment is: what services are ignored when considering if an area is unserved or under served? I do see in Vol1 that it says ""In accordance with the BEAD NOFO, locations that 1) are served exclusively by satellite, 2) are using an entirely unlicensed spectrum, 3) are served by a technology not specified by the FCC for the National Broadband Map, or 4) have high latency connections, do not meet the criteria for Reliable Broadband Service and so are considered by the IOB to be unserved""

By that definition, my neighborhood meets several of that criteria: 1 ) The only fixed point wireless options are unlicensed, 2) We have 2 satellite providers, 3 ) Both our DSL, satellite and fixed point wireless options all have high latency. So If I'm understanding correctly, we are considered ""unserved"" entirely.

Please ensure that there is enough communication so non-technical people can understand what type of area they are in.

As a homeowner, I would also like a simple form that would help our neighborhood pursue funding and connect us with local ISPs willing to apply for funding on our behalf and work with us. This process cannot be hidden behind politics or government paperwork etc. Make it accessible and easy for the layman to apply. I guarantee the FCC map doesn't show all the unserved and under served areas, nothing is perfect.

Thank you for your time.

Regards,

Colten Davis"

**Carolee Cleveland 10/20/2023**

*IP Vol 1 and 2 - General Comment - Entire Plan*

Being an Idaho resident we have limited resources as far as the Internet with only 2 providers to choose from as far as being able to afford the monthly rates. And the bandwidth isn't exactly what we pay for. We only have one fiber line coming in from Grand View Idaho to Owyhee Nevada and it isn't reliable because sometimes construction workers cut the fiber line and it cuts down our fiber connection in Southern Idaho, Owyhee County, Idaho. And we have to wait for hours for it to be repaired and for us to have service again.

**Clay Hirning, IBEW Local 449 Business Manager 10/11/2023**

*IP Vol 2 - General Comment - Entire Plan*

"On behalf of the 3,622 active members of the International Brotherhood of Electrical Workers (IBEW) in the state of Idaho, I write to respectfully submit the IBEW's comments on the state's plan to implement the federal Broadband Equity, Access and Deployment (BEAD) program.

As you know, BEAD represents the critical buildout of the telecommunications network called for in the Bipartisan Infrastructure Law and its \$65 billion investment in expanding high-speed internet access and adoption.

Nationally, the IBEW represents approximately 39,000 permanent employees working for telecommunications companies as well as thousands of construction workers who perform contract work for internet service providers. Historically playing a significant role in the telecommunications industry, the IBEW is one of the largest labor unions representing workers for incumbent local exchange carrier providers, the largest building trade in the telecommunications sector, and as a labor representative for workers manufacturing and assembling telecommunications equipment. IBEW's reach extends to every corner of the United States, representing workers in multiple other industries such as railroad, utility, broadcasting, and government.

**Comments on Labor Standards**

With such a widespread available workforce, the IBEW has the membership depth to complete the state of Idaho buildout, indeed addressing one of the biggest challenges states report in accomplishing the goals of BEAD: the shortage of trained and skilled workers. According to the Initial Proposal, Volume 2, the state is only considering the subgrantee's fair labor practices history as 10% percent of its score. The IBEW believes this should have a much higher priority. Specifically, the IBEW submits that to be eligible, subgrantees must demonstrate consistent past compliance with federal labor and employment laws and written disclosure of any violations.

The Initial Proposal, Volume 2, stipulates that the state will not mandate any of the following labor protections:

- Using a directly employed workforce, as opposed to a subcontracted workforce
- Using project labor agreements (i.e., pre-hire collective bargaining agreements between unions and contractors that government terms and conditions of employment for all workers on a construction project)
- Commitments to union neutrality
- Use of labor peace agreements

The IBEW firmly believes that the state should mandate these labor standards for grantees and subgrantees that receive BEAD funds.

The IBEW believes that the state should favor grantees and subgrantees that will employ unionized residents of Idaho and be wary of grantees and subgrantees that plan to subcontract a significant portion of the BEAD work, particularly if they will subcontract it to an out-of-state, nonunion company. The IBEW also believes that the state should include claw-back provisions (i.e., provisions allowing recoupment of funds previously disbursed) in agreements between the Eligible Entity and any subgrantee in the event a subgrantee violates the labor provisions contained your initial proposal.

#### Background from other IBEW BEAD priorities

Requirements of the BEAD Program include documented, certified consultation and coordination with labor unions, labor law compliance and a highly skilled workforce. The use of prevailing wages is strongly suggested, along with a workforce trained via registered apprenticeship programs. The IBEW and its construction-employer partners are the largest private sector trainer of electrical workers in the United States, jointly operating nearly 300 construction training centers in the United States. This partnership invests \$200 million annually on training, at no cost to participants or taxpayers.

The BEAD Program also encourages the use of labor peace agreements. As the Bipartisan Infrastructure Law makes clear that it is in the public interest for broadband infrastructure to be built expeditiously and in a way that ensures reliability and resilience, labor peace agreements protect employers against labor disputes to ensure that projects are completed on-time and on-budget.

The IBEW is the largest utility sector labor union in the United States, representing approximately 250,000 workers directly employed by public utility districts, investor owned and municipal utilities or utility cooperatives. IBEW members in this sector have a high level of familiarity and expertise with middle-mile broadband infrastructure, which is often utilized by electrical utilities to provide communications systems to monitor and support the reliable delivery of electricity and other critical utility services.

The IBEW has made great strides in recruiting historically underrepresented populations. The union's success in membership inclusion and diversity is borne out in a comprehensive nationwide 2022 survey that found that the number of Black and Hispanic members has doubled over the past five years. A quarter of all Black IBEW members are female and 1 in 3 active male apprentices identify as minority.

IBEW members look forward to working with Idaho to create good-paying jobs through the once-in-a-generation investment closing the digital divide. Please contact International Representative Rodney James via phone at 208-220-7020 or by email at [Rodney\\_James@ibew.org](mailto:Rodney_James@ibew.org). Together, we can ensure that all citizens of Idaho have access to affordable, reliable high-speed broadband and a network worthy of the 21st century."

**Danae Wilson 10/24/2023**

*IP Vol 1, Section 1.4*

"Page 16, #2.b:

Increase Challenge processes to 30 days

Page 16, Table 2

Add Speed Test Module"

**Danae Wilson 10/24/2023**

*IP Vol 2, Section 2.3.2*

"Page 17:

#7. Tribal Implementation; Support

Please add a #6. Assist Tribes with Railroad applications, permitting, insurance, etc."

**Danae Wilson 10/24/2023**

*IP Vol 2, Section 2.4.1*

"Page 18:

Application Intake Process

Add a #6. Tribal Boundaries - where any application includes Tribal lands a resolution of consent to claim service on those lands must be included with the application. The application should include the resolution of consent, the Tribal Employment Right's Office (TERO) plan and cultural or environmental review3

Page 20:

Table 4, Application Review Process

Add Tribal Consent to the bulleted list"

**Danae Wilson 10/24/2023**

*IP Vol 2, Section 2.4.2*

"Page 25:

Primary Scoring Criteria Broadband Projects

Secondary Criteria

Decrease Speed of Network & Other Technical capabilities to 2.5%

Increase Tribal Lands Inclusion to 7.5%

Page 28:

Table 10 adjust values to meet the 2.5 points

Page 29:

Table 12; Amend as follows

Coordination & Consultation 3

Change Letter of Support to Resolution of Consent and increase the points to 4.5

Page 33:

Primary Scoring Criteria Last Mile Broadband Projects

Secondary Criteria; Table 16

Decrease Speed of Network & Other Technical capabilities to 2.5%

Page 35:

Primary Scoring Criteria Last Mile Broadband Projects

Secondary Criteria; Table 16

Increase Tribal Coordination to 7.5%

Change Letter of Support to Resolution of Consent

Increase the points to 7.5

Page 36:

Decrease points for Speed of Network & other technical capabilities to 2.5

Page 37:

Increase points for Tribal Coordination to 7.5

Change Letter of Support to Resolution of Consent

Page 37:

Table 20; Amend as follows

Coordination & Consultation 3

Change Letter of Support to Resolution of Consent and increase the points to 4.5"

**Danae Wilson 10/24/2023**

*IP Vol 2, Section 2.4.11*

"Page 45:

B. Letter of Credit

List the waiver process for Tribes, companies servicing Tribal lands and partnerships with Tribes."

**Sarah Lawrence State of Idaho GIS Analyst, IT Services 11/2/2023**

*IP Vol 1, Section 1.2.1*

"IOB has compiled two Comma Separated Value (CSV) files" There's no mention that these files are of Tribal Land locations. Are these .csv in addition to the attachment requirements described in The BEAD Initial Proposal Guidance? Also, are these attachments Idaho Broadband GIS Team action items?

BEAD Initial Proposal Guidance:

1.2.1 Attachment: As a required attachment, submit one CSV file with the location IDs of each unserved location including unserved locations in applicable Tribal Lands.

1.2.2 Attachment: As a required attachment, submit one CSV file with the location IDs of each "

**Sarah Lawrence State of Idaho GIS Analyst, IT Services 11/2/2023**

*IP Vol 1, Section 1.2.1*

See above

**Sarah Lawrence State of Idaho GIS Analyst, IT Services 11/2/2023**

*IP Vol 1, Section 1.2*

Figures 1 and 2 should use the Web Mercator, IDTM83 projection to fix Idaho's tilt. We suggest a different type of map (or an additional one) to represent Idaho's broadband environment more clearly.

**Sarah Lawrence State of Idaho GIS Analyst, IT Services 11/2/2023**

*IP Vol 1, Section 1.3*

" Community Anchor Institutions (CAIs): possibly use the icons in the BEAD Initial Proposal Guidance?

Page 13: "The IOB strongly recommends that organizations review this draft list of CAIs to ensure that your organization, which meets the definition outlined above, is included in this list. If it is not, please review the challenge process guidance below on how to include the location as a CAI." Instead of only recommending that people with CAI types are not listed, we also recommend that any CAI visit the CAI map (how will the public access that?) to see if their particular CAI is listed.

We have not had a chance to compare FCC CAI's to data received from Datamark, Library Commission, etc.

Where is the 'draft list of CAI's'? (Requirement 1.3.2)

Page 14: Highly suggest choosing to utilize optional Module 3, the Speed Test Modification.

""The Reid Consulting Group and other parties, including Microsoft, have developed robust algorithms to reliably identify actual broadband availability. RCG utilizes Ookla Speedtest Intelligence data due to the large quantity of consumer-initiated tests."" (<https://broadbandbreakfast.com/2023/06/tom-reid-accountability-in-broadband-maps-necessary-for-bead-to-achieve-mission/>)

""Such methodologies offer State Broadband Leaders the opportunity to reverse the burden of proof in the BEAD program, requiring that ISPs submit concrete evidence supporting their availability and speed claims."" (<https://broadbandbreakfast.com/2023/06/tom-reid-accountability-in-broadband-maps-necessary-for-bead-to-achieve-mission/>)

A proposed speed test methodology has already been provided. Ookla's document has been adopted by West Virginia and possibly already approved by Jeff at NTIA. This methodology would assist in navigating the very specific guidelines of accepting speed test data and allow for additional bsl locations in the fabric.

Page 15: Permissible changes should include identification of missing BSLs

Page 16: "The eligible, and ineligible (served) locations will be published via a publicly accessible map on the existing linkup.idaho.gov website. This map is expected to go live to the public prior to on opening of the state's challenge process." Is this an Idaho Broadband GIS action item? "

**Sarah Lawrence State of Idaho GIS Analyst, IT Services 11/2/2023**

*IP Vol 1, Section 1.4.6*

"Page 20: Suggest including the Speed Test Requirements, in section 1.4.6 of the BEAD Model Challenge Process Challenge Process Timeline: "The Eligible Entity is encouraged to extend the submission and rebuttal window, as possible, based on the Eligible Entity's preferred timelines and capacity. The timeline must also include a plan to ensure that:

a. The proposed challenge process will be completed within 120 days, starting with the initiation of the challenge submission window;

b. The proposed challenge process will allow a minimum challenge submission window of at least 14 days;

c. The proposed challenge process will include a minimum 14-day window to file a rebuttal after the challenge is available on the challenge portal;

d. Following approval by NTIA, the proposed challenge process will publicly post final classification of eligible locations after resolving each challenge, at least 60 days before allocating grant funds for network deployment.

The underlined (starting the 120-day clock at the initiation of the Challenge Phase) may possibly allow for 10 additional days.

(For calculating the tentative dates) Suggest submitting Initial Proposals as late as possible (Dec. 27th) to put Idaho further back in queue for having the Initial Proposal approved. This may allow for the use of June 30th FCC fabric release which is, according to the BEAD Initial Proposal Guidance, ""encouraged to use if it is released within 60 days of proposal approval"" "

**Sarah Lawrence State of Idaho GIS Analyst, IT Services 11/2/2023**

*IP Vol 2, Section 2.3.2*

"Page 12: Statewide Stakeholder Asset Inventory (opportunity for Broadband GIS team?)

Page 14: 2.3.2 Text Box is duplicated "

**Sarah Lawrence State of Idaho GIS Analyst, IT Services 11/2/2023**

*IP Vol 2, Section 2.4*

Page 18: "the IOB will publish a list of eligible locations for applicants to choose when applying for BEAD funding." The GIS team could assist with pre-bundling locations for determining service borders. (relates to Section 2.4.7 on Page 42 as well)

**Sarah Lawrence State of Idaho GIS Analyst, IT Services 11/2/2023**

*IP Vol 2, Section 2.4.7*

"Page 43: Suggest using a cost model created in house instead of "the Extremely High Cost Per Location Threshold tool from NTIA to help determine the threshold." "

**Sarah Lawrence State of Idaho GIS Analyst, IT Services 11/2/2023**

*IP Vol 2, Section 2.11*

"Page 74-76: Figures should use the Web Mercator, IDTM83 projection to fix Idaho's tilt. "

**Niels Olsen III 10/24/2023**

*IP Vol 1 and 2 - General Comment - Entire Plan*

"The speed limit for home Internet is horrible for Idahoans, especially rural communities with no wired options. The cost is prohibitive for most people who have low incomes as well, but it's more expensive for slower speeds using equipment that is absolutely capable of achieving better speeds if enabled, but the companies are still charging high costs for these lower speeds. This is so counterintuitive because they synthetically limit their bandwidth for no good reasons other than cost, but it clearly can be better.

The deployment of new equipment and technology is exceptionally slow and even in my recent home purchase, which has a fiber connection, the speed is less for a higher cost than my family has in homes that don't even have a fiber connection.

As for the BEAD requirements, there is a huge disparity in cost and quality of connectivity in just a short distance of travel, from one community to the next. While I have one of the best options and experiences in the area, people just a few miles away have a huge disadvantage because these options

just aren't available to them. This means they pay the same for less than one quarter of what I expect to see on my own network."

**Niels Olsen III 10/24/2023**

*IP Vol 2, Section 2.8*

The workforce readiness (IP Vol II - 2.8) is not on par with other regions. Idaho should have people trained and paid to do better than they currently have. I am a computer and network engineer and when I call for support, I am often more knowledgeable than the person who answers my call but yet they're more certified than myself. I know many in the local industry and they aren't paid enough to stay in their current position. They can't afford the cost of living in a cheap area such as Idaho

**Scott Ziegler 10/27/2023**

*IP Vol 1 and 2 - General Comment - Entire Plan*

"We live approximately 1.23 miles south of Salmon, Idaho. Our Internet provider is Century Link.

When we initially signed up with Century, our service was fairly good and reliable. However, in recent years (I would say the last 3-4 years), our service is periodically spotty and/or non-existent. We are without Internet service, sometimes for three days at a time, and approximately 2-3 times a year. We are told that Century has not upgraded its equipment at the local office in order to provide adequate service. When we are required to call for customer service due to an Internet outage, our calls go to a central office (somewhere in the Midwest), and we have to wait until the problem can be addressed. At one time, we had two repairmen to service this very large area, but we were down to one the last we knew.

In addition, our service is very slow. We would never be able to stream a TV program, and often can't see videos on the Internet, without constant buffering. Quite often we don't get a strong enough signal to run our printer (which I am told is a different problem).

We have had to discontinue paperless statements on various accounts in case we do not have Internet access."

**Colin Andrews Telecommunications Industry Association (TIA) Senior Director, Government Affairs  
10/27/2023**

*IP Vol 2 - General Comment - Entire Plan*

"Dear Idaho Broadband Advisory Board and Idaho Office of Broadband;

The Telecommunications Industry Association ("TIA") appreciates the opportunity to

submit these comments regarding volume 2 of Idaho's Initial Proposal, as required under the National Telecommunications and Information Administration's ("NTIA") Broadband Equity Access and Deployment ("BEAD") program. TIA is the leading trade association for the information and communications technology ("ICT") industry, representing companies that manufacture or supply the products and services used by the owners and operators of communications networks across all technology platforms. TIA is both a standards development organization ("SDO") and an advocate for the ICT industry. As such, TIA and our members are working towards the shared goal of connecting every American with high-speed, resilient, secure, and reliable broadband networks. To that end, TIA has developed the first-ever ICT industry standard for supply chain risk management and cyber security – SCS 9001TM. Utilizing the SCS 9001 standard can:

1. Empower the state/EE with a comprehensive and systematic approach to evaluate the responses received from potential sub-grantees.
2. Provide clear guidance to each prospective sub-grantee on the expected elements when outlining their C/SCRM plans.
3. Enable the state/EE to showcase their compliance with the requirements outlined in the NOFO to the NTIA.

Access to broadband services has never been more central to American life, and the investments under the BEAD program offers a historic opportunity to connect Americans in unserved and underserved communities. Companies providing broadband service using BEAD funding must deploy networks that provide consumers with the high speeds needed to thrive in our society, with resiliency and security built into them. It is no secret that we are in an era of increasing cyber attacks on the ICT industry, both from sophisticated non-state and government adversaries. This rising threat comes with growing costs for industry and governments – A recent industry report found that a single data breach can cost a company just shy of \$10 million on average in 2022.<sup>1</sup> Additionally, innovation across all sectors increasingly rely on open-source platforms to enable rapid prototyping and deployment, interoperability, and cost savings. Opensource code is also often co-created by multiple developers with a range of expertise and without security oversight or standardization. In 2022, more than 80% of analyzed open-source code

contained at least one vulnerability, with more than 50% having high-risk vulnerabilities.<sup>2</sup> NTIA understood these concerns when drafting their NoFO for the BEAD program last year and, for the first time, required subgrantees to adopt plans focused on Cybersecurity and Supply Chain Risk Management (“SCRM”) in order to receive BEAD funding. States and federal territories, as Eligible Entities (“EEs”), will have to require subgrantees to attest that these plans are operational and public by the time an award is granted.<sup>2</sup> Requiring subgrantees to have operational cyber and SCRM plans is essential to ensuring that networks are built with Infrastructure Cybersecurity, the standards and controls from Executive Order 14028, NISTIR 8276 Key Practices in Cyber Supply Chain Risk Management: Observations from Industry, and NIST 800-161 Cybersecurity Supply Chain Risk Management Practices for Systems and Organizations. Taken together, these documents constitute over 400 pages of guidance that subgrantees must adhere to in order to receive BEAD funding. Although comprehensive, these four documents do not provide a clear and concise methodology for organizing and evaluating a sub-grantee’s SCRM plan. TIA’s SCS 9001™ Supply Chain Security Management System, aligns very well with NTIA’s intent and the requirements outlined in the four referenced documents and will allow for precise measuring and certifying of performance.

In addition to requiring guidance from existing federal cyber and SCRM documents, the NoFO requires the subgrantee’s cyber and SCRM plans to be reevaluated “on a periodic basis” and ensure that the plans meet the latest version of the federal security documents listed in the NoFO.<sup>4</sup> This requirement means that EEs will be required to review and audit subgrantees for compliance with existing federal requirements cited by the NoFO on a routine basis. As each EE will most likely have multiple sub-grantees and several prospective sub-grantees vying for an award, having a single methodology to evaluate alignment versus the standard and compare responses will be of great value. Building a SCRM checklist of specific requirements, captured from the four referenced documents, into the Final Proposal will enable each potential subgrantee to make a clear and concise response and allow the EE to compare and contrast responses more easily.

Over fifty EEs will have to implement cyber and SCRM requirements for BEAD funding that align with these four federal documents, as well as determine how compliance will be

audited. As such, we strongly believe that a standard set of guidance on security will simplify EEs' requirements under the BEAD NoFO and promote the construction of secure networks in jurisdictions across the country. Cyber threats do not discriminate based on state lines, and all EEs would benefit from ensuring that networks built in their localities using BEAD funding are built to the best industry-led standard regarding security. Additionally, utilizing standardized security requirements will ensure that an EE has robust competition during the application process, as potential subgrantees will benefit from a universal methodology to follow when applying for BEAD funding to build networks in potentially dozens of statewide requests. As an SDO that has developed hundreds of standards for building networks, TIA has focused on using standards to add transparency to the ICT supply chain and standardize ICT security. That led us to create SCS 9001 – The ICT industry's first standard focused on the ICT supply chain. SCS 9001 is a certifiable standard developed by the ICT industry. SCS 9001 is a cyber and supply chain security management standard developed by members of the ICT industry for the ICT industry. SCS 9001 was developed to provide assurance of the proper operational hygiene of network operators and vendors in delivering products and services that are inherently more secure. Additionally, there is precedence for governments requiring certification to standards -- after consultation with the U.S. Departments of Commerce and the Resiliency. Still, given the multitude of jurisdictions that will be building networks across the country with BEAD funding, TIA urges states to consider a standardized approach to ensuring BEAD cyber and SCRM requirements are met.

In the NoFO's section on Cybersecurity and SCRM, NTIA seeks to impose baseline security requirements for subgrantees and allows EEs to adopt additional rules as they see fit.<sup>3</sup> The NoFO requires all subgrantees to establish cyber and SCRM plans which, among other requirements, must map to the provisions of four existing government documents: the National Institute of Standards and Technology's ("NIST") Framework for Improving Critical State Department, Costa Rica released security guidelines requiring certification to SCS 9001 for their new 5G network builds.

SCS 9001 contains 116 high-level requirements with most being multi-part. When fully considered, there are over 750 individual requirements. Further, SCS 9001 contains 60 controls

and also specifies seven measurements for those organizations electing to participate in TIA's Industry Benchmarking program.

SCS 9001 was developed to help evaluate and provide higher assurance that vendors:

- ☐ operate their businesses with integrity, transparency, and trust,
- ☐ conduct all aspects of operations with a high level of security consideration,
- ☐ develop products and services with security built in from conception and considered throughout the entire product lifecycle and
- ☐ have made requisite investments to support products through their entire lifecycle, including the ability to quickly identify, mitigate and resolve vulnerabilities found post-deployment.

Most importantly, SCS 9001 is a standard that already works to operationalize existing government initiatives, including the four documents cited by the NoFO. By certifying to SCS 9001, subgrantees can demonstrate that they've taken steps to operationalize their cyber and SCRM plans in line with NTIA's intent to ensure projects funded by BEAD are deployed in a transparent, accountable, and, above all, secure manner. SCS 9001 certification scales in relation to an entity's size and operational complexity, meaning certification would work for large internet service providers ("ISPs") and smaller, more regional ISPs. A subgrantee's certification would also meet the NoFO's requirements to demonstrate the "technical capabilities of the subgrantee"<sup>5</sup> while fulfilling an EE's requirement of "ensuring that subgrantees are competent"<sup>6</sup> as they will have already completed certification for cyber and SCRM baseline requirements within SCS 9001. EEs could also utilize SCS 9001's routine audits as part of an entity's certification that could be used as a basis for a state's need to "conduct audits of subgrantees" to show that cyber and SCRM plans remain up to date and operationalized.<sup>7</sup>

TIA believes that a subgrantee's certification to SCS 9001 will satisfy the security requirements of the BEAD NoFO while aiding potential subgrantees by offering clarity for how these requirements can be met statewide and nationwide. SCS 9001 furthers the idea that security must be built in by design rather than bolted on as an afterthought, and a subgrantee that has met the comprehensive requirements of the standard will have met the needs of most if not every, state administering BEAD programs. Similarly, mapping the security requirements for BEAD

funding to SCS 9001 allows EEs to manage the NoFO's auditing obligations more uniformly as the SCS 9001 certification process includes routine audits which would satisfy a state's need to "conduct audits of subgrantees" cyber and SCRM plans as opposed to solely relying on a selfattestation."

**Colleen Rosson Shoshone County Grants Administrator 10/26/2023**

*IP Vol 2, Section 2.4.11*

"Volume 2 states: "An irrevocable standby letter of credit which the IOB considers to be acceptable shall be obtained by every applicant prior to any subgrantee agreement and shall comprise no less than 25% of the award amount." This requirement appears to require a letter of credit related to the match requirement. Given the Shoshone County, among other areas in Idaho has already received a NTIA waiver of the match as a High-Cost area requirement, a letter of credit should not be required.

IOB states: "IOB will submit a draft Requests for Proposals for deployment projects, and narrative to crosswalk against requirements in the Deployment Subgrantee Qualifications section." Shoshone County recommends that IOB does not delay the Application process with a non-official RFP process."

**Colleen Rosson Shoshone County Grants Administrator 10/26/2023**

*IP Vol 2, Section 2.4.6*

It appears that IOB is not defining project areas but is allowing prospective subgrantees to define project areas on their applications. By not defining project areas, IOB is not enabling universal broadband especially in the most unserved and poverty ridden areas in Idaho, including Shoshone County. Past state and federal grants programs supporting qualified broadband service have not brought service to Shoshone as providers have cherry picked other areas in Idaho to serve with qualified broadband service. Shoshone County advocates that IOB should designate project areas for BEAD prospective subgrantees by geographic boundaries such as county or census block and require prospective subgrantees to serve all unserved, underserved, and CAIs with qualified broadband service.

**Colleen Rosson Shoshone County Grants Administrator 10/26/2023**

*IP Vol 2, Section 2.4.1*

"Shoshone County recommends that Project Areas are developed by IOB which enabled all locations to be served by qualified broadband service. As such, a "one size fits all" is not a tenable approach to achieve universal service throughout Idaho. Shoshone County advocates the county or census block are the appropriate Project Areas for Shoshone to be established for Idaho.

IOB states: "the IOB plans to award grants in a single round to encourage applicants to put their final, best offer forward for a project areas". Shoshone County recommends two grant rounds. The first

round would prioritize Priority Broadband Projects and the second round for Other Last Mile Broadband Deployment Projects subject to the Extremely High-Cost Threshold."

**Colleen Rosson Shoshone County Grants Administrator 10/26/2023**

*IP Vol 2, Section 2.12.1*

"Shoshone County recommends IOB define several more basic plan characteristics with the Low-Cost Broadband Service Option:

1. Waiver of all installation fees
2. Refundable service credits for outages over 24 hours
3. Rate stability for 5 years after deployment"

**Tara Thue AT&T President, Mountain & Desert States, AT&T External & Legislative Affairs 10/27/2023**

*IP Vol 1, Section 1.4*

IOB adopted much of the guidance and requirements outlined in the NTIA model challenge process; however, under IOB's proposal, challengers have only 15 days to submit a challenge from the time the initial posting of eligible locations, CAIs, and existing enforceable commitments. Similarly, in the rebuttal phase, challengers have only 15 days from notification of a challenge to provide the IOB with rebuttal information. As outlined in the BEAD Notice of Funding Opportunity (NOFO), states are encouraged to develop a transparent, evidence-based, fair, and expeditious challenge process under which a local government, nonprofit or broadband service provider can challenge the set of locations eligible for BEAD funding or locations considered as served as determined by the state in the BEAD-IP[1]. As noted in the NTIA Policy Notice, states are encouraged to consider adopting longer submission and rebuttal windows and NTIA strongly recommends keeping both the challenge submission window and rebuttal window open for at least 30 days. Thus, based on NTIA's guidance, AT&T recommends that the timeline for the both the challenge and rebuttal phases be kept open for at least 30 days to allow providers sufficient time to submit their responses.

**Tara Thue AT&T President, Mountain & Desert States, AT&T External & Legislative Affairs 10/27/2023**

*IP Vol 2, Section 2.4.2*

"AT&T is concerned with the proposed scoring methodology and the recommendation to offer specific plans with a particular rate. The proposed affordability scoring methodology favors service packages for the gigabit symmetrical service to be priced at certain "affordable" rates with applicants receiving 15 points if the cost of the gigabit symmetrical service package is less than \$70 per month (including all taxes and fees) using a sliding scale system to score applications that provide 1Gbps/1Gbps symmetrical services from \$70 or more per month. Applications for non-fiber to the premise service (i.e., 100/20

Mbps service) will receive the full 15 points if the 100/20 Mbps service package is less than \$50 per month.

There is no statutory basis in the Internet Investment and Jobs Act (IIJA) for the affordability scoring requirement. The IOB should not prescribe broadband service rates in implementing the BEAD program. Instead, the IOB should score and rank applicants' proposed prices against the FCC's urban broadband benchmark rate for the Gigabit Tier for applicants proposing fiber to the premise Priority Broadband Projects or the 100/20 Mbps Tier for non-fiber to the premise Last-Mile Broadband Deployment Projects, because the FCC urban rate benchmark provides a simple and objective competitive price reference. The urban rate benchmark thus reflects competitive rates in competitive urban areas. Using the benchmark rates to score and rank the relative affordability of applicants' Gigabit Tier prices will ensure that applications proposing lower rates – in fact, rates that are lower in BEAD-areas than the urban rate benchmark – will score higher than applications proposing rates on par and above urban areas. Furthermore, this scoring methodology will thus help to ensure that consumers in BEAD-supported areas have access to Gigabit Tier service at rates that are reasonably comparable to rates charged for similar services in urban areas – that are, in other words, affordable.

Even though IOB has mostly adopted the NTIA model low-cost broadband service option, AT&T recommends that in implementing NTIA's guidance, IOB should recognize providers' needed flexibility for future price changes, especially if the obligation to offer the low-cost broadband service option extends for the duration of the useful life of the BEAD-funded network assets. Therefore, IOB should be careful to avoid inflexibly locking in prices without accommodating changes in costs and broader economic conditions. Price locks for extended periods, such as 20 years, are unprecedented and would clearly be a form of unnecessary and intrusive rate regulation. Over such a time period, providers are likely, and should be encouraged, to increase speeds and would otherwise be expected to make price changes in the normal course of business.

For the middle-class affordability requirement, IOB should not adopt an approach that would regulate broadband service rates. The IIJA does not permit broadband service rate regulation,<sup>[2]</sup> nor does the IIJA provide an independent grant of authority to states to regulate broadband rates. Indeed, states are preempted from regulated broadband rates.<sup>[3]</sup> As NTIA's IP September 2023 Guidance makes clear, this means that states may not mandate that ISPs receiving BEAD funding have specific internet service tiers priced at specific levels, nor may they otherwise regulate the specific rates charged for internet service.

To ensure that a BEAD-funded network's service area provides high-quality broadband service to all middle-class consumers at reasonable prices, IOB should utilize approaches that encourage multiple providers to compete for BEAD funding. Robust competition in the BEAD funding process will help to ensure that all consumers in BEAD-funded areas gain access to high-quality, high-speed internet service at affordable prices while also helping to ensure that BEAD dollars get improved broadband service to as many people who need it as possible. Finally, IOB should not rigidly adopt all the middle-class affordability strategies suggested in the NOFO. A state's obligation under this requirement is to develop a plan or strategy to help ensure middle-class affordability, not to regulate broadband rates or service tiers (which states are not permitted to do in any event.)

Based on that, AT&T recommends that IOB implement this obligation by focusing on strategies that promote affordable options without increasing deployment costs or reducing incentives for provider

participation. Discouraging providers from competing for BEAD dollars may ultimately deny consumers who most need improvements in broadband service the intended benefits of the program.

AT&T would also like to highlight that retention of the specific rates and terms requirement or requirement for applicants to obtain IOB approval for a higher pre-determined rate would be unfair to providers and is contrary to good public policy. Most importantly, the IOB should recognize providers need for reasonable flexibility for future price changes, especially considering conditions outside the control of providers, such as inflation, taxes, labor, marketplace, and supply chain challenges. Thus, the inflexible model of locking prices for an extended and unknown duration will discourage provider participation. Robust provider participation is both crucial to ensuring the program's cost-effectiveness and to the expeditious deployment of new broadband to Idaho residents without adequate access today.

NTIA stated that the highest priority of the BEAD program is to connect all remaining Unserved and Underserved households and that they are looking for Initial Proposals that encourage broad participation and deliver the most efficient and cost-effective proposals. Proposals that engage in forms of indirect rate regulation ultimately are counterproductive because they will discourage participation and drive-up costs, threatening the achievement of the primary objective—making high speed broadband universally available to all households in Idaho. Therefore, NTIA may not approve a state Initial Proposal that includes any form of price regulation. [4]

Finally, regarding scoring for open access, AT&T also recommends that the IOB refrain from awarding points for open access commitments. Prioritizing applications that include strict and inflexible government mandated open access would ultimately discourage broad and robust provider participation for government funding by making the economic case for deployment in unserved and underserved areas even more difficult than it already is. The BEAD program presents an historic opportunity to close the digital divide, once and for all, but only if sufficient private capital is invested to match the BEAD dollars. "

**Amelia De Jesus Wireless Infrastructure Association Vice President, Workforce Solutions 10/31/2023**

*IP Vol 2 - General Comment - Entire Plan*

"The Wireless Infrastructure Association (WIA) appreciates the opportunity to submit comments to the Initial Proposal Volume II (Volume II) submitted by the Idaho Office of Broadband, as required under the Broadband Equity, Access, and Deployment Program (BEAD).

WIA represents the companies that make up the wireless broadband infrastructure ecosystem in the United States. Our members are the businesses that develop, build, own, and operate that nation's wireless broadband infrastructure, including connecting it all with fiber. WIA member companies include wireless carriers, infrastructure providers, and professional services firms that collectively own and operate more than 135,000 telecommunications facilities around the globe and employ tens of thousands of people.

The combination of major government and private investment in broadband and 5G is creating opportunities in scores of entry-level and more advanced occupations in planning, building, maintaining,

and supporting these networks. The negative side of this opportunity is that there is a major skills gap that must be addressed, and it is not just in the initial and entry level functions of construction."

**Amelia De Jesus Wireless Infrastructure Association Vice President, Workforce Solutions 10/31/2023**

*IP Vol 2, Section 2.8*

"As the draft of Volume II says on page 61: "the IOB must address the critical shortage of a skilled and diverse workforce."

All over the country WIA members and our partners in related industries are encountering the same three broadband workforce challenges:

- a shortage of skilled labor.
- the well-developed training and educational workforce ecosystems in each state do not address telecommunications.
- the companies that build and operate our telecommunications networks do not have a history of cooperating amongst themselves at the state and regional levels in workforce matters, much less with government.

A successful broadband workforce plan requires that these three challenges be overcome. BEAD provides that opportunity.

NTIA recognized these challenges by requiring each state to develop a comprehensive broadband workforce plan and submit it for approval in Volume II. WIA would like to offer its support and assistance to help Idaho address these challenges -- and take full advantage of this opportunity to create attractive careers in an important American industry for citizens of the state. "

**Amelia De Jesus Wireless Infrastructure Association Vice President, Workforce Solutions 10/31/2023**

*IP Vol 2, Section 2.8*

"A. WIA's Workforce Experience

WIA as Trusted Industry Advisor and Intermediary -- WIA is offering its technical and industry expertise to states as they develop their broadband workforce training and education plans for BEAD funding. The overriding vision of WIA's broadband workforce initiative is to attract new students and workers to the broadband workforce, build a diverse and highly-skilled broadband workforce that encompasses the fundamental knowledge base required by a rapidly changing technology landscape, develop specific occupation credentials that are relevant to the changing job demands and criteria, and provide pre-apprentice and apprentice training that result in quality, sustainable broadband jobs required by industry.

WIA's Years of Workforce Experience – WIA is officially recognized by the US Department of Labor (DOL) as the National Sponsor of Apprenticeship in telecommunications. WIA is the designated Industry Intermediary in the field. DOL has significantly contributed to WIA's leadership of the Telecommunications Industry Registered Apprenticeship Program ([www.TIRAP.org](http://www.TIRAP.org)), which now has over 101 telecommunications employers all over the country sponsoring apprenticeships in one or more of the fifteen (15) DOL-approved apprenticeship occupations. Other associations, the Fiber Broadband Association (FBA) and the Power & Communications Contractors Association (PCCA,) are both partners and active members of TIRAP. WIA has also developed a library of over thirty-five (35) telecommunications and broadband courses, which its experts and those it has trained teach all over the country.

Prior to the initiation of BEAD, WIA got a head start in statewide broadband/5G workforce development by helping Ohio develop a successful model of a state-driven telecommunications/broadband workforce program. In September 2021, Ohio Lt. Governor Husted announced the establishment of the Ohio Broadband & 5G Sector Partnership. The Sector Partnership is housed at The Ohio State University with leadership from WIA as the Industry Intermediary, and with full participation by the relevant state workforce agencies.

Since the partnership was launched, Ohio has announced 11 new programs across the state. These programs are located at career centers, colleges, and universities, and will prepare participants for a variety of jobs in the telecommunications industry. The Sector Partnership continues to lead the development and distribution of additional education and training programs across the state. Here is a link to a brief video describing the program Ohio Broadband & 5G Sector Partnership with WIA and Ohio State University. Ohio's Broadband and 5G Workforce Strategy Report is also available: [Broadband & 5G Workforce Strategy Report](#).

Ohio is proposing to spend over five percent (5%) of its statewide BEAD deployment funding allocation on expanding the workforce programs designed to date.

#### B. Background to WIA's concerns

##### 1. Telecommunications is a complex industry with scores of occupations and multiple career paths

WIA is in the process of developing our own comprehensive set of career pathways online tools. When it is complete (early next year), it will be helpful to those outside the industry in understanding the large number of jobs in the three other categories we use in addition to "building": "planning" (design, procurement, real estate, etc.), "operating" (network operations, testing, maintenance, security, etc.), and "support" (finance, customer service, etc.). Each of those has tiers based on skills and experience.

This complexity and richness of opportunity is quite different than what seems to be reflected in initial discussions of broadband workforce matters which tend to have a much narrower focus on entry-level construction and electrical occupations.

##### 2. The current workforce training and education system does not include telecommunications

In Idaho, like almost every other state, the current workforce training and education ecosystem has very little to do with telecommunications. This result is no one's fault; it is an accident of history. Other industries have worked closely with the state system over the years. For a variety of reasons,

telecommunications has not. Indeed, the detailed list of partners on page 72 of the Five-Year Action Plan does not mention the telecommunications industry."

**Amelia De Jesus Wireless Infrastructure Association Vice President, Workforce Solutions 10/31/2023**

*IP Vol 2, Section 2.8*

"3. Proposed Action Falls Short; Volume 2 does not propose a plan

BEAD provides an opportunity and the resources to address this workforce challenge. Indeed, the Five-Year Action Plan says a detailed workforce plan needs to be developed. And NTIA has called for each state to submit a workforce plan. But Volume II provides no details or suggested resources. It seems to be leaving the creation of the plan to other organizations to create at some indeterminate point in the future. Volume II makes it quite clear that Idaho agrees with NTIA that workforce is a "Deployment Activity" (page 83). And there is excellent discussion of the issues to be addressed in a combination of the Action Plan and Volume II. We were therefore disappointed not to see specific actions to address workforce issues described.

We suggest that the solution is not to create something new, but to find the most rapid and efficient ways to embed telecommunications in Idaho's existing education and training system. We think that starts with leadership: a partnership between the broadband industry and the appropriate leaders from the Idaho workforce ecosystem."

**Amelia De Jesus Wireless Infrastructure Association Vice President, Workforce Solutions 10/31/2023**

*IP Vol 2, Section 2.8*

"C. Comments on Funding Workforce

1. Broadband funding and sector partnership

Idaho has been spending funds to deploy broadband for several years. The Action Plan provided a comprehensive listing of these expenditures. What is new about BEAD is that it allows the state to propose and spend a percentage of broadband deployment money on workforce activities.

As NTIA clearly states in its workforce instructions<sup>2</sup> to states, the first critical component of a state broadband workforce plan is establishing a sectoral partnership with industry leadership. As noted above, unlike many other industries which have developed effective partnerships with the workforce and training ecosystem over time, telecommunications companies are not in the habit of cooperating amongst themselves or looking to state government for assistance in employment matters. Our experience is that it takes time and effort at the national and state levels to develop cooperative action with and among the industry. Therefore, we suggest that a key piece of the workforce plan needs to be providing the resources to organize and lead the ongoing cooperation of the companies that build and operate these systems to ensure their full participation. The selection of WIA to perform this role has worked well in Ohio.

2. Spending deployment funds on workforce

NTIA has explicitly stated that expenditures on workforce development fall into the “deployment” category. The NTIA BEAD NOFO makes it clear that workforce is a first priority deployment activity, on the same level as physical network deployment. The definitions used in Volume II show that Idaho agrees with this analysis.

“Deployment Activities - These funds will be used for broadband deployment, including construction and acquisition of infrastructure and workforce preparation/training.” (Volume II, page 83).

This tracks the NTIA NOFO for BEAD which on pages 39 and 40 creates two categories of allowable spending in each state’s action plan. The first category is “last mile broadband deployment projects.” The second category is “non-deployment uses” . On page 39 the NOFO sets forth the “eligible uses of funding in connection with last-mile broadband deployment projects”, listing eight specific activities, of which the last two are “training for cybersecurity professionals who will be working on BEAD-funded networks”, and “workforce development, including registered apprenticeships and pre-apprenticeships . . .”

Under the heading that follows of “Non-Deployment Uses,” the NOFO indicates on page 39 “an Eligible Entity that can demonstrate it has a plan for bringing affordable, high-speed broadband service to all unserved and underserved locations within its jurisdiction may also allocate funding to non-deployment activities.” The NOFO goes on to list 12 specific activities related to the use of broadband networks, such as digital equity. This category does not include workforce, broadband deployment, or network management skills. Thus, workforce programs are considered “broadband deployment projects.”

Volume II states that after considering the cost to deploy broadband service to unserved/underserved locations, the IOB made the decision not to subgrant for non-deployment activities. But as discussed here, NTIA does not require that this decision apply to expenditures on workforce.

While NTIA requires each state to submit a workforce plan, and that plan can be funded in whole by BEAD, the specific amounts are left up to each state to propose. But WIA respectfully suggests that the absence of a plan and the absence of resources to fund it is not consistent with the NOFO or the challenge facing us.

We respectfully suggest that Idaho rethink its tentative decision to put off a workforce development plan. We expand on our thoughts in this regard later in these comments."

**Amelia De Jesus Wireless Infrastructure Association Vice President, Workforce Solutions 10/31/2023**

*IP Vol 2, Workforce Aspects*

"B. Suggestions on Workforce Aspects of Volume 2

1. Comments and Concerns with Volume II’s Workforce Section

Our primary concern is that Volume II does not offer a broadband workforce plan, much less fund it. There is discussion on page 13 of a “Workforce Development Focus Group,” comments about partnering with the Idaho Workforce Development Council, and a reference to ISP3 roundtables. On page 61, Volume II states: “The IOB and its subgrantees shall make appropriate investments in developing a

suitable, diversified workforce for the tasks required to be performed to meet the labor demand of this BEAD Program.”

The discussion on page 71 about workforce development covers most of the high-level issues to be addressed by a workforce plan. But then no detail is provided.

The rapid expansion of the workforce and training system into telecommunications that is required to meet broadband workforce needs can only be accomplished successfully if the training, education, and industry agencies and organizations that are stakeholders are both brought to the table together and provided with the appropriate resources. Once the gaps, structures, and content needs have been addressed, success requires a similar kind of effort focused on distribution and implementation with local outlets like community colleges, workforce training centers, community organizations, and the like.

We would be delighted to partner with Idaho to coordinate the multilevel participation of the broadband industry in a new sector partnership to accomplish this. We suggest developing a proposed workforce plan by following the workforce priorities NTIA has given to the states.

## 2. Proposing an Approach to Embedding Telecommunications in the Existing Idaho Workforce Ecosystem; the NTIA priorities

### a. NTIA’s Three Priorities

NTIA’s guidelines for BEAD workforce plans are based on years of successful workforce practice around the country. The NTIA handbook on workforce development plans includes on page 47, a “Best Practices Checklist for Telecommunications Training and Workforce Development Programs” Guide [https://broadbandusa.ntia.doc.gov/sites/default/files/2022-10/DOC\\_NTIA\\_Workforce%20Planning%20Guide\\_FINAL\\_100722.pdf](https://broadbandusa.ntia.doc.gov/sites/default/files/2022-10/DOC_NTIA_Workforce%20Planning%20Guide_FINAL_100722.pdf)). The top three priorities it lists are:

1. “Industry-led sector partnership”
2. “Employer-led curriculum development”
3. “Utilize proven earn and learn models like Registered Apprenticeships.”

The workforce program WIA proposes is led by these three priorities, refined, and improved from our experience in Ohio with its broadband/5G workforce program and our conversations with other states about BEAD. WIA would be honored to partner with Idaho, and specifically work with the Workforce Development Council, institutions of higher learning, and the other partners specifically listed on page 72 of the Action Plan to build and implement a statewide broadband workforce program based on the critical connections needed between employers, academia, and government. We suggest such a plan would:

- Design and implement outreach initiatives to raise awareness of the industry and careers in it.
- Align high-quality work-based learning (WBL) programs with state education-to-occupation pathway priorities.
- Translate the industry demand for skilled workforce and competencies and map that to existing and new educational degree and non-degree programs.

- Address diversity needs head-on through careful attention to each step of the pipeline from community to advancing in good-paying job and career pathway for growth opportunities.

Based on best practices from our own experience and what we are seeing around the country, we are working on detailed programmatic and budgetary suggestions for workforce development. Our suggestions are quite consistent with the “Goals and Objectives” for the workforce development plan that were described in the Action Plan (see page 71). We will be pleased to submit those for your consideration in the near future.

b. “Industry-led sector partnership”

An industry-led sector partnership is the first priority on NTIA’s Best Practices Checklist for state broadband workforce plans. This needs to start at the state level with all the key parties represented. We respectfully suggest that an entity be established that will develop and implement the statewide strategy to produce the right talent at the right capacity and at the right time. The creation of a Broadband and 5G Sector Partnership, or statewide Coordinating Committee, would accomplish that objective. This could be a program of the Workforce Development Council or some other construct that you find efficacious. In Ohio, the partnership is chaired by the Lieutenant Governor’s office. This leadership group brings together government, education, and industry (represented by WIA), and funds each of them with the resources they need to participate fully.

Such a central leadership entity will accelerate the introduction of telecommunications into state education and training ecosystems. It will reduce duplicative efforts among regions while encouraging regional partnerships to be forged when the local parties are ready to do so. Doing so will allow regions to complement strengths and mitigate weaknesses, share assets and burdens, and distribute best practices to stakeholders across the state. This proposed Sector Partnership should be led by an industry intermediary that understands the industry, education, and government – and the mandate to remain technology-neutral. WIA has a successful track record in leading industry side of the sector partnership in Ohio. We would be honored to replicate that role in Idaho.

As discussed below, it should be a long-term goal of the program to create local/regional sector-based partnerships to attract and train, retain, or transition to meet local workforce needs and increase high-quality job opportunities over time. Please see: Ohio’s Broadband and 5G Workforce Strategy Report: <https://broadband.ohio.gov/explore-broadband/strengthening-ohios-broadband-5g-workforce/strengthening-ohios-broadband-5g-workforce>

Volume II in several places points to the need for sectoral partnerships and industry leadership. We respectfully suggest these be clarified and focused on creating an initial state-level coordinating committee representing the leadership of government (workforce entities), education, and the broadband industry .

This language could be read as being limited to involving broadband companies in local or regional sectoral partnerships. That is an end goal, but we don’t have years for broadband employers’ involvement to bubble up from regions. For speed and efficiency, it is critical to establish a leadership group at the state level for the reasons discussed in the section below entitled “Top-down or bottom-up?”

c. “Employer-led curriculum development” The Action Plan on page 71 lists “Goals and Objectives” of the workforce plan. The first is to “develop partnerships with universities and other educational institutions.” One of the priorities of this state level leadership group should be to conduct a gap analysis of the educational content necessary to drive the program, and then take action to create, license, modify, and deploy it for use around the state. Led by The Ohio State University and WIA, this part of the Ohio broadband/5G partnership is working well. Pilot certificate programs have been launched successfully at Youngstown State and Ashland Universities.

WIA supports the requirement that applicants for broadband grant funds have appropriate credentials, relevant pre-existing occupational training, certification, and licensure. WIA is the leading developer of training and curriculum for the broadband industry, offering 40+ courses through its Telecommunications Education Center (TEC) tailored to the industry's training, education, and professional development needs. See <https://wia.org/telecommunications-education-center/> Further, WIA's Broadband & 5G Readiness Program is a first-of-its-kind program that provides an industry-approved curriculum on the design and deployment of 5G/broadband infrastructure. The fast-track training is packaged for companies and education institutions to attract and train candidates for careers in broadband and 5G.

WIA has been working with community colleges on curriculum development for the past several years. WIA's courses are even being used very successfully inside prisons to raise awareness of employment opportunities after release. Please see <https://wia.org/wia-partners-with-ashland-university-to-offer-broadband-and-5g-training-to-incarcerated-individuals/>

d. “Utilize proven earn-and-learn models like Registered Apprenticeships.”

The NTIA instructions state that the plan for a highly skilled workforce should include the following:

- How the applicant 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; and
- 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.

Idaho needs no convincing of the value of registered apprenticeship programs. WIA supports the requirement that applicants demonstrate in their plans how they will ensure the use of an appropriately skilled workforce through such programs as Registered Apprenticeships. But requirements on individual companies won't create an expanded, effective broadband apprenticeship program. Collaborative actions like developing effective pre-apprenticeship programs and connecting them to companies enrolled in telecommunications apprenticeship programs like TIRAP are what is needed. We suggest putting specific programs like that in the workforce development plan. As noted, WIA is the USDOL-appointed and contracted national sponsor of the Telecommunications Industry Registered Apprenticeship Program (TIRAP). WIA would be delighted to partner with Idaho to complement and expand its existing apprenticeship program.

Since 2017, the TIRAP program has had more than 4,000 apprentices from more than 100 employers nationwide. The suite of approved occupations currently numbers fifteen (15) and continues to grow, focusing on high-growth, high-demand occupations, including fiber optic technicians, broadband technicians, and small cell and in-building technicians crucial to broadband deployment. These are

intended to meet employers' occupational and skills development needs to create an in-demand workforce ready to support the design, build, and maintenance of telecommunications infrastructure. Re-skilling, upskilling through training, and TIRAP-defined career paths in a growing number of critical occupations enable accelerated local economic growth through good jobs for current and future employment opportunities for the unrepresented and underrepresented population. The education, training, and apprenticeship programs are part of a professional pipeline that allows for continued employment and growth.

The BEAD funding presents an exciting opportunity to define, trial, refine, and implement effective and comprehensive pipeline approaches to hiring and upskilling in all areas of the industry: plan, build, operate, and support. We strongly agree with language such as this on page 62 of Volume II: "work collaboratively to design training programs that address technical skills and provide wraparound services to address barriers that workers may face, such as childcare and transportation." We want to bring that language to life. We suggest the broadband workforce coordinating committee come together quickly and lay out specific program ideas and a budget funded by BEAD for them that includes:

- Major outreach and awareness campaigns<sup>4</sup> to attract the interest of talented individuals<sup>5</sup>; to educate the workforce eco-system (training, K-12, and higher education) about telecommunications; and to educate the telecommunications industry about the workforce ecosystem.
- Developing specific broadband programs with established pre-apprenticeship organizations, focusing these on traditionally underserved populations with content specifically tailored to the needs of people of color, women, formerly incarcerated, rural, Native American, and veterans.
- Providing full wraparound support services to those trainees.
- Recruiting employers from the broadband ecosystem to participate in all program activities, including and especially the hiring and training of apprentices.
- Providing navigation/coaching services to make sure trainees don't fall through the cracks.
- Creating a partnership between TIRAP and the Idaho Registered Apprenticeship Program to expand the latter into telecommunications.
- Providing sufficient incentives to overcome employer reticence.
- Establishing a sophisticated measurement and evaluation capacity to judge effectively what works and what does not.

We are excited about these opportunities and look forward to developing these ideas in detail and the budget to support them with you and the other key parties in the state.

#### e. Diversifying the workforce

To ensure that job opportunities created by the BEAD program and other broadband funding programs are available to a diverse pool of workers, NTIA indicates that applicants will be required to submit plans for targeted outreach to populations that have traditionally been underrepresented in broadband and information technology jobs, including but not limited to women and people of color.

WIA supports the requirement that applicants be required to submit plans for outreach to underrepresented populations. WIA has long been committed to promoting inclusion, diversity, and outreach to underserved and underrepresented populations, including people of color, veterans, women, people with disabilities, and workers aged 50+. The funding provided by BEAD allows us to maximize multiple access points to assessment, wraparound support for trainees/apprentices, preparation in pre-apprenticeship programs, and a broader array of apprenticeship occupations reflecting the breadth of the telecommunications industry.

On page 62 the draft quotes NTIA asking for plans to “create equitable on-ramps into broadband-related jobs. Again, simply referring to existing programs does not address the challenges of:

- creating awareness and attracting interest in broadband from potential trainees/apprentices.
  - recruiting them into effective pre-apprentice programs in community colleges or organizations.
  - paying special attention in doing so to partnering with pre-apprentice or similar community and/or training organizations that understand or represent underrepresented populations -- adding broadband to their repertoire.
  - connecting them to apprenticeships or other training programs with telecommunications companies.
- We suggest that the state use BEAD funding to pay for pilots connecting community colleges, CBOs, and other pre-apprenticeship programs with telecommunications employers to create success models that then can be scaled across the state.

#### f. Top Down or Bottom Up?

The Idaho broadband and workforce leadership faces a critical strategic decision in how to create essentially from scratch a telecommunications workforce program in the state: top-down or bottom-up? Some in the workforce ecosystem respond with a resounding “bottom up.” And for good reason. That approach has worked well for other industries that have developed workforce programs and relationships over time. That should be where we want to end up -- embedding telecommunications in the current system. Indeed, Volume II seems to point in this direction (language on page 62 saying: “IOB will foster sector-based partnerships.”) And Volume II certainly does not clearly call for the development of a state level coordinating committee such as we have suggested above.

But in this case of the telecommunications workforce, something almost entirely new to Idaho needs to happen fast. We do not think it will work to encourage broadband/telecom workforce programs to bubble up from individual institutions of higher learning or regional workforce boards as an adjunct to construction or any other industry.

Like every other state, Ohio faced the same situation Idaho now does when it started down the broadband/5G workforce program road in 2021: telecommunications is mostly absent from the state workforce education and training ecosystem. Telecom executives do not sit on the regional workforce development boards, or the state board, for that matter. In Ohio, the companies WIA represents and those in adjoining industries were simply not going to respond to the suggestion that they reach out for help to local workforce boards that lack staff familiar with the industry. On the employer side, workforce development partnerships with the government are also an unfamiliar activity. It would not have been

easy to recruit and manage the industry participants if WIA had tried to start committees in each of Ohio's workforce regions.

As a result, the overarching framework/program for change in Ohio is managed at the state level, driven by the Governor and Lt. Governor's Broadband/5G Sector Partnership, which is led by their staff, the Ohio State University, and WIA. The systems, themes, programmatic content, and the like are all being done at the state level by working groups representing all the key stakeholders.

However, the Ohio leadership recognizes that involving the resources and leadership at the ground level is essential. So, as they enter the second full year of operations and plan for how to spend additional workforce resources from BEAD, the Partnership is moving to create regional "nodes" that connect to the local workforce structure and focus the state-level results on individuals and particular companies. They will coordinate service delivery, including recruiting and retaining participants, assessing participants for career readiness and support service needs, matching participants with appropriate training and educational experiences, and providing job-matching services. The nodes will bring together public workforce organizations, community-based providers, and the state apprenticeship agency to work collaboratively with regional businesses in the telecommunication industry to address their workforce needs. The intent over time is to create regional public/private telecommunications sector partnerships as part of the regular workforce program. In other words, the result should be embedding telecommunications in the current system.

WIA is committed to working with Idaho as it seeks to develop the broadband workforce required to support the economy of the future and bring ubiquitous service to all communities across the state.

Establishing a Broadband and 5G Sector Partnership in Idaho, led by WIA and its industry-approved education and training programs, can help the state meet its broadband workforce development goals, as it has in Ohio.

WIA appreciates the opportunity to submit comments to Volume 2 submitted by the Idaho Broadband Office. We thank you for your consideration."

**William Mitchell 10/27/2023**

*IP Vol 1 and 2 - General Comment - Entire Plan*

"In response to your mailer I received about a Public Comment Period concerning slow or no internet. I will try to respond via internet but my sketchy service happens to be out today. If my internet does not return in time I will try mailing a letter on Monday the 30th. Welcome to my world. This is normal for the product I am supplied. When it does work on a good day I get roughly 1 MBPS but usually about 0.5 MBPS download speed and a max of 0.2 upload speed. It is not uncommon to get emails days or even weeks late. I have had a few show up as late as 6 months. It seems that the larger the data package the longer it takes to appear. Forget about trying to download a picture from a family member or friend let alone trying to fill out government forms and upload them back. If the government is going to require me to do business on the internet then the government had better make sure that I have internet access that will allow me to do what they request.

How would you like going into a Government Agency Office and asking to talk to someone only to be told that you need to make an appointment.....via the internet. When I tell them my internet is out and yet still be told that I must make an appointment online and not in person. I have tried for years to get a veterans ID card but I can't upload my DD-214 nor a picture due to almost no upload speed. Now they don't issue ID cards only a cell phone digital record and I have no cell phone since I don't get cell phone access where I live.

My wonderful "provider" is Centurylink which I refer to as CenturyStink. This is the worst company I have ever had the displeasure of dealing with in my 65 years on this planet. AT&T, Comcast, Direct TV and others could learn a thing or two about further customer abuse from CenturyStink. CenturyStink closed down their office in Salmon years back and now officially my provider is located in Kalispell Montana, hundreds of miles away in another state. I just love getting not only political adds from Montana and Oregon but business adds for stores and companies that I will never be in a position to access. I get zero Idaho adds. If I try to access stores like Walmart or any such store I immediately get referred to the stores in Montana. Even if I change the store location to Idaho Falls it returns to either Kalispell or Missoula Montana.

I have been told numerous times by this company that there will be no investment or improvement to my service. Most recently 4 months ago. This while I watch this company running fiber optic to the middle of nowhere. They are running this stuff to places that are only seasonal such as Gilmore that is nothing more than a few summer cabins and trailers. This seems to be nothing more than a tax grab similar to the old Trans-Continental Railroad Government promoted tax dollar theft. Since the taxpayer is paying for most or all of this fiber optic expansion these companies should not be able to pick and choose based on what locations will return the largest profit margin. I keep getting told there will be no changes or improvement to my service and I am free to contract with another provider when they are fully aware that I have no other option. A few years back if you punched in my zip code CenturyStink would say that they did not provide service in my area when I had an account with them. I have also been told that via phone when calling in a complaint or problem. In the last year 4 new homes have been built in my little canyon yet those individuals have been told that there is no internet access available. If my account becomes delinquent or I drop my internet access for some reason I have been told that I would not get my access back, EVER. So I maintain a positive credit balance with CenturyStink. If I had a different choice I would have dumped CenturyStink more than a decade ago but I'm stuck.

My charges from CenturyStink keep going up yet my service does not improve and at times actually gets worse. To my knowledge over the last 15+ years I have never been reimbursed for any loss of service. I have lost service for multiple weeks at a time just in the last two years alone. I currently pay \$80 a month for "local" calling and DSL internet access. Local calling refers to one area prefix which has mostly disappeared due to cellphones. So local calling is actually a joke. If I call my neighbor, half a mile away, it is a long distance call since he maintains a cellphone that he can use through his HughesNet satellite which is more expensive and not any faster than the DSL speed provided by CenturyStink but he can use his cellphone to maintain contact with his children and grandchildren across the country via the HughesNet satellite dish since he refused to pay CenturyStink's ridiculous long distance calling plan. The cellphone use counts against his Satellite data usage which is very limited. My sister in another state pays roughly the same monthly amount as me and gets 100MPBS, unlimited Voice Over Internet phone usage and 360 television channels. She also lives rurally but does have the choice of 3 or 4 providers.

Not only is my internet service nothing more than glorified dial-up on its' best day but it constantly goes out for anywhere from a few minutes to weeks at a time. Earlier this year my service went out for a couple of weeks. The first excuse was that the Hurricane in Southern California knocked out the service. After a week the next excuse was that the hurricane in Florida knocked out service? What does something in Ca or in Fl have to do with Kalispell Mt?

This company now has the audacity to not only charge me to receive a monthly bill for over priced substandard service but now charges me a service fee to pay my bill. All this because of the service I receive does not have enough bandwidth to allow me to conduct on-line banking. Since I cannot conduct on-line banking I am not going to give this miserable excuse of a company access to my banking information if I cannot monitor it. I maintain a positive account balance so as to not jeopardize losing my internet connection. I maintain a 3 to 6 month positive balance. For me to do any online banking I have to go to my credit union in town and they give me a tablet and an office to conduct any online financial transactions. Town by the way is 37 miles away one way. The bank in town that handles CenturyStink payments requires that you have an account with them just to make a payment to CenturyStink. I had sketchy dealings with that bank many years ago with all their hidden costs and "service" fees and other charges. I left them and have been quite content with the local credit union. Thus my only option to make a cash payment is that I am stuck with Western Union. I am not willing to chance losing my internet access due to a late or lost mail payment.

Between the Government and most businesses I am being forced to participate in the online arena with no tools to do so. I used to get a pop-up trying to access the CenturyStink website that said I could not connect due to not enough bandwidth. This from my "internet provider". Now I just get the constant buffering circle thing if my service is experiencing hiccups as is normal. This year the IRS demanded I submit my taxes online rather than by mail. I tried to tell them that I didn't have that ability but they still made the request. Because of my pathetic excuse for service I tried three times submitting my taxes online. The IRS only received partial documents. After the third try I received a letter from the IRS asking me to mail them hard copies of my tax forms.

Earlier this year CenturyStink made changes to their email program and my password was not recognized but with the service I get I can't have two web windows open which was necessary to change a password. But if you try to reinstall my old password it is not available because it is currently in use? I tried for weeks to fix their issue. It took a formal complaint to the Idaho Public Utilities Commission to finally get someone from CenturyStink to call me and make the changes necessary to fix their problem. At one point I was even asked by CenturyStink to go to the library in town to access a higher bandwidth to fix their issues.

This is a company that has made it nearly impossible for me to even report an outage. They now request that to report an internet outage be handled online or via text with data charges. Neat trick when your internet is out. When I do figure out a way to talk to someone they happen to be in either the Philippines, India or Pakistan. Not only is there a language barrier but more often than not there is no satisfaction since these "customer service" representatives are only reading from a prepared script. When I do get through to report an outage I go through the same things. It always starts the same way. Being told the problem is my equipment or that I have too many devices connected. I have one device and that is a laptop computer. There is always an initial denial that service is out. Sometimes I finally

get past the accusations that the issue is on my end. finally they ping my router and tell me that there seems to be an outage in my area.

It is quite apparent from my end that this company wants me to just go away like the other residents of my valley who could access cellphone/satellite options. A couple were able to access the Elon Musk internet option. They aren't that happy but they say it is much better than having to deal with CenturyStink. I am the customer that no Telecommunications Company wants to deal with. I only have "land line" access which means that this company has to by law maintain my phone access unless the lobbyists manage to get Congress to change the laws concerning rural phone access. The problem is that I receive no cell service where I live and don't really have any other option. I have searched for alternatives with no success. If I get told one more time that I should move or shouldn't live where I do so that I can access the internet I may explode. I literally have no other option than to deal with the worst company/corporation I have ever encountered in my lifetime. When I purchased this property the internet was nothing more than a budding novelty and cell phones were the old "bag" phones. With every website becoming more and more data laden with advertising and videos it makes it harder and harder to access even government websites.

If this company doesn't wish to supply basic service to my area or only pick and choose who or where to provide service then maybe this entire service area should be turned over to another service provider. I know Custer Broadband in Salmon has plans to expand south to my area but not for another 10 or more years. Maybe CenturyStink's service area should be turned over to Custer Broadband. Either they supply to all with a quality service for the money they charge or they should start to incur massive financial penalties with absolutely no ability to pass on any fines or charges to customers. For many many years I have hoped for improvement yet the only improvement seems to be CenturyStink's bottom line and their forms of customer abuse.

CenturyStink specializes in customer abuse knowing nothing will happen to reign in their obsessive greed and customer abuse. They deliberately make it impossible to talk to someone unless opening a new account or closing an account. They even threaten \$90+ service fees for a service call to fix their own problems/issues. In other words, don't bother them. For many people in this area they have no other choice unless they have access to cell service to establish something I have been told is called a "hotspot". People in town that made the mistake of bundling their business, home and cellphones with CenturyStink are not happy, at least those that I have talked to.

Corporate America and Rural America don't mix. There isn't enough money to suck out of rural communities since it costs more to provide service thus reducing insanely gross profit margins. Somebody needs to add regulations or penalties for the stuff the corporate world is allowed to perpetrate against the rural population since more and more agency/business's are requiring all business to be transacted via the internet. Just because the bulk of their profitable business is urban or metropolitan areas the rural community seems to be a burden to their insane bottom line and they wish the rural population would go away or just be content to continue to receive both their financial and customer abuse. Ah yes, the Corporate bottom line must grow every year at the consumers' expense. When is too much money not enough?

Maybe the internet should be taken away from the telecommunication industry and be a Government mandated service since everything in life is now directly linked to the internet and if the Government is going to require its' own business be conducted via the internet maybe it should be provided and controlled by the PUC or the Government itself. Or better yet, just include internet accesst in the tax code? As bad as our government is at wasting money I may be happier paying the government for internet service rather than paying for the privilege of constant abuse from an abusive profit oriented provider.

Since the internet has become integral to everyday life for every American it should not be a profit oriented business. The internet alone is the final demise of the U.S. Postal Service.

By the way, I live 3 miles from a highway CenturyStink transfer station.

Please excuse my rambling but maybe my frustrations will finally get somewhere. I am so so tired of being forced to conduct almost all my business and communications via the internet with no access to conduct such business."

**Randy Sandone Critical Infrastructure Resilience Institute, University of Illinois at Urbana-Champaign Executive Director**

*IP Vol 2, General Comment - Entire Plan*

"Regarding Volume 2 Proposal for Broadband Equity, Access and Deployment Grant Program Comment:

The Idaho Office of Broadband (IOB) has put together an extensive and well-crafted proposal for implementing the Broadband Equity, Access, and Deployment (BEAD) grant program in the State of Idaho. While the proposal appears to meet the specified grant requirements, it seems to overlook a crucial factor that could impact the deployment – the resilience of the broadband infrastructure itself.

The goals and objectives of the Idaho program are detailed in Volume 2, specifically on pages 4, 5 and 6, Table 1, titled ""Idaho's Goals and Objectives for Broadband Deployment"". The first goal for the IOB reads: ""Prioritize infrastructure investments to connect residents, businesses, Tribal Nations, and CAIs that are unserved and underserved in Idaho."" The last goal states: ""Prioritize broadband investments to strengthen access to reliable, resilient, scalable, and redundant broadband services to Idaho's Emergency Communications Centers (ECC) locations."" This comment is submitted to focus on the ""connect"" aspect of goal number 1 and ""....strengthen access to reliable, resilient....broadband services...."" in the last goal.

Modern telecommunications infrastructure relies heavily on precise timing signals, currently provided by GPS (Global Positioning System) satellites, for its efficient operation. Any loss, disruption or manipulation of these signals could render the broadband infrastructure inaccessible to subscribers, thus negating the primary goal of the BEAD program and the objectives of Idaho.

There have been numerous instances worldwide where the timing function of broadband has been compromised due to accidental or malicious actions targeting and degrading GPS timing sources. These events have exposed vulnerabilities in the reliability of broadband infrastructure, necessitating the development of mitigation strategies to provide alternative backup timing sources. This is crucial to

ensure the continuity of critical infrastructure and accessibility, both of which are vital to the intended beneficiaries of this grant program. A resilient broadband timing solution is not just important; it's foundational to the success of broadband delivery.

We wholeheartedly support the objectives of the Idaho plan for implementing BEAD grant funding. However, to ensure the reliability of broadband infrastructure it is imperative to address the need for a robust and resilient back-up timing signal source as part of the broadband deployment.

Terrestrial-based timing systems represent a solution that relies on ground-based infrastructure and signals, in contrast to satellite-based systems like GPS or GNSS (Global Navigation Satellite System). These terrestrial systems incorporate redundancy and backup mechanisms to ensure reliability, such as using multiple timing sources or paths to minimize the risk of timing disruptions due to equipment failures or other issues.

Currently, eight states and one territory in the US have implemented an alternative timing solution known as the Nationwide Integration of Timing Resiliency for Operation (NITRO). NITRO retrieves timing information from multiple government and commercial sources of space-based and terrestrial timing, including GPS, and analyzes them for accuracy. The most precise alternative timing signal is then transmitted to users via terrestrial broadcasts, fiber, and wireless cellular networks. NITRO is currently utilized by State National Guard Bureaus to maintain their ability to support civilian authorities during disasters and similar crises. This same capability can serve as a backup timing source for the broader broadband telecommunications systems that rely on precise timing.

This is a perfect opportunity to utilize BEAD Grant funding to expand NITRO, a critical capability, and make it accessible to a wider range of stakeholders, thereby strengthening an essential component of broadband delivery and usage that is susceptible to attacks. This initiative would leverage the Department of Defense's existing investment in creating the basic NITRO capability and enable the Department of Commerce to fulfill its mandate of providing critical backup timing to ensure uninterrupted commerce and the stability of the US economy. Such an approach aligns with the public/private partnership philosophy promoted by Congress in the Infrastructure Investment and Jobs Act and BEAD Grant legislative language. Failure to address the resilience of the timing function in broadband infrastructure could undermine the goals and objectives of the BEAD Program in general and the Idaho program specifically and would diminish the return on the \$42 billion investment that has been appropriated to support the program. Accordingly, we recommend that Idaho include back-up timing as a priority for BEAD Grant implementation in its final Volume 2 Proposal."

**Kathy Putt Crown Castle External Affairs - PNW10/31/2023**

*IP Vol 2, Section 2.10*

"Dear Mr. Hobdey-Sanchez,

Crown Castle, the nation's largest provider of shared wireless communications infrastructure, is pleased to provide the following supplemental comments on Volume II of the Idaho Office of Broadband's (IOB) BEAD 5-Year Action Plan (BEAD Plan).

1 We appreciate the opportunity to review the BEAD Plan and provide additional

feedback or suggestions on issues that could bolster broadband buildout and availability in Idaho, particularly

concerning wireless infrastructure.

As the BEAD Plan acknowledges, the nation and Idaho are at a historic juncture where unprecedented funding is being provided by the federal government to fuel investment in broadband infrastructure, improve broadband service performance, and close the digital divide. Over the past few years, we have seen how essential vibrant broadband connectivity is to our citizens, businesses, and communities' economic, social, and educational wellbeing.

Crown Castle applauds IOB's efforts to develop the BEAD Plan based on feedback from various public and private community partners. As a provider of critical communications infrastructure, Crown Castle provides the following recommendations regarding Section 2.10 (Requirement 14): Cost and Barrier Reduction, which responds to NTIA's requirement that each state's plan "identify steps that will reduce costs and barriers to deployment." Adopt Jurisdictional Permitting and Application Processing Reforms

As Crown Castle previously commented, permitting at the state and local levels of government can be a significant obstacle to timely broadband deployment. To address impediments to deployment, Crown Castle respectfully suggests that Idaho policymakers consider implementing the following strategies:

- Broadband money for broadband projects – Constrain governmental application fees to actual, objectively reasonable costs incurred by the jurisdiction to process applications to utilize public rights of way.
- Streamlined for speed – Implement expedited or streamlined review of zoning and permitting applications that facilitate wireless and fiber deployment, including those that efficiently use existing infrastructure under federal law.
- Transparent review – Establish procedures to allow all forms, applications, and supporting documentation related to proposed projects to be reviewed, approved, or denied within 30 days of submission.
- Volumetric processing - Adopt efficient intake procedures, such as batch permitting and electronic submission.

Embrace Technological Innovations

Public and private sector partnerships are critical to speed deployment, save money, and connect Idaho communities to competition, innovation, and investment. Please see below for recommended actions that

Washington State could take to expedite deployment further:

- Pro innovation – Empower next-generation industries. Allow innovative deployment processes and

construction techniques that speed deployment and cut construction time, such as micro-trenching or other effective deployment methods. Promote investment in faster, future-proof networks built to last and

enable an “all of the above” deployment strategy.

- Smart restoration – Broadband dollars must be spent on broadband projects. By supporting smart street restoration obligations that are proportional to the scope of the construction required for the project and setting these obligations upfront at the time of application, Idaho can maximize the benefits of its broadband dollars.

3

### Potential Idaho Public Utilities Commission Actions

Other state agencies, such as the Idaho Public Utilities Commission (IPUC), can assist the IOB’s efforts to ensure that BEAD funding recipients and other key stakeholders are actively contributing to meeting the state’s broadband deployment objectives.

- Implement state pole attachment regulation - Encourage the IPUC to utilize its statutory authority to oversee the terms and conditions of wireless and wireline broadband providers' efforts to secure pole attachments on regulated electric utility infrastructure. Although it has the authority, the IPUC has not adopted regulations that establish regulations governing pole attachments. Through IPUC rulemaking, Idaho could join several other states that have proactively incorporated recent FCC pole attachment regulations (including the “one-touch make-ready” regime) into state-level pole attachment regulations to facilitate wireless broadband deployment.
- Address utility power service provisioning – The IPUC oversees the terms, conditions, and rates of Idaho’s investor-owned utilities (IOUs). Wireless infrastructure providers like Crown Castle rely heavily on power supply processes and timeframes of the IOUs for service to individual small cell node locations and elsewhere. As 5G buildout continues in the small cell wireless infrastructure space, and given the widespread dispersion of small cell nodes throughout IOU electric service territories, the traditional electric service delivery model is somewhat challenging. The IPUC could consider establishing standardized timeframes for IOU reviewing and approving power supply applications, power designs, and service delivery intervals.
- Adopt equitable cost-sharing responsibility for pole replacements. The IPUC could examine and potentially adopt rules to equitably allocate cost responsibility of pole replacement between regulated utilities and pole attachers, where both entities benefit from necessary replacements.

Crown Castle appreciates the opportunity to comment on this critically important plan that will impact Idahoans. We look forward to seeing the recommendations take shape and stand ready to partner with you on relevant policy changes in the 2024 Legislative Session. If you have any questions or concerns regarding Crown Castle's recommendations or would like to discuss them in greater detail, please do not hesitate to reach out directly at"

**Chrstina Culver Imagine Idaho Foundation Board Member and Director 10/31/2023**

*IP Vol 1, General Comment - Entire Plan*

"Dear Mr. Hobdey-Sánchez,

On behalf of Imagine Idaho, I'd like to thank you for all the time and effort that was put towards the BEAD Volume I Draft. We appreciate the commitment to open access, equity, and rural areas achieving connectivity. Imagine Idaho would like to voice support for the draft as it is in alignment with the Idaho State Broadband Strategic Plan, approved by the Idaho Broadband Advisory Board (IBAB), and has the potential to uphold the goal of serving 100% of Idaho's businesses and homes by 2027. "

**Chrstina Culver Imagine Idaho Foundation Board Member and Director 10/31/2023**

*IP Vol 1, Section 1.3* "

Imagine Idaho supports Sections 1.3 - Community Anchor Institutions; the definitions for Community Anchor Institutions (CAI) enable all communities throughout the state to identify one or more CAI's. We appreciate the caveat that unique rural areas who might have atypical CAIs will ensure success throughout the state, as stated on page 13. CAIs are a vital component of this process, and we recognize the commitment to ensuring equal access for all types of communities. "

**Chrstina Culver Imagine Idaho Foundation Board Member and Director 10/31/2023**

*IP Vol 1, Section 1.4* "

We are also supportive of the challenge process as outlined in Section 1.4. The challenge process protects small communities that have used their limited time and resources to create proposals. The fifteen (15) calendar day timeline for challenges and rebuttals will help to ensure that local and rural entities can face proper scrutiny without being torn down for competing for funding. The challenge process is vital to ensure that all errors and overlapping projects are noticed and corrected to help bring forth the best projects. By maintaining short challenge and rebuttal periods, the Office of Broadband and the Idaho Broadband Advisory Board can ensure that projects are being reviewed while still maintaining structural integrity. "

**Chrstina CulverImagine Idaho Foundation Board Member and Director 10/31/2023**

*IP Vol 1, General Comment - Entire Plan "*

We are grateful for the opportunity to participate in a historic period for Idaho and aid in the process of bringing broadband to all the unserved and underserved communities in the state. Again, Imagine Idaho would like to thank you for your dedication to improving the livelihood of Idahoans.

Thank you for your time and thoughtful consideration of our comments on the BEAD Volume I Draft."

**Chrstina CulverImagine Idaho Foundation Board Member and Director 10/31/2023**

*IP Vol 2, General Comment - Entire Plan*

"Dear Mr. Hobdey-Sánchez,

Thank you for the opportunity to comment on Volume II of the initial proposal, we appreciate the commitment to keeping the public informed and ability to comment on these important decisions. The \$583M Idaho has received from NTIA is a once-in-a-lifetime opportunity, and we recognize the dedication to ensure the state is utilizing the funds available strategically. Imagine Idaho supports the State's efforts to plan and achieve connectivity in underserved and underserved portions of the state while following the Idaho Broadband

Advisory Board's (IBAB) Strategic Plan and promoting open access, affordability, and competition.

As Idaho strives to achieve additional connectivity that is open access, reliable and affordable, the state must consider many perspectives and ensure public and private entities including for profits, non-profits, and local governments, of all sizes can participate in the process. It should also be noted that several of the partners, communities, and service providers that we work with and support, will also be adding their comments with additional details and data. We urge the IOB to carefully consider each point made and incorporate those comments that will best serve the most rural and least served portions of the state while avoiding duplicative spending or funding projects that will limit competition and incur additional costs for operations and management in the future.

Imagine Idaho supports the IBAB's plan and goals to expand open access, competition, reliability, and affordability for all Idahoans with a dedicated focus on unserved and underserved residents needing broadband. However, we have heard from many of our community and industry partners that the rules and requirements, as currently drafted, could risk excluding smaller providers, non-traditional providers, and partnerships with local government entities. This is a major concern for us, and we believe it's not in keeping with the IBAB Strategic Broadband Plan. We recommend a careful review of the comments from local stakeholders throughout Idaho who have worked diligently to bring broadband to their communities while also working with various ISPs to ensure their areas will remain affordably served in a future proof way.

We join our partners and grantees in requesting some modifications, with the understanding that more specific comments from our partners will be submitted. Knowing that the IOB will be working with the IBAB to make final recommendations before the December deadline, we remain available as a resource,

and we are committed to seeing the state use the BEAD plans and funding to successfully connect unserved and underserved communities throughout the state. Please use us as a resource as needed.

Imagine Idaho Foundation | [www.imagineidaho.org](http://www.imagineidaho.org)

We ask that you take into consideration some of the key takeaways and some additional information outlined below."

**Chrstina CulverImagine Idaho Foundation Board Member and Director 10/31/2023**

*IP Vol 1, General Comment - Entire Plan*

"Please closely consider the alternatives to the program's irrevocable standby Letter of Credit ("LOC") requirements as this will tie up capital, create unachievable barriers for rural Idaho and local units of government as well as some smaller providers that are otherwise nimble and ready to get to work."

**Chrstina CulverImagine Idaho Foundation Board Member and Director 10/31/2023**

*IP Vol 2, General Comment - Entire Plan*

"Consider non-traditional and government entity applications in terms of economic multipliers and return on investment (ROI) for the state and the communities who will be submitting applications. We have seen first-hand what this effect can do for rural Idaho from CARES Act, CPF applications as well as the state's investment in the IRON and Port of Lewiston Projects. It is paramount to have community buy-in to ensure taxpayer funds are best utilized."

**Chrstina CulverImagine Idaho Foundation Board Member and Director 10/31/2023**

*IP Vol 1, General Comment - Entire Plan*

"Designate project areas for BEAD prospective subgrantees by geographic boundaries such as county, city, or census block and require prospective subgrantees to serve all unserved, underserved, and CAIs with qualified broadband service. This will ensure there is the best use of funds for Idaho residents and businesses that will benefit from the funding of community projects."

**Chrstina CulverImagine Idaho Foundation Board Member and Director 10/31/2023**

*IP Vol 2, General Comment - Entire Plan*

"Produce two grant rounds, or categories instead of just one. The first round would prioritize "Priority Broadband Projects" and the second round could have special considerations for "Other Last Mile Broadband Deployment Projects" that are subject to the Extremely High-Cost Thresholds, or other

complicated variables in the hardest to reach areas. This will prevent the most in need areas from being disenfranchised by a process that could otherwise favor large providers who have already passed over these communities."

**Chrstina CulverImagine Idaho Foundation Board Member and Director 10/31/2023**

*IP Vol 1, General Comment - Entire Plan*

"Avoid redundant and cumbersome applications and project RFPs that disincentivize applicants from collaborative planning and cause "turf wars". This could also prevent additional time, costs, burdens, and red tape that are especially onerous for the unserved and underserved small and rural entities who wish to participate but lack the staffing and funding to produce multiple iterations of applications and plans."

**Chrstina CulverImagine Idaho Foundation Board Member and Director 10/31/2023**

*IP Vol 2, General Comment - Entire Plan*

"Plan ahead for Dig Once and ensure projects are in keeping with the state's dig once policy and the Strategic plan. This should also incorporate the robust mapping and data overlays necessary to ensure all available broadband infrastructure, and funding opportunities are being utilized and shared to achieve statewide connectivity with the private sector investments, tribal governments, local governments, all state agencies etc."

**Chrstina CulverImagine Idaho Foundation Board Member and Director 10/31/2023**

*IP Vol 2, Section 2.4*

"In Section 2.4 – Deployment Subgrantee Selection, Imagine Idaho supports using county and city boundaries for defining application service area boundaries. This will allow for greater communication among ISPs, city, and county officials. Imagine Idaho has been working with local communities, mainly defined by cities and counties, throughout the years; thus, making it easy for the end user to follow. It would also allow for greater access to resources and ensure a smooth process for all parties. We also support the scoring criteria, as outlined in Table 5, specifically the affordability of service packages to ensure BEAD funding is used efficiently and will be greatly accessible. Imagine Idaho supports efforts to increase workforce readiness. We also appreciate the efforts to utilize local workers with prevailing wages. It is vital to have able and ready workers to bring projects to completion while providing quality services that can endure for years to come. This funding is once in a lifetime and we want Idaho families to benefit from the end result of connectivity, but we also believe there is a real and tangible benefit to training and hiring Idaho residents into the workforce to fill as many positions as possible to build out

our infrastructure. This is the best use of these taxpayers' dollars and will yield additional funds from income, sales and even property taxes from Idaho's workforce."

**Chrstina CulverImagine Idaho Foundation Board Member and Director 10/31/2023**

*IP Vol 2, Section 2.12*

"As stated earlier, Imagine Idaho supports the commitment to affordability and wishes to express support for Section 2.12 – Low-Cost Broadband Service Option. The Idaho Office of Broadband utilizes the US Census Bureau 2021 data to highlight that 11% of the population falls into "person in poverty" and this limits an individual's capability to engage in the digital world with where internet prices sit. The commitment to affordability will ensure that all Idahoans can take advantage of these projects, resources, and technology that will be implemented in their communities. Page 79 lists the low-cost broadband service option as \$30 a month or less which provides the opportunity for underserved and unserved citizens to access these services. Similarly, this section outlines the middle-class affordability plans that cap internet prices at \$100 or less per month. We appreciate the dedication to access and affordability and having different plans for those of different economic backgrounds."

**Chrstina Culver Imagine Idaho Foundation Board Member and Director 10/31/2023**

*IP Vol 2, Section 2.16*

"Certification of Compliance with BEAD Requirements effectively explains and details these requirements for all individuals to understand them. It also provides necessary information for numerous

potential circumstances that could be faced. This section must remain simplistic and easily understandable to

the non-expert. As many local communities work to support outreach efforts and engage with community

stakeholders, removing technical jargon and unnecessary red tape will ensure all Idahoans can support and

access the benefit of this funding and the associated programs."

**Chrstina CulverImagine Idaho Foundation Board Member and Director 10/31/2023**

*IP Vol 2, General Comment - Entire Plan*

"We are grateful for the opportunity to participate in these essential comment periods for Idaho and aid in the process of bringing broadband to all the unserved and underserved communities in the state. Imagine Idaho would like to thank you for your dedication to upholding the Idaho Broadband Advisory Board strategic plan for 100% connectivity by 2027."

**Jacob Johnson Eminent Technical Solutions Chief Technical Officer 10/31/2023**

*IP Vol 1 and 2 - General Comment - Entire Plan*

"Dear Idaho Office of Broadband,

I am writing on behalf of ETS to express our appreciation for the thoughtful consideration given to the comments that both we and other stakeholders have submitted during this and previous public comment periods. We commend the state's pragmatic approach to innovation while maintaining a strong focus on the oversight and protection of the public's interests, a balance that is not only appropriate but also reassuring.

We are deeply committed to achieving the best possible outcomes for the people of Idaho. In light of this, we offer a word of respectful caution as we stand at the threshold of the immense opportunity presented by the Broadband Expansion and Access Development (BEAD) program. It is vital that we approach this moment with careful consideration, as the consequences and outcomes of BEAD will extend far beyond the current generation, shaping the future of connectivity in Idaho permanently. While the opportunities and impacts are significant, our hope lies in the careful consideration not only of our current situation but also our desired future state. The strategic plan outlined by the Idaho Broadband Advisory Board is producing commendable results and outcomes.

We wholeheartedly endorse policies and plans aimed at eliminating barriers to Access for all Idahoans, particularly those who are currently unserved and underserved. These policies and plans must continue to enhance the Affordability of broadband services for our citizens while fostering Alignment and Collaboration among all stakeholders to improve outcomes that are underpinned by connectivity.

Competition is a cornerstone in this journey. Implementing sound policies that promote competition while encouraging partnerships and collaboration, which ultimately serve the interests of Idahoans and the State, is essential to achieving the balance between public and private interests.

We emphasize the importance of using Data-driven metrics to create, enhance, and operationalize policies and programs. This approach ensures that outcomes are not only achieved but that any issues are promptly identified and rectified. Consequently, we encourage the state and municipalities serving the citizens to maintain a commitment to transparency, a high level of Responsiveness, and Agility, allowing them to address the unique needs of each region on a case-by-case basis, backed by regionally tailored solutions.

Over the past two years, ETS has accumulated a wealth of actionable information through close collaboration with county and municipal leaders, other service providers, community institutions, businesses, public safety groups, and citizens. These ""boots on the ground efforts"" and the thousands of man-hours volunteered have provided us with a firsthand perspective on how continued outreach and program alignment have significantly benefited the State and its citizens. The results are nothing short of remarkable.

In conclusion, we respectfully submit this document and request your earnest consideration on behalf of the communities we work with. This request is made in earnest after thousands of hours volunteered to assist communities in developing broadband plans, accessing funding, and fostering better communities

through technology. ETS is unwavering in its commitment to the vision outlined in the Idaho Broadband Strategic Plan and will continue to offer its expertise to communities facing pressing needs within Idaho. As an Idahoan myself, I am deeply passionate about empowering my community and all Idaho communities, and I eagerly anticipate the opportunity to collaborate with the Idaho Broadband Advisory Board to create a better Idaho would be grateful for the opportunity to engage in further discussions regarding these ideas with any Board or Broadband team member at your convenience. Thank you for your time, dedication, and consideration."

**Jacob Johnson Eminent Technical Solutions Chief Technical Officer 10/31/2023**

*IP Vol 1 and 2 - General Comment - Entire Plan*

"We extend our heartfelt appreciation to the board and the Commerce Department for actively seeking public comments on the Broadband Expansion and Access Development (BEAD) Program. We kindly ask the board to consider the following ideas that we have previously shared, with the aim of aligning the program at both the state and federal levels. Our primary aspiration is to see the people of Idaho well-served and connected, raising the broadband standards and further distinguishing Idaho as a state of innovative solutions, proactive measures, and compassion."

**Jacob Johnson Eminent Technical Solutions Chief Technical Officer 10/31/2023**

*IP Vol 2, Section 2.4*

"Open-Access Middle and Last Mile Infrastructure (Page 28 Vol. 2): Imagine constructing a highway with every on-ramp serving as a toll road, each with different costs and management. Open-access middle and last mile infrastructure can be better defined and regulated to ensure equity and alignment with the state's goals. We advocate for solutions that facilitate open access, managed by passionate yet impartial entities. This approach will offer more choices for communities and foster public-private partnerships."

**Jacob Johnson Eminent Technical Solutions Chief Technical Officer 10/31/2023**

*IP Vol 2, Section 2.16*

"Trust but Verify (Vol. 2: 2.16): We strongly encourage the board and the state to maintain robust processes that ensure positive outcomes and the intended use of funding. Continuously hiring competent team members for the Idaho Office of Broadband (IOB) and the Idaho Broadband Advisory Board (IBAB) will protect state investments, reduce waste, and increase community service. Additional reasonable, common-sense oversight is an enhancement that will easily pay for

itself by preventing duplication of efforts and addressing issues like fraud, waste, and abuse. We encourage the Board to also look at previous projects before awarding those who have completed projects with objections from those they were intended to serve."

**Jacob Johnson Eminent Technical Solutions Chief Technical Officer 10/31/2023**

*IP Vol 2, Section 2.4.2*

"Multi-Technology Approaches (Vol 2: 2.4.2): The right tool for the right job should be the guiding principle, but it's essential to have more than just a hammer in the toolbox. We encourage the continued support and promotion of awarding funds for projects that incorporate multitechnology approaches. This will prove to be the quickest way to connect every Idahoan with costeffective and high-quality service. While fiber is a primary consideration for BEAD, it should be supplemented with fixed wireless, cellular, and satellite solutions to reach the most citizens promptly while achieving efficiency and cost-effectiveness."

**Jacob Johnson Eminent Technical Solutions Chief Technical Officer 10/31/2023**

*IP Vol 2, General Comment - Entire Plan*

"Planning and Policy Protection: A well-executed plan is often more valuable than a perfect plan or no plan at all. We strongly recommend that the board consider making more planning dollars available to communities well before BEAD applications are due to ensure appropriate time for wellresearched planning. Many communities have faced challenges in building and executing broadband infrastructure due to inadequate policies that protect the community's interests. Clear permitting, licensing, and bonding requirements for companies involved in this work would prevent many issues. By providing ample planning opportunities, communities can better advocate for their desired outcomes in alignment with the state's goals and vision. Planning, especially when coupled with public-private partnerships, is often a better indicator of outcomes than matching dollars or private efforts alone."

**Jacob Johnson Eminent Technical Solutions Chief Technical Officer 10/31/2023**

*IP Vol 2, Section 2.4*

"Affordability for Rural Communities (Pg 38. Waiver of Matching Funds): Affordability for

rural communities brings to mind the parable of the Widow's Mite, considered more precious than a pile of gold. We encourage the board to consider the affordability of grant applications for smaller and more rural communities. As match requirements increase, communities without dollar-for-dollar matches may face considerable disadvantages. A relatively small match for one community may represent a substantial financial commitment compared to a larger match from a wealthier community. We encourage the board to weigh heavily feasibility, proforma data, community partnerships, and long-term sustainability as factors of economic efficiency and viability. Communities unable to secure matching funds should not be penalized but rather should receive special attention and support."

**Jacob Johnson Eminent Technical Solutions Chief Technical Officer 10/31/2023**

*IP Vol 1 and 2 - General Comment - Entire Plan*

"We respectfully request that the board give serious consideration to these suggestions. Our utmost desire is to align community efforts with the Idaho Broadband Strategic Plan. We eagerly anticipate continuing our collaboration with the Idaho Broadband Advisory Board to address the broadband needs of our communities.

Thank you for your time, efforts, and consideration."

**Travis Kramer Magic Valley Coalition of Counties Camas County Commissioner Chair, District 3 10/31/2023**

*IP Vol 1 and 2 - General Comment - Entire Plan*

"We, the undersigned leadership of the coalition of Lincoln County, Gooding County, Jerome County, and Camas County, are committed to the realization of the IBAB Broadband Plan and the successful implementation of the NTIA's Broadband Equity Access and Deployment ("BEAD") program to help bring connectivity to all Idahoans. We are concerned, however, that, as currently written, the rules and requirements risk excluding smaller providers, non-traditional providers, and public/private partnerships. The exclusion of these providers and entities will diminish the capacity of the program to close the digital divide and provide affordable, quality Broadband connectivity to all Idahoans. To ensure the success of the BEAD program, in alignment with the community-driven

goals laid out in the IBAB Broadband Plan, we respectfully request you closely consider (1) alternatives to the program's irrevocable standby Letter of Credit ("LOC") requirement, (2) consider the enriched merit of non-traditional and government entity applications in terms of economic multipliers and return on investment (ROI), and consider alternatives to the financial requirements which are very difficult for smaller counties, and (3) address unscrupulous challenges made in the last round of funding in line with previous IBAB announcements"

**Travis Kramer Magic Valley Coalition of Counties Camas County Commissioner Chair, District 3 10/31/2023**

*IP Vol 1 and 2 - General Comment - Entire Plan*

"Current guidelines require BEAD participants to obtain a LOC issued by an FDIC bank with a Weiss rating of B- or better for 25% of the award amount. Banks providing LOCs require that they be collateralized by cash or cash-equivalent. This requires that participants must front and lock up large sums of capital for the duration of the project, potentially freezing this capital and the economic growth and impact it could provide for years. Utilizing the excellent example calculated by Connect Humanity, requiring a LOC and the additional 25% match requirement would provide the considerable hurdle of fronting a significant part of the capital to complete a grant. As referred to herein, that article pointed out several pitfalls in the BEAD requirements. If your interpretation of the IBAB Broadband Plan and the BEAD requirements for the LOC and matching grants are different than ours, we would welcome that discussion. We unequivocally support protecting the investments of taxpayers and ensuring that providers are held to account for their commitments. However, the LOC requirement is not an effective measure to ensure accountability or efficacy. The capital hurdles required by the match and LOC combination could currently shut out most small and community-centered ISPs, minority and women-owned ISPs, nonprofits, and municipalities. The requirement does not address the capabilities of the entities to

complete the construction of a well-functioning network or to provide services to the consumer. Instead, this measures the ability to bear the large burden of locking up valuable capital for several years. While large incumbents and multistate companies may be able to bear this burden, community-focused and small entities ISPs best positioned, willing and able and suited to bridge the digital divide for the underserved and unserved are prevented from doing so. LOCs may be especially burdensome to municipalities due to various rules both for acquiring a LOC and providing collateral. Therefore, alternatives to the LOC are critical to ensure municipalities and targeted entities can participate in BEAD.

Fulfilling the LOC requirement for Idaho would mean that banks might need to issue \$147.75 Million in LOCs. Banks with Weiss ratings of less than B-, investors, Community Development Finance Institutions (CDFIs), or philanthropy cannot fulfill this requirement. While burdensome on the banking system, the \$147.75 Million in capital needed to collateralize them would be sitting idle, not being used to buy equipment, lay fiber, and train the next generation of broadband engineers. This economic impact would stymie the positive economic multipliers that small and municipal-focused providers' spark. These impacts are certainly unintended consequences of the LOC requirement that should be remedied.

Looking at other past federal broadband investments, the requirements were either a match or a LOC – not both. For example, the USDA Rural Utilities Service ReConnect program requires a 25% match but not a LOC and releases grant funds on reimbursement. The Treasury Department's Capital Projects Fund has no requirement either for a match or an LOC. With both programs successful in Idaho, we recommend waiving the LOC requirement entirely. However, if this is not agreeable, there are other alternatives. For example:

Performance bonds, a common feature in construction ventures, present a viable substitute for a Letter of Credit (LOC). They serve as financial assurance for project completion without necessitating providers to commit substantial upfront capital to secure BEAD funding. What further distinguishes performance bonds is the

comprehensive scrutiny undertaken by the bond issuer regarding the applicant, thereby offering an additional level of qualification. Furthermore, the bond issuers are motivated to guarantee project performance, contributing an extra layer of confidence in the project's successful conclusion.

Secondarily, delayed reimbursement could be an option. The implementation of delayed reimbursement involves providers and State Broadband Offices mutually defining a specific set of milestones that must be met to release grant installments. This process formalizes the existing reimbursement strategy, where grants are incrementally disbursed to providers during the project's construction phase. This well-established approach equips Broadband Offices with the ability to collaborate efficiently with applicants they consider most capable of extending connectivity to unserved and underserved communities within their state.

The BEAD program has the potential to have an unprecedented impact on Idahoans. The LOC component hamstring the most vulnerable and potentially valuable entities from participating. Creating a level playing field is vital to the success of the program and addressing the agenda of the IBAB broadband plan."

**Travis Kramer Magic Valley Coalition of Counties Camas County Commissioner Chair, District 3  
10/31/2023**

*IP Vol 1 and 2 - General Comment - Entire Plan*

"Government entities, e.g., municipal and county governments, are entrusted to provide other large infrastructure and services such as drinking and wastewater management, electrical grids, transportation systems, etc. These multimillion-dollar projects, many of which we depend on for our life and health, are entrusted to officials to complete effectively with contracted partners. Many of these systems incorporate electrical and network components for functionality that are similar or identical to components of a broadband network. While the state of Idaho has looked favorably on municipal networks in the recent past, the restrictive nature of the BEAD program lumps these unique entities together with other providers who

have entirely different resources, economic drivers, and responsibilities to their shareholders and owners. In addition to considering releasing these entities from the LOC obligation, we implore the state to consider releasing the match obligation or providing state funds to achieve the match for communities with a proven track record of excellence in other funded areas. Community governments, especially in rural areas, are scrappy and innovative. Their motivations are to provide connectivity, local jobs, and economic boosts to their citizens. The ROI for a community network can be looked at in terms of a net zero driving down costs while sparking economic drive. Large ISPs, especially those out of state, come in and build a network, and bring in money, but then much of that workforce leaves the community. Communitydriven projects provide jobs and bring in families who buy groceries and go to the movies. They set down roots, educate their children, and build our communities for the future. These projects do not necessarily need to be profitable but rather selfsustaining, decreasing the long-term costs to taxpayers and consumers perpetually. Further, functionally, taxpayer dollars stay in the taxpayer's hands. With community ownership, tax dollars do not go to large private providers and public companies and instead can be further leveraged for the communities. We suggest that these smaller types of entities be considered with more discernment in the selection and scoring process due to their unique attributes and community benefits."

**Travis Kramer Magic Valley Coalition of Counties Camas County Commissioner Chair, District 3  
10/31/2023**

*IP Vol 1 and 2 - General Comment - Entire Plan*

"We would respectfully ask that the board consider carefully its previous statements as they relate to frivolous challenges. "If a challenger submits an excessive number of challenges, as determined by the Board or review committee, the Board and review committee reserve the right to deem said challenger ineligible for future state or federal grant monies."

During the CPF application process, we received and fielded multiple challenges

from parties that offered no solutions and refused to collaborate with us as communities. These challengers and their challenges had no basis in facts or relevance to our applications as they did not seek to creatively improve outcomes or service the unserved or underserved in our communities. Challenges like those muddy the waters of an issue that we have chosen to prioritize, and we would ask for your help in avoiding these distractions in the future as we seek to collaborate with all interested parties desiring to work with our communities for mutual benefit and in good faith."

**Travis Kramer Magic Valley Coalition of Counties Camas County Commissioner Chair, District 3  
10/31/2023**

*IP Vol 1 and 2 - General Comment - Entire Plan*

"Several coalition members have received CPF grants and would like to thank IBAB, Ramon, and the Department of Commerce team for considering our previous comments for CPF and their diligent work to score grants and adjudicate challenges. We appreciate this further work by the IOB and IBAB to implement BEAD in Idaho and for your consideration of our feedback on Volumes 1 and 2. We look forward to working with you to build a better, more connected Idaho!"

**Lori Adams Nokia VP of Broadband Policy & Funding Strategy, Government Affairs Americas  
10/28/2023**

*IP Vol 2, Section 2.4.5*

"First, Nokia applauds Idaho's proposed approach to ensuring that all BEAD applicants meet the Buy America requirements. However, Nokia is providing some recommendations on additional ways for the State to approach this requirement that further streamlines the process and makes compliance even easier to achieve. Nokia supports the Buy America Waiver for BEAD that was issued by the Department of Commerce on August 22, 2023. The Waiver took significant time and effort to create and recognizes the challenges within the industry and provides a reasonable roadmap for compliance for those products that do not fall under a Waiver category. The Waiver will also enable the goals of the Buy America program to be met while serving the critical purpose of the BEAD Program of connecting all Americans and closing the digital divide.

The Waiver does the following key things related to broadband electronics:

Fully waives both criteria of the Buy America requirement for all broadband electronics EXCEPT OLTs, OLT line cards, OLT optics modules and ONTs. This means that no manufacturing vendor, provider or state needs to apply for a waiver. The requirement is automatically waived.

Waives the 55% criteria for OLTs, OLT line cards, OLT optics modules and ONTs but requires these products to be manufactured in the US and meet manufacturing process definitions detailed in the Waiver. This means that no manufacturing vendor, provider or state needs to apply for a waiver for the 55%. The requirement is automatically waived.

Prohibits the purchase of products manufactured in China.

Establishes a process for manufacturers to voluntarily self-certify Buy America compliance with NTIA for products that are required to be manufactured in the U.S.

The Waiver completely reduces the state and provider burden of compliance with Buy America laws for BEAD through the creation of the list of vendor compliant Buy America products. As noted by the Waiver, the purpose of the creation of the list is to protect U.S. manufacturing of Buy America compliant products: "Manufacturers that have expressed a willingness to onshore manufacturing of key electronics are concerned that they will be undercut by companies falsely claiming BABA compliance." 1

To meet Section 2.4.5 of the State's Bead Volume 2 requirements, Nokia recommends that Idaho require all BEAD grant applicants to select all non-waived products from the NTIA list of vendor compliant Buy America products. This will enable your grant review teams to literally check the box for Buy America compliance and rest assured that your BEAD dollars are not being spent on products that are falsely claimed to be Buy America compliant. Please note that the list is open to all non-waived products and not just limited to broadband electronics. Nokia intends to certify our list of Buy America compliant products as soon as the process for self-certification is released.

Nokia recognizes that the NTIA certification process has not been established yet. Prior to the publication of the list, Nokia recommends that states either establish their own Qualified Vendor List that aligns with the Waiver or require that BEAD applicants submit a manufacturer certification with their grant application that the products they have selected meet the Buy America requirements along with a timeframe for availability. If a manufacturer is providing less than the 4 products for the BEAD, then multiple certifications would be required to be submitted by the applicant. The attached certification is a sample template for use by your program prior to the establishment of NTIA's Buy America Qualified Vendor List.

Please let us know if you require further information to support our position. Nokia appreciates your consideration of our comments, and we look forward to continuing to engage with you on these matters.

"

**Ursala Garbrecht 10/29/2023**

*IP Vol 2 - General Comment - Entire Plan*

"Hello,

I live in a remote area of Challis Idaho where I work remotely online and rely on internet to effectively meet with clients and participate in video presentations.

I use Custer Telephone Cooperative. I live in town and they have excellent service. They act on issues promptly and the fiber optic cables ensures I can show up to multiple meetings each weekday. It is the most reliable internet I have ever had and clients in cities often have more issues with internet than I do. The service of the cooperative is fantastic as well.

The big corporate conglomerates that don't care about their staff or customer experience make for frustrating relationships, wasted money, and lost time with issues not being resolved effectively. Please don't get lured in by a big monopoly company with staff and headquarters across the country. I think it's nice that there are still some wild places where you can't have internet access, well except Starlink.

The cooperative is a great model that serves communities both from a customer perspective and how they treat their staff. I hope you consider that model as you work to get more of Idaho online.

Thank you for your consideration.

~ Ursala Garbrecht"

**Gail Long TDS Telecom Manager-State Gov't Affairs, CA, CO, ID, MT, OR, WA 10/30/2023**

*IP Vol 1, Section 1.1*

No later than September 29, 2023, companies eligible to participate in the Enhanced-ACAM program were required to notify the FCC of acceptance of the E-ACAM offer. Locations within those accepted offers are deemed ineligible for BEAD funding. Providers accepting E-ACAM are required to serve 100% of the eligible locations with speeds of 100/20Mbps or faster no later than 12/31/28. Therefore, Vol 1 should be modified to reflect this new information.

**Gail Long TDS Telecom Manager-State Gov't Affairs, CA, CO, ID, MT, OR, WA 10/30/2023** IP  
*Vol 1, Section 1.2*

"TDS generally agrees with the methodology outlined in the volume 1 draft as submitted for comment. Specifically, TDS concurs with the following:

In accordance with the BEAD NOFO, locations that 1) are served exclusively by satellite, 2) are using an entirely unlicensed spectrum, 3) are served by a technology not specified by the FCC for the National Broadband Map, or 4) have high latency connections, do not meet the criteria for Reliable Broadband Service and so are considered by the IOB to be unserved.

TDS supports the IOB direction regarding speed testing as it would be a complex and time-consuming process in a situation where the technology will for the most part be a strong indicator of speed capability."

### **Gail Long TDS Telecom Manager-State Gov't Affairs, CA, CO, ID, MT, OR, WA 10/30/2023**

#### *IP Vol 1, Section 1.4*

"Although the IBO is proposing a total of 110 days (although NTIA allows for more) for the complete challenge process, both challenges and rebuttals are limited to 15 calendar days each. This is a VERY short amount of time, especially for providers that are working through this process in multiple states that will overlap the Idaho process. To ultimately get to the very best possible information regarding eligible locations it is imperative that both the challenge and rebuttal phases have adequate time built into them for thorough review and analysis.

TDS suggests the IBO review the challenge timeline and process as presented in Washington's initial volume 1 draft beginning on page 14 - see <https://deptofcommerce.app.box> or Internet for All in Washington - Washington State Department of Commerce The proposed process in Washington features the following:

Minimum Level of Evidence Sufficient to Establish a Challenge: The challenge portal will verify that the address provided can be found in the Fabric and is a BSL. The challenge portal will

confirm that the challenged service is listed in the National Broadband Map and meets the definition of reliable broadband service. The challenge will confirm that the email address is reachable by sending a confirmation message to the listed contact email. For scanned images, the challenge portal will determine whether the quality is sufficient to enable optical character recognition (OCR). For availability challenges, the WSBO will manually verify that the evidence submitted falls within the categories stated in the NTIA BEAD Challenge Process Policy Notice and the document is unredacted and dated.

WSBO - Challenge Phase is April 8, 2024 – May 7, 2024

The WSBO has built-in ten days to validate the challenges and send them to the challenged service provider. The tentative timeline for the Internal Turnaround Buffer is May 8, 2024 – May 17, 2024

The rebuttal period begins once the provider is notified of the challenge and thus may occur concurrently with the challenge phase. After receiving a challenge notification, providers will have 30 calendar days to provide rebuttal information to the WSBO. The tentative timeline for the Rebuttal Phase is April 8, 2024 – June 16, 2024

Final Determination Phase is June 17, 2024-July 16, 2024

In the alternative, TDS suggests a rolling 30-day window for challenges with a rolling 45 day rebuttal period.

TDS respectfully requests the IBO to exercise its discretion to exclude the optional area challenge from its challenge process. Area challenges are not representative of the relevant service or offerings within an entire census block group. For example, the fact that six or more BSLs using a particular technology are subject to a challenge is not itself evidence that every other BSL within that census block group is not served. Nonetheless, these challenges would necessarily require the IBO to expend valuable staff and resources to review rebuttal evidence at an exponentially higher number of locations than were challenged in the first place, i.e. the IBO will need to validate each individual challenge that would trigger an area challenge and then review the provider's rebuttal at every location within the census block group. Including area challenges will likely overwhelm the IBO with significant amounts of information to review in an extremely short time, for locations that were not even subject to challenge in the first place. This would not only make Area challenges an ineffective mechanism to accurately identify unserved and underserved locations in Idaho but could also prevent IBO from satisfying NTIA's requirement that it "review all applicable challenge and rebuttal information in detail without bias, before deciding to sustain or reject a challenge."

**Gail Long TDS Telecom Manager-State Gov't Affairs, CA, CO, ID, MT, OR, WA 10/30/2023**

*IP Vol 2, Section 2.4.1*

"The IBO lists five different possible methods for determining service area boundaries. Those are:

1. Census Block Groups Boundaries - Census Blocks Groups are statistical areas bounded on all sides by visible features, such as streets, roads, streams, and railroad tracks, and/or by nonvisible boundaries such as city, town, township, and county limits, and short line-of-sight extensions of streets and roads. Census blocks are small in area.
2. County and City Boundaries – These boundaries are based on current county and city boundaries.
3. Census Designed Place – These boundaries are based on current US Census definitions.
4. Zip Code Tabulation Areas – These boundaries were developed by the United States Census Bureau for tabulating summary statistics.
5. Other-Strategies for establishing boundaries to serve all unserved and underserved locations in Idaho.

Allowing ISPs to define their own areas gives ISPs and the IBO more flexibility in terms of cost modeling and grant awards. The state contribution can vary by area which would give them an ability to target areas based on the most efficient use of funding.

If ISPs must select one of the five options above, TDS would pick #2. The rationale is the work areas would align with permitting authorities giving ISPs consistency in terms of cooperation (or lack thereof) in each build area."

**Gail Long TDS Telecom Manager-State Gov't Affairs, CA, CO, ID, MT, OR, WA 10/30/2023**

*IP Vol 2, Section 2.4.2*

"Table 5

Primary Scoring Criteria Priority Broadband Projects

Affordability (See also Table 6):

Comments:

The affordability scoring criteria as presented is reasonable, subject to the further comment below, in the short-term but specific pricing obligations for a period longer than 24-36 months after the completion of construction would be unreasonable due to various unknown factors in the marketplace. See also comments on low-income section 2.12.

There also seems to be a gap for the 1 gig symmetrical service offering, what are the points a company would be awarded if it offers gig service between \$70.01 and \$79.99? TDS suggests 13 points for offerings in the \$70.01 and \$79.99 range.

Secondary Scoring Criteria Priority Broadband Projects

Open Access (Table 11):

Comments:

NTIA does not require projects built with BEAD funds to be open access and neither should the IBO. TDS network teams have significant concerns around requirements to provide open access networks including:

1.

ISPs do not have control of customer service, repairs, or issues on the network.

a.

Example: if a city owns the open access network, the city could refuse to sign a service/restoration agreement

b.

This translates into poor customer experience as the municipalities do not have the same sense of urgency as ISPs.

2.

Open Access networks increase costs; they are expensive to implement, especially in areas that already have some infrastructure in place.

3.

Open access complicates the operations of the network. For example, ISPs would need to share a node and then each ISP would still have to drop fiber from there. Both companies cannot be on the same fiber strand to the home (like a game controller can only operate one player).

4.

There are possible security issues because the fiber network is shared, service provision can only happen from one source. That would require the open access provider to install and maintain network security software, systems, and physical security to the standards of those who connect to the shared network. It's complex.

5.

Business models require that the lease rates for the fiber facilities be very low to match the same rate of return as build your own network. TDS has seen \$20 open access rates in some areas and the business case doesn't work"

**Gail Long TDS Telecom Manager-State Gov't Affairs, CA, CO, ID, MT, OR, WA 10/30/2023**

*IP Vol 2, Section 2.12*

"With the availability of the ACP and ability to include those credits in the calculation of the low-cost broadband rates as presented in the draft, the low-income pricing as proposed is very doable. However, the IBO should include a back-stop in case the ACP is not continued or there is no replacement program available in the future. It will be difficult for ISPs to offer a low-income service for "free" purely financed via the ISP.

Determining middle-class affordability

Comments:

TDS believes that ACP based programs should be incorporated as part of the \$50 100/20 if required as a price point."

**David McKnight Airbridge Broadband Co-Owner 10/31/2023**

*IP Vol 2 - General Comment - Entire Plan*

"Dear Ramón and the Idaho Broadband Access Development (IBAB) Team,

I am writing to provide four key suggestions to enhance the success of the Broadband Access Development (BEAD) program, with the aim of delivering true broadband internet access to underserved and unserved communities in Idaho. These recommendations are outlined below:

1.

**Support for Smaller Internet Service Providers:** The current BEAD framework presents significant challenges for smaller Internet Service Providers (ISPs), like AirBridge, to actively participate. While larger ISPs have the resources to meet complex requirements, such as a 25% Letter of Credit and a 25% match, smaller ISPs face obstacles due to resource constraints and limited operational scale. Recognizing the essential role of smaller ISPs in reaching high-cost and remote areas is crucial. These ISPs often achieve remarkable results with limited funding, contributing significantly to the broader ecosystem. We propose that the State Broadband Office organize a dedicated session in Boise to engage with small ISPs across the state, seeking their insights on:

a)

Identifying specific guidelines that may hinder effective participation by smaller ISPs.

b)

Developing viable strategies to ensure smaller ISPs can comply with Treasury mandates. By adopting this collaborative approach, the BEAD program can maximize its potential and inclusivity.

2.

**Regional Structuring for Prioritization:** Further discussion and public input are needed regarding the division of the state into regions to prioritize unserved areas. The State Broadband Office should consider whether ISPs should individually apply for areas they wish to cover, or if the office should proactively divide the state into counties, grids, or similar units for ISPs to apply to. We suggest the following methodology to address this concern:

a)

Holistic countywide projects submitted by counties, tribes, or ISPs.

b)

Holistic grid-wide projects submitted by ISPs or other entities.

c)

Projects solicited by the Broadband Office in high-cost areas.

d)

All other projects submitted by ISPs or other valid entities.

3.

Incorporating Historical Data into BEAD Map: The proposed BEAD map should include information from past challenges. If ISP "A" challenged ISP "B" by claiming to be in the process of building broadband in a specific area, two important outcomes should be considered as follows:

a)

If ISP "A" claimed to be building broadband in an area but failed to do so, they should not be eligible for BEAD funding for that area, while other ISPs remain eligible.

b)

If ISP "A" represented that they were building broadband infrastructure in a prior challenge, the challenged area should be fully built out as represented before considering any future BEAD grant applications for ISP "A."

4.

Incorporating Historical Data of "Served" Locations: The proposed BEAD map should also include historical data for "served" locations. If updated data reclassifies previously "served" locations as "underserved" or "unserved," this should not provide an advantage to ISPs updating their status regarding BEAD grant applications.

Sincerely,"

**Jonathan Wheatley Hawley Troxell attorneys on behalf of Idaho Cable Broadband Association  
Attorney 10/31/2023**

*IP Vol 1 - General Comment - Entire Plan*

"The Idaho Cable Broadband Association ("ICBA")<sup>1</sup> submits these comments in response to the Broadband Equity, Access, and Deployment ("BEAD") Initial Proposal, Volume 1 ("Volume 1 Draft Guidance"), issued by the Idaho Office of Broadband ("IOB"). ICBA welcomes the opportunity to comment on the IOB's Volume 1 Draft Guidance. The BEAD Program, if implemented correctly, presents a tremendous opportunity to bring high-speed broadband to the remaining unserved and underserved areas of Idaho.

ICBA appreciates and supports certain of the modifications to NTIA's BEAD Model

Challenge Process proposed by the IOB, including the exclusion of optional speed tests from the challenge process. Speed tests could inundate the state with inaccurate challenges and compromise the IOB's ability to properly determine the unserved and underserved locations in Idaho.<sup>2</sup> To further ensure that the IOB's challenge process accurately and efficiently identifies remaining unserved and underserved locations in Idaho, ICBA urges the IOB to adopt certain of its proposed

modifications to NTIA's BEAD Model Challenge Process and make certain targeted changes to its Volume 1 Draft Guidance. In particular, the IOB should: (i) treat locations that the Federal Communications Commission's ("FCC's") National Broadband Map shows to have available qualifying broadband service (i.e., a location that is "served") delivered via DSL as "underserved" and all terrestrial fixed wireless, including licensed fixed wireless, as "underserved;" (ii) provide a 45-calendar day timeframe for each of the challenge and rebuttal phases and an overall timeframe of 120 days for the entire challenge process; (iii) make targeted evidentiary adjustments; (iv) exclude optional area and Multiple Dwelling Unit ("MDU") challenges, which are insufficiently defined by the BEAD NOFO and could add unnecessary complexity to the IOB's challenge process; and (v) include a post-application verification process. Incorporating the targeted modifications suggested above into the IOB's final challenge process is critical to ensuring that the IOB is able to efficiently and effectively utilize Idaho's BEAD funding to bring high-speed broadband to the state's remaining unserved and underserved areas."

**Jonathan Wheatley Hawley Troxell attorneys on behalf of Idaho Cable Broadband Association  
Attorney 10/31/2023**

*IP Vol 1, Section 1.4*

"I. Challenge Process—DSL Modification

ICBA urges the IOB to exercise its explicit authority under NTIA's guidance to treat locations that the National Broadband Map shows to have available qualifying broadband service (i.e., a location that is "served") delivered via DSL as "underserved" and, therefore, eligible for BEAD funding.<sup>3</sup> The FCC has already determined that "DSL speeds lag far behind" the speed of other technologies. For example, in the Twelfth Measuring Broadband America Report, FCC data revealed that the weighted mean advertised download speed for DSL technology was just 24 Mbps, which "lagged considerably behind" the weighted advertised download speed of fiber technology at 510 Mbps.<sup>4</sup> The FCC also concluded that "DSL broadband ISPs . . . continue to advertise 'upto' speeds that, on average, exceed the actual speeds experienced by their subscribers."

II. Challenge Process—Licensed Fixed Wireless Modification

ICBA also urges the IOB to treat locations that have available qualifying broadband service (i.e., a location that is “served”) delivered exclusively via licensed fixed wireless as “underserved” and eligible for BEAD funding. Although the NTIA BEAD Model Challenge Process does not explicitly address licensed fixed wireless services for purposes of determining serviceable locations, NTIA’s BEAD Initial Proposal Guidance plainly allows the IOB to propose other modifications to its set of locations that are eligible for BEAD funding.<sup>9</sup> ICBA therefore urges the IOB to include this modification in its final challenge process guidance and to ensure that it appropriately captures all locations served exclusively by licensed fixed wireless facilities.

NTIA has already determined that fixed wireless service using entirely unlicensed spectrum is not considered a reliable broadband service.<sup>10</sup> And NTIA requires locations served exclusively by unlicensed fixed wireless to be treated as “unserved” for the purposes of the BEAD Program and eligible for funding.<sup>11</sup> Recent research demonstrates the critical need to treat locations served exclusively by any licensed fixed wireless service as “underserved.” That is because providers employing licensed spectrum typically only have sufficient excess capacity to actually serve only a small percentage of the homes and businesses in markets that were initially deemed ineligible for BEAD funding because they were “served.”<sup>12</sup>

Multiple states have proposed to treat all locations served exclusively by licensed cellular, licensed-by-rule, and unlicensed fixed wireless service as eligible for BEAD funding because they do “not believe that terrestrial fixed wireless technologies can reliably deliver the speed and latency requirements for a location to be considered ‘served’ under the IJJA (i.e., not less than 100 Mbps download and 20 Mbps upload and latency less than or equal to 100 milliseconds)” and because “the median cellular internet speeds in the United States are approximately 80 Mbps download and 10 Mbps upload, which do not meet the definition of served. Additionally, cellular networks by design, have a significant drop-off of data rates the farther a user is from the source (e.g., tower).”<sup>13</sup>

Accordingly, similar to treating locations “served” via DSL as “underserved,” the IOB should include a modification to treat areas “served” exclusively by any licensed fixed wireless service as “underserved” and eligible for BEAD funding. Doing both will further encourage the deployment of end-to-end fiber projects, which, in turn, will help “ensure the delivery of ‘futureproof’

broadband service” to as many Idaho residents as possible, as envisioned by NTIA.<sup>14</sup> As NTIA itself has recognized, “[o]nly end-to-end fiber will ‘ensure that the network built by the project can easily scale speeds over time to . . . meet the evolving connectivity needs of households and businesses.’”

"

**Jonathan Wheatley Hawley Troxell attorneys on behalf of Idaho Cable Broadband Association  
Attorney 10/31/2023**

*IP Vol 1, Section 1.4*

"III. Challenge Process—Timeline

ICBA is concerned with the IOB’s proposal to conduct its entire challenge process – including the challenge, rebuttal, and final determination phases – in a materially shorter timeframe than NTIA encourages states to adopt. Specifically, the IOB proposes to conduct the entire challenge submission and rebuttal process in only 30 days. ICBA is also concerned with the IOB’s proposal to conduct the challenge and rebuttal phases in unreasonably short timeframes. Indeed, the IOB proposes 15 calendar days each for both the challenge phase and rebuttal phase, but NTIA has explicitly stated that the challenge submission and rebuttal windows should remain open “for at least 30 days” and clarified that states may choose longer periods.<sup>16</sup>

Accordingly, ICBA urges the IOB to modify its Volume 1 Draft Guidance by:

- (i) providing at least a 45-calendar day timeframe for the challenge phase;
- (ii) providing at least a 45-calendar day timeframe for the rebuttal phase; and
- (iii) adopting an overall timeframe of 120 days, as contemplated by NTIA, to conduct the challenge process.

First, the BEAD challenge process will require providers to comprehensively review and respond to the IOB’s initial serviceability designations for every eligible location, and many providers may be required to concurrently undertake the same exercise in numerous other states.

. A short challenge and rebuttal window will therefore make it difficult for ICBA members to reasonably and comprehensively participate, potentially undermining the accuracy of funding decisions. Second, as noted above, ICBA’s proposed changes are explicitly allowed under the NTIA BEAD Model Challenge Process. And, ICBA’s proposed 45-calendar day timeframe for

each of the challenge and rebuttal windows can easily be accommodated to fit within the overall 120-day window that NTIA provides for states to conduct the entire challenge process. Indeed, although the NTIA BEAD Model Challenge Process specifically states that the IOB can (and should) begin its final reviews on a rolling basis as challenges and rebuttals are received<sup>17</sup>, ICBA's proposed timeframes will still afford 30 calendar days from the conclusion of the rebuttal window for the IOB to make the final determinations of the classification of challenged locations. Finally, ICBA's proposals are necessary so that the IOB efficiently and accurately identifies locations eligible for BEAD funding, which will better allow parties to review the data and submit thorough and accurate challenges. In contrast, shorter periods than those described above are simply too brief to allow for sufficient analysis and challenge of an entire statewide map of locations and could result in the IOB receiving incomplete information, ultimately impeding the accuracy of future funding decisions and undermining the requirement of the IJA to direct BEAD funding to unserved and underserved areas.

While the adoption of the entire 120-day period is warranted for any challenge process ultimately selected by the IOB, ICBA notes that the Volume 1 Guidance includes optional area/MDU challenges. As described below, ICBA urges the IOB to remove this optional challenge component. In the event the IOB does not remove this component, the added complexity and volume of challenges associated with including area/MDU challenges makes it even more important that the IOB adopt the full 120-days and afford at least 45 calendar days for each of the challenge and rebuttal windows. As also discussed below, ICBA appreciates the IOB's decision to exclude optional speed tests from the challenge process because doing so will likewise alleviate much of the timing challenges. Nevertheless, even without the adoption of optional speed tests, a 45-calendar day timeframe for both the challenge and rebuttal phases, along with a 120-day period for the entire challenge process, is necessary to ensure that remaining unserved and underserved locations eligible for BEAD funding are accurately identified."

**Jonathan Wheatley Hawley Troxell attorneys on behalf of Idaho Cable Broadband Association  
Attorney 10/31/2023**

*IP Vol 1, Section 1.4*

"IV. Evidence & Review Approach

The Volume 1 Guidance includes an evidence and review approach that is generally consistent with the NTIA BEAD Model Challenge Process. But it is critical that challenges and rebuttals are supported with sufficient, but not unduly burdensome, evidence to substantiate the claims. In order to achieve that result, ICBA urges the IOB to make three targeted changes:

(i) modify the proposed evidentiary requirements for availability challenges by limiting evidence to information generated within the last six months, which will ensure that the IOB does not receive availability challenge evidence that is too stale to be credible;

(ii) modify the proposed evidentiary requirements for availability challenge rebuttals to clarify that providers: (1) are permitted to submit screenshots that show service availability; (2) are not required to disclose customers' bills to rebut availability challenges; and (3) are able to provide additional, satisfactory forms of rebuttal evidence that service is available as a standard installation at a certain location; and

(iii) modify the proposed evidentiary requirements for planned service challenges to clarify that submission of evidence of a construction contract, pole attachment license, franchise agreement, or similar evidence of deployment, is sufficient to demonstrate that broadband will be deployed to a location.

a. Justification for modification of the proposed evidentiary requirements for availability challenges.

Some of the forms of evidence for availability challenges are potentially too stale or superficial to provide sufficient evidence that broadband service is not available at a particular location. For example, the Volume 1 Draft Guidance offers as an evidentiary example for an availability challenge "a letter or email dated within the last 365 days that a provider failed to schedule a service installation date within 10 business days of a request."<sup>18</sup> However, information based on circumstances that existed a year ago is too stale to credibly demonstrate that service in a particular location is unavailable. Given the current rate of broadband deployment, service could have been established in the last six to eight months. In addition, providers are required to submit updates to the FCC's Broadband Data Collection portal every six months. Accordingly, the IOB should limit availability challenges to evidence generated within the last six months.

b. Justification for modification of the proposed evidentiary requirements for availability challenge rebuttals.

The IOB should clarify the evidence necessary to rebut availability challenges and permit providers to submit other forms of evidence that readily meet NTIA's rebuttal example of "evidence that service is now available as a standard installation." Specifically, the IOB should adhere to NTIA's BEAD Model Challenge Process by allowing screenshot serviceability to rebut availability challenges. The IOB should specifically allow screenshots from providers' websites clearly displaying the specific location challenged and the broadband service available at that location because NTIA's Challenge Process Policy Notice explicitly added "a screenshot that shows service availability" as allowable rebuttal evidence.<sup>19</sup> In addition, because the IOB's Volume 1 Draft Guidance still includes screenshots of a provider webpage as an example of availability challenge evidence, it follows that providers must be able to rebut such screenshot evidence with screenshot evidence of their own. Indeed, NTIA's Challenge Process Policy Notice helpfully mirrors the FCC's Broadband Data Collection challenge process, which allows providers to submit screenshots in response to availability challenges. The Volume 1 Draft Guidance would plainly depart from both NTIA's guidance and the FCC's rules related to availability challenges if it fails to include screen shots for rebuttals.<sup>20</sup> Thus, ICBA strongly urges the IOB to allow screenshots as rebuttal evidence demonstrating that service is now available at a location.

The IOB should also clarify that providers are not required to disclose customers' bills.

There is often more than one service provider at a customer location, and the lack of billing statements associated with that location from one provider may simply mean that the customer is using a different service provider or chose not to subscribe at all. Moreover, where a provider's deployment to an area is recent, it may not yet have paying subscribers. Requiring information about the service status of a specific location may also require cable broadband providers to violate the statutory prohibition against disclosing "personally identifiable information" in most instances absent the express consent of the subscriber or a court order or administrative subpoena, including the provider's records reflecting customers' service addresses as well as the type of service provided.<sup>21</sup> Section 551 requires court orders with notice and opportunity to contest the disclosure, or a subpoena, court order, or warrant under the provisions of the Electronic Communications

Privacy Act, “except that such disclosure shall not include records revealing cable subscriber selection of video programming from a cable operator.”<sup>22</sup> The requesting agency must, at a minimum, use an administrative subpoena to obtain any of the following categories of information about a broadband subscriber: (a) name; (b) address; (c) local and long distance telephone connection records, or records of session times and durations; (d) length of service (including start date) and types of service utilized; (e) telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address; and (f) means and source of payment for such service.<sup>23</sup>

Instead, the IOB should clarify that providers may submit other forms of evidence to rebut availability challenges that readily meet NTIA’s rebuttal example of “evidence that service is now available as a standard installation,” including specifically evidence of a general mailing in the area offering service.<sup>24</sup> Additionally, rebuttal evidence of availability should not be limited to confirmation that service was provided to a broadband serviceable location (“BSL”) within the previous 12 months.<sup>25</sup> While broadband deployment is rapidly occurring, making some forms of evidence of availability stale if generated more than six months ago, once broadband services are deployed, they will likely remain available to consumers indefinitely in the future. In fact, the ability of a cable network to serve a given location, once service is provided, typically does not change year-over-year, because the cable network does not have capacity constraints like other technologies such as fixed wireless access. Therefore, the IOB should allow evidence confirming that the provider has provided service to a BSL at any time in the past, barring more recent evidence to the contrary, to demonstrate availability. c. Justification for modification of the proposed evidentiary requirements for planned service challenges.

The Volume 1 Draft Guidance proposes that, to submit a challenge, providers must submit evidence to demonstrate that broadband will be deployed at a particular location by June 30, 2024, without an enforceable commitment (or that a provider is building out broadband offering performance beyond the requirements of an enforceable commitment).<sup>26</sup> It is well-reasoned that the June 30, 2024 date listed in the NTIA Model Challenge Process is provided for illustrative purposes only and IOB can and should allow providers, in submitting a challenge, to submit evidence demonstrating that broadband will be deployed at a particular location by June 30, 2025,

like the state of Nebraska is proposing in its BEAD Volume 1, since it appears that IOB may not make challenge determinations until possibly sometime in 2024. 27

The IOB also proposes to require providers to submit construction contracts or similar evidence of ongoing deployment, along with evidence that all necessary permits have been applied for or obtained. But these proposals are overly burdensome and unnecessary, particularly for providers that will likely be responding to challenges in multiple states simultaneously. ICBA urges the IOB to further clarify that providers are permitted to provide evidence of a construction contract, pole attachment license for the build, or franchise agreement without the additional requirement of all permitting evidence. This alternative is sufficient to demonstrate an enforceable commitment while also easing the burden on IOB staff reviewing the challenges."

**Jonathan Wheatley Hawley Troxell attorneys on behalf of Idaho Cable Broadband Association  
Attorney 10/31/2023**

*IP Vol 1, Section 1.4*

"V. Area and MDU Challenge

The Volume 1 Guidance explains that the IOB will administer area and MDU challenges.<sup>28</sup> ICBA urges the IOB to use its discretion to exclude the optional area and MDU challenge module from its challenge process, which, as noted below along with speed test challenges, would undermine the IOB's ability to expeditiously and accurately identify the unserved and underserved locations in Idaho. ICBA strongly shares the IOB's goal of accurately identifying each unserved and underserved location that will be eligible for BEAD funding; however, accepting area and MDU challenges would unnecessarily compromise the IOB's ability to conduct its challenge process in a fair and expeditious manner, as required by the IIJA and the BEAD NOFO.<sup>29</sup> To the contrary, allowing area and MDU challenges would be counterproductive to the primary goal of efficiently and accurately identifying unserved and underserved locations, create unnecessary confusion, and add complexity to the challenge process because this optional NTIA module does not sufficiently describe how to conduct each challenge type.<sup>30</sup> For example, although this module appears to suggest that area challenges will be permitted for challenge types other than speed—such as availability, latency, data cap, and technology—only availability and technology area challenges appear to be substantively addressed in the area and MDU challenge module.<sup>31</sup>

In addition, area and MDU challenges are simply not representative of the relevant service or offering within an entire census block group or MDU. The fact that six or more BSLs using a particular technology (or in the case of an MDU challenge, at least three units or 10 percent of the unit count listed in the Fabric within the same BSL, whichever is larger) are subject to a challenge is not itself evidence that every other BSL within that census block group or MDU is not served. Moreover, these challenges would presumably require the IOB to first validate each individual challenge that would trigger an area or MDU challenge; require a provider to then demonstrate to the IOB that it is meeting the technology requirement for all served locations within the area or all units within an MDU; and then require the IOB to review the provider's rebuttal at every location or unit. This would force the IOB to expend valuable staff resources necessary to review rebuttal evidence at what could be an exponentially higher number of locations than were challenged in the first place, all within the very brief rebuttal period. This would not only make area and MDU challenges an ineffective mechanism to accurately identify unserved and underserved locations for the IOB, but could also prevent the IOB from satisfying the requirement that it "review[s] all applicable challenge and rebuttal information in detail without bias, before deciding to sustain or reject a challenge."

**Jonathan Wheatley Hawley Troxell attorneys on behalf of Idaho Cable Broadband Association  
Attorney 10/31/2023**

*IP Vol 1, Section 1.4*

"VI. Speed Test Requirements

ICBA appreciates the IOB's well-reasoned decision to exclude subscriber speed tests from the challenge process. As the IOB appropriately recognizes, the NTIA BEAD Model Challenge Process explicitly clarifies that accepting speed tests is optional.<sup>33</sup> That is because speed test evidence often inaccurately measures network performance delivered. Indeed, due to the inherent difficulty ensuring that speed tests contain accurate, verifiable information, the FCC only uses this data as a supplemental source of information, not as the sole basis for a challenge to a provider's reporting of a location as served. Moreover, accepting speed tests is unnecessary to determine actual speeds offered to subscribers in Idaho, particularly for cable and fiber providers, because the FCC has already recently confirmed that "actual speeds experienced by the subscribers of most

ISPs are close to or exceed the advertised speeds.”<sup>34</sup> The FCC concluded that “[c]ustomers of [broadband providers] . . . experienced median download speeds that were very consistent; i.e., they provided greater than 95% of the advertised speed during peak usage period to more than 80% of panelists for more than 80% of the time. In particular, [member companies] . . . provided 100% or greater than their advertised speed during the peak usage period to more than 80% of their panelists for more than 80% of the time.”<sup>35</sup> Because the FCC has determined that cable and fiber providers consistently meet or exceed their advertised speeds, there is simply no need or value to including speed tests in the IOB’s challenge process, and ICBA applauds the IOB for taking this approach”

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*IP Vol 1, Section 1.4*

"VII. Post-Application Verification Process

Finally, ICBA urges the IOB to adopt a post-application verification process, separate from the BEAD challenge process, which provides a unit of local government, nonprofit organization, or broadband service provider (the same parties who are eligible to challenge the IOB’s eligibility determinations in its Initial Proposal) an opportunity, within 30 days of publication of application submissions, to submit information on additional deployment and new non-BEAD grant funding awards not captured on the latest version of the state BEAD map.

NTIA’s guidance contemplates such a process as it requires states to conduct an additional “deduplication review process” after the challenge process is complete.<sup>36</sup> This process should occur prior to the time the state selection process is finalized. Between the time the IOB initiates its BEAD challenge process and subgrantee selection, additional broadband facilities will likely be built and/or new broadband funding could be awarded. Taking these intervening developments into account ensures:

(i) more funding availability for projects that address locations that are actually unserved and underserved;

(ii) compliance with the BEAD Program’s prioritization scheme<sup>37</sup>; and (iii) compliance with the requirement not to treat as unserved or underserved locations

with an enforceable commitment to deploy broadband.<sup>38</sup>

Accounting for these new developments before finalizing the selection process would still allow the IOB ample time to complete the subgrantee selection process and submit its Final Proposal within the one-year period that the NOFO provides.<sup>39</sup> ICBA urges the IOB to adopt a post-application verification process that provides the information necessary to accurately account for additional deployment and new non-BEAD Program grant funding awards that have not been captured on the latest version of the state's BEAD Program map"

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*IP Vol 2 - General Comment - Entire Plan*

"Thank you for giving the Idaho Cable Broadband Association ("ICBA") the opportunity to express its views regarding the Idaho Office of Broadband's ("IOB" or "Office of Broadband") Initial Proposal for the Broadband Equity, Access, and Deployment ("BEAD") Program, Volume 2 (hereinafter "the Proposal"). ICBA appreciates the work of the Office of Broadband in preparing the BEAD Volume 2 Initial Proposal.

The ICBA understands that certain aspects of the Proposal may be required by the BEAD Notice of Funding Opportunity ("NOFO")<sup>1</sup> and related guidance from the National Telecommunications and Information Administration ("NTIA").<sup>2</sup> The ICBA also recognizes that the Office of Broadband wants to minimize any objections to the proposal that NTIA may raise. However, the NOFO gives a significant amount of discretion to states and Idaho should exercise that discretion vigorously and wisely to ensure a successful program for Idahoans while avoiding unnecessary and burdensome requirements on applicants and the state. This is particularly of concern when such requirements and burdens would have a chilling effect on participation by experienced internet service providers ("ISPs") and their willingness to invest "at risk" capital in Idaho.

Charter, Cox, Comcast, and Cable One, Inc. (d.b.a. Sparklight) are members of the ICBA. Each provider has made significant investments in the state's broadband infrastructure, and they have plans to continue investing in the future. Collectively, these four companies have invested well over a billion dollars of private funds in Idaho's broadband infrastructure. These investments are helping to expand broadband access to homes and businesses across the state, and they are also helping to create jobs and

boost the economy. These providers are deploying top of the line technologies, improving existing

networks, building out fiber optic systems, and offering some of the most competitive prices in the State. They are committed to providing Idahoans with access to high-speed, reliable broadband internet. Their investments in the state's broadband infrastructure are helping to make Idaho a more attractive place to live, work, and do business.

Given these benefits that the ICBA members provide to Idahoans, the state should not adopt burdensome, counterproductive, and impermissible rules, such as broadband rate regulation, progressive labor standards, or open access requirements, which are either not required or specifically prohibited under the IJJA or NOFO. Such requirements deter qualified applicants from participating, and would reduce the BEAD Program's effectiveness in connecting all unserved and underserved Idahoans with reliable, high-speed broadband.

ICBA notes with concern that the IBO's current proposal contains prescriptive price and product regulation and other unnecessary rules, which directly conflicts with and undermines the policy intent of Governor Little's Red Tape Reduction Act<sup>3</sup>. Indeed, the Proposal is particularly misaligned with Idaho's goals of reducing unneeded regulations and administrative burdens to better foster economic growth and innovation, which endeavors to impose heavy-handed regulatory mandates in the form of rate regulation, unrealistic pricing commitments under the guise of "affordability" scoring, labor standards that fundamentally conflict with the State's current labor environment, and open access in their subgrantee selection. As discussed below, incorporating these elements in the Proposal contradicts the goals of Idaho's Red Tape Reduction initiatives, will do more harm than good, be prohibited by law, and impede Idaho's ability to achieve the BEAD Program's objectives."

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"I. IJJA's Rate Regulation Prohibition

The IJJA explicitly bars NTIA from regulating rates charged for broadband under the BEAD Program.<sup>4</sup> Congress would not have adopted this prohibition if it intended states administering BEAD grants to do the very same thing through their subgrantee selection process or middle-class affordability plans, which NTIA has to approve. Rather, Congress intended to address broadband affordability

through other IJJA initiatives, such as the Affordable Connectivity Program. Congress’s decision to center the IJJA’s affordability initiatives on direct financial assistance for the families most in need makes sense when NTIA’s data over the last decade consistently show that, while the barriers to broadband adoption are multi-faceted and complex, where affordability is the biggest barrier to adoption, non-adopting households are disproportionately the poorest households.<sup>5</sup>

Idaho’s approach in the Proposal – to implement both low and middle income price caps – also cannot be squared with longstanding federal policies against rate-regulating broadband and state policy against unnecessary regulatory burdens on citizens and businesses. Rate regulation is a classic form of common carrier regulation that historically has applied to public utilities.<sup>6</sup> Broadband does not qualify as such. Indeed, in classifying broadband as an interstate information service, the FCC made the affirmative determination not to impose common carrier regulation on ISPs,<sup>7</sup> and even the 2015 Title II Order that classified broadband Internet access service as a telecommunications service and applied some common carrier regulations to broadband expressly forbore from the ex-ante rate regulation that Idaho proposes.<sup>8</sup> Similarly, the Notice of Proposed Rulemaking approved at the FCC’s Open Meeting on October 19, 2023 – which if approved would largely reimpose regulation of broadband Internet access services under Title II – both incorporates and directly cites the same forbearance from common carrier rate regulation included in the 2015 Title II Order.<sup>9</sup> Congress intended the BEAD Program to be a once-in-a-generation opportunity to close remaining gaps in broadband availability, not a reversal of the longstanding law and policy prohibiting states from engaging in price regulation. As courts have held in related contexts, statutory prohibitions against rate regulation apply where a state either (1) specifies the rates that must be charged for specific levels of service,<sup>10</sup> or (2) freezes prices or restricts providers from adjusting rates in certain ways.<sup>11</sup> The Proposal would amount to impermissible rate regulation under both of these analyses, for both BEAD-subsidized areas and across the State. For example, in determining how much credit to award the applicant under the affordability criterion, Idaho’s proposed scoring method uses a cost benchmark of \$100 for symmetrical gigabit service, inclusive of all taxes, fees, and charges billed to customers in the BEAD project area.<sup>12</sup> Additionally, Idaho’s proposed middle-class affordability plan would direct subgrantees to offer all consumers a 100/20 Mbps service option that “[c]osts \$50 per month or less, inclusive of all taxes, fees, and charges billed to the customer” and does not contemplate allowing subgrantees to make future

adjustments to this rate.<sup>13</sup> The Proposal also “encourage[s] [that] this “affordable service option” be made available across an entity’s entire service territory”<sup>14</sup> – not just in BEAD-funded project areas. The decision to include these prescriptive price controls is particularly baffling in light of the fact that the Proposal directly cites evidence that “broadband is currently affordable for middle-class households.”<sup>15</sup> Given this direct statement included in the Proposal and the full arguments outlined by the Phoenix Center Policy Bulletin, rate regulation for middle-class broadband users is especially unwarranted. The IBO should instead accomplish affordability by adopting the recommendations outlined in Section II.B. below”

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“II. NTIA Guidance Does Not Support State Regulation of Broadband Rates

Nothing in the NOFO or other NTIA guidance permits or requires Idaho to impose specific rates on the service plans that subgrantees must offer to all consumers in the state. In addition to conflicting with the IIJA, such requirements are unnecessary and unwise as a policy matter.

First, the statutory requirement to adopt a low-cost broadband service option for incomequalified customers does not justify Idaho’s impermissible price-setting proposals. To the extent that the NOFO contemplates that a state might actually define a provider rate, it does so as only one example

of how a state might fulfill the IIJA requirement to provide a “low-cost broadband service option” – not as a requirement that states must mandate a particular price, let alone a particular price available to all consumers.<sup>16</sup> In relevant part, the NOFO provides that states must propose a definition of “low-cost broadband service option,” which “should address . . . all recurring charges to the subscriber, as well as any non-recurring costs or fees to the subscriber (e.g., service initiation costs),” among other information.<sup>17</sup> Putting aside whether that directive itself is consistent with the rate regulation prohibition in the IIJA, the NOFO makes plain that the “low-cost broadband service option” is limited to “eligible subscribers,” i.e., those who meet specific income eligibility requirements. Those eligibility requirements exclude middle-income end users and foreclose the possibility that the required “low-cost broadband service option” could justify a further requirement that such service plans be

broadly available to all consumers.

For example, the NOFO provides that the low-cost broadband service option must “[a]llow[] the end user to apply the Affordable Connectivity Benefit subsidy to the service price.”<sup>18</sup> But that requirement can only be true if the “end user” is otherwise eligible for ACP in the first instance. In other words, the end user must be a low-income household, since the IJJA sets eligibility for ACP at 200% of the poverty line.<sup>19</sup> Furthermore, under the IJJA, the low-cost broadband service option must be made available only to “eligible subscribers,” which NTIA defines in accordance with the same household eligibility criteria for ACP.<sup>20</sup> Thus, households that do not qualify for ACP (e.g., middle-income households) are not eligible for the low-cost broadband service option.

Second, other references to service pricing in the NOFO and NTIA guidance are made in the context of provider disclosures and do not imply a broadening of eligibility for the low-cost broadband service option to all users. For example, the NOFO provides that when selecting subgrantees, a state must consider “the prospective subgrantee’s commitment to provide the most affordable total price to the customer for 1 Gbps/1 Gbps service in the project area” for priority broadband projects and 100/20 Mbps service for non-priority projects.<sup>21</sup> The NOFO also provides that subgrantees must submit regular “[d]escrib[ing] the non-promotional prices, including any associated fees, charged for different tiers of broadband service being offered,” among other information.<sup>22</sup> Neither provision provides a basis for a state to set specific price thresholds for subgrantees’ service plans that must be offered to all consumers. Additionally, while NTIA’s BEAD Initial Proposal Guidance inartfully says that “[t]he purpose of [the low-cost option] is to outline how the Eligible Entity plans to ensure that all residents within its jurisdiction will have access to affordable broadband service options,”<sup>23</sup> this sentence is included in a discussion of the low-cost broadband service option, which, as described above, is limited to “eligible subscribers” who meet certain income thresholds.

Third, Idaho’s rate regulation proposals are unnecessary and unwise as a policy matter. The IJJA reflects a finding that “[a]ccess to affordable, reliable, high-speed broadband is essential to full participation in modern life.”<sup>24</sup> But if the BEAD Program is to achieve that goal, then service over funded networks must be economically sustainable over time. In NTIA’s own words, “the lack of a sustainable business case—namely a business case that generates a reasonable return on investment—is a core problem the BEAD Program is designed to address.”<sup>25</sup> This is because the remaining

“[u]nserved and underserved areas present significant barriers for service, as evidenced by the lack of existing high-speed Internet infrastructure even after decades of the Federal efforts to expand broadband deployment in these areas.”<sup>26</sup> In recognition of that reality, NTIA notes that “incentives for broad participation are needed to address the unique challenges for which the BEAD Program was created to solve” because rules that “prevent providers from earning a reasonable return on investment during the period of performance . . . would not address the economic conditions that have stunted investment in these areas.”<sup>27</sup> Thus, it is particularly inappropriate to adopt prescriptive rate caps. Even if BEAD grants cover a portion of the capital costs of construction, high-speed broadband networks must continuously be maintained, upgraded, and protected against cybersecurity threats, to meet evolving customer demands – all of which require a sustainable business/investment model to maintain. These operating costs are significant and require a business model that is not subject to artificial constraints and has the flexibility to adapt to evolving marketplace realities. Price cap rate regulation risks starving the network, which in turn, risks the network becoming obsolete and insecure, requiring ongoing government subsidies just to remain viable, or even failing due to inability to cover operating costs. None of these outcomes are good for Idahoans. Accordingly, broadband providers should have the flexibility to price and package their services to ensure that BEAD-funded networks can be maintained and operated while still being offered to consumers at prices reasonably comparable to those offered in non-subsidized areas. Idaho’s scoring for the affordability criterion and its middleclass affordability plan should reflect these considerations.”

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"A. Low-cost Broadband Service Option

Idaho should revise the proposed definition of a “low-cost broadband service option” to: (i) ensure that Idaho can allow providers already offering low-income plans to continue to do so; (ii) clarify how long the low-cost option must be offered; and (iii) account for potential increases in inflation and government fees. Although Idaho’s response to Text Box 2.12.1 of the Proposal states that this option must be available to customers for the “for life of the network,” it is not clear whether applicants must

continue offering the same price throughout the life of the asset, nor does the Proposal (or NOFO or other NTIA guidance) explain how “for life of the network” will be defined. Thus, to provide clarity to applicants, Idaho should provide that, with respect to the low-cost option, the “for the life of the network” means 8 years, which would match the term adopted by the Treasury Department for ARPA broadband projects.<sup>28</sup> Additionally, at a minimum, the low-cost option should incorporate a mechanism to account for increases in inflation, such as an annual adjustment based on changes to the U.S. Department of Labor Bureau of Labor Statistics’ consumer price index (“CPI”), and for any increases in governmental fees that are or may become applicable to broadband service. ICBA understands that NTIA suggested that an example low-cost broadband service option could be offered to Eligible Subscribers for the useful life of the network assets at \$30 or less per month (inclusive of all taxes, fees, and charges). As discussed above, IOB should: (1) ensure that provider’s existing low-income plan offerings satisfy this requirement; (2) clarify that, with respect to the low-cost broadband service option, “for the life of the network” means 8 years; and (3) clarify that applicants may annually adjust the low-cost option’s required price to account for any increases in inflation and/or governmental fees that are or may become applicable to broadband service.

For example, the following revisions should be made to Idaho’s response under Text Box 2.12.1, which provides, in relevant part:

As required in the BEAD Notice of Funding Opportunity, subgrantees receiving BEAD funds to deploy broadband infrastructure are required to offer a “low-cost broadband service option” that is available to Eligible Subscribers for the useful life of the network assets, which is 8 years. The IOB will require prospective subgrantees to offer a low-cost broadband service option to eligible subscribers in the BEAD-funded network’s service area that best meets the needs of residents within Idaho, which shall be accomplished by the submission and approval of a plan containing the following information:

a. All recurring charges to the subscriber, as well as any non-recurring costs or fees to the subscriber (e.g., service initiation costs), which may incorporate a mechanism to account for increases in inflation (as of the date that IOB submits its Initial Proposal), such as an annual adjustment based on changes to the U.S. Department of Labor Bureau of Labor Statistics’ consumer price index (“CPI”), and for any increases in governmental fees that are or may become applicable to broadband service;

- 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; and
- d. Any provisions regarding the subscriber's ability to upgrade to any new low-cost service plans offering more advantageous technical specifications.

To establish a clear, consistent, and objective framework to ensure that the price submitted by the applicant is affordable, the IBO should determine that the applicant's price will meet the IBO definition of a low-cost broadband service option if the applicant's price is:

- a. consistent with the non-promotional broadband pricing the applicant makes available in unsubsidized areas within Idaho for the same or substantially the same level of service, for providers already serving

Idahoans; or

- b. no higher than the residential rates provided in the Federal Communications Commission's (FCC's) U.S. reasonable comparability benchmark calculated annually in the fixed broadband Urban Rate Survey (URS) for the service tier with a specified download speed of 100 Mbps and upload speed of 20 Mbps.

The IOB should refrain from requiring specific pricing conditions, controls, or regulation of the rates charged for broadband service, because: (i) it would deter qualified applicants from participation and reduce the effectiveness of the BEAD Program in Idaho; (ii) it could complicate the operational capability of qualified applicants; and (iii) the National Telecommunications and Information Administration is explicitly prohibited from regulating the rates charged for broadband service under Section 60102(h)(5)(D) of the Infrastructure Act."

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## "B. Middle-Class Affordability

Irrespective of the NOFO's approach to a low-cost option for "eligible subscribers," the NOFO does not require states to set a dollar threshold for their middle-class affordability plans. Rather, NTIA's guidance provides a range of possible, discretionary strategies that states can employ in their plans, including by establishing consumer pricing benchmarking.<sup>29</sup> Given this flexibility, Idaho can satisfy NTIA's middle-class affordability plan requirement without implicating the IJA's prohibition on rate regulation by requiring providers to certify that they either: (1) offer broadband pricing in BEAD-funded service areas that is consistent with the broadband pricing the subgrantee makes available in unsubsidized areas within the State for the same, or substantially the same, level of service, for providers already serving Idahoans; or (2) show that their pricing of 1 Gbps/1 Gbps service in the BEAD-funded service areas is at or below the FCC's "reasonable comparability" benchmark for broadband service based on the FCC's annual Urban Rate Survey (or the service tier most closely approximating download speeds of 1 Gbps/1 Gbps service if the URS does not include a Gigabit symmetrical service tier).<sup>30</sup>

Idaho should implement this middle-class affordability strategy by requiring prospective subgrantees to disclose their prices and terms in those areas and renew this certification as part of regular compliance reporting. Doing so would be consistent with NTIA's example strategy of "promoting consumer pricing benchmarks" that can serve as an "objective criterion" for determining the reasonableness of an offering and promoting "continued monitoring and public reporting to ensure that high-speed Internet connections are affordable for middle-class households."<sup>31</sup> It also would be consistent with the approach that the FCC has taken with RDOF and other USF-subsidized high-cost areas, as discussed above.

The ICBA agrees that consumers in BEAD-funded project areas should be offered affordable broadband service. The best way to accurately assess this is not to tether affordability to arbitrary prices and speed thresholds, but rather to evaluate whether comparable prices are offered in competitive markets. This would be effectuated in the modified affordability selection criterion proposed above, as well as through a certification in a provider's application and in regular BEAD compliance reporting going forward. ICBA urges the following revisions should be made to Idaho's response under Text Box 2.13.1,

which provides, in relevant part:

The affordability of broadband services from BEAD-funded networks for middle-class households is a priority for the Office of Broadband. The affordability of internet service plans for middle class households is addressed by the following program elements:"

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"BEAD Proposal Scoring Criteria

The IOB's primary means of ensuring affordability is the weight of affordability in the scoring criteria established in this proposal. Affordability will comprise 20% of the scoring criteria the Office will use to evaluate proposals to serve a location under the BEAD program. Under the scoring criterion, applicants that either: (1) offer broadband pricing in BEAD-funded service areas that is consistent with the broadband pricing the subgrantee makes available in unsubsidized areas within the State for the same or substantially the same level of service, for providers already serving Idahoans; or (2) show that their pricing in the BEAD-funded service areas for is at or below the FCC's "reasonable comparability" benchmark for broadband service based on the FCC's annual Urban Rate Survey will receive full credit. Applicants that fail to meet this criterion with their chosen pricing method will receive no credit. Certification in Application and Compliance Reporting

The IOB will require providers to certify in their applications and in regular BEAD compliance reports that they offer:

- (1) pricing and service packages in BEAD-funded project areas that are consistent with the pricing and service packages the subgrantee makes available in unsubsidized areas within the State, and has transparently disclosed those prices and terms to prospective subscribers in BEAD-funded project areas; or
- (2) pricing and service packages in BEAD-funded areas that are at or below the

FCC's "reasonable comparability" benchmark for broadband service based on the FCC's annual Urban Rate Survey, conducted pursuant to 47 C.F.R. § 54.313(a)(3), the provider has transparently disclosed those prices and terms to prospective subscribers in BEAD-funded project areas.

The "Recommended Service Plan" element of the current Proposal should be deleted in its entirety, as it is inconsistent with the IJJA as explained above.

Utilizing this approach to middle-class affordability, in addition to leveraging the affordable plans that many ISPs already make available to low-income households like Sparklight's ACP Internet 100 and ACP Internet 100 Fiber, Comcast's Internet Essentials and Internet Essentials Plus, Charter's Spectrum Internet 100, and Cox's Connect2Compete and ConnectAssist, will allow Idaho to effectively address the affordability-related provisions of the IJJA without counterproductive – and impermissible – regulation of broadband rates."

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"III. Labor Standards and Protection

Idaho is a "right-to-work" state and should not require applicants to comply with labor standards beyond those required by federal, state, and local law.

ICBA disagrees with Idaho's proposal to require ISPs to comply with discretionary items in the NOFO including prevailing wage, local hiring provisions and apprenticeship requirements<sup>32</sup>. There is no basis in the IJJA for requiring such labor stipulations. Under the IJJA, only two criteria related to an applicant's workforce are required to be considered: (i) the applicant's demonstrated record of complying with federal labor and employment laws; and (ii) plans to continue to comply with said laws.<sup>33</sup> This information, when combined with adherence to state law, gives Idaho significant ability to regularly monitor and assess compliance with fair labor practices.

Preferencing any additional commitments is unnecessary, particularly given that mandatory elements of an applicant's workforce plan and the protections of existing Idaho labor laws are already robust. If applicants are forced to commit to unnecessary requirements to receive a winning bid under

Idaho's obligation, it will fundamentally misalign Idaho's BEAD Program with Idaho's own existing labor laws and environment. Idaho is purposefully creating a regime whereby applicants are forced to adopt progressive labor policies to be competitive in the grant award process. ICBA urges Idaho to rely on an applicant's record of compliance with fair labor practices and plans for ensuring future compliance as the sole basis for scoring. Additionally, Idaho should give no preference based on the additional, unnecessary labor commitments that an applicant may make that risk misaligning Idaho's BEAD Program with its labor laws that apply in other contexts. This could prove ill-suited for the BEAD Program's overarching goal of efficient broadband deployment, risk resulting in inefficient use of federal funds, and have the inevitable effect of limiting the available labor pool, which, in turn, will impede subgrantees' ability to complete BEAD projects on schedule."

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"IV. Subgrantee Selection Process

A. Application Service Areas

According to the Proposal, IOB is seeking strategies for how to establish boundaries to serve all unserved and underserved locations in Idaho. There is a better way. IOB should allow applicants to define their own proposed project areas, including on a per-location basis, as permitted by the NOFO,<sup>34</sup> because unserved and underserved areas may not map neatly onto existing geographic units like a census block, county, or city. Defining application areas by county and city borders will also create more work for IOB because a single contiguous project could easily span multiple counties and cities, resulting in redundant applications. Moreover, applicants' determination of the appropriate geographic level for their proposals may be influenced by a variety of location, project, and providerspecific factors, such as difficult terrain or right-of-access issues.

Allowing applicants to define their own project areas will permit applicants to develop more efficient and economical proposals that leverage their existing networks and facilities, maximize network efficiency, and reflect the geographic level at which providers can successfully deploy and sustainably operate their proposed networks. In turn, these proposals will allow Idaho to minimize

BEAD Program outlay and fulfill the NOFO's directive to connect all unserved locations and, if possible, all underserved locations"

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"B. Subgrantee Selection Structure

Specifically, the IOB should modify its subgrantee selection process as follows:

☐ Round 1: The IOB should accept applications from providers for priority broadband projects—i.e., fiber-to-the-home (“FTTH”) projects—on a per-location basis and effectively utilize its proposed process to deconflict overlapping project areas by scoring each application, selecting the highest scoring applicant to serve the entire application area, and offering any remaining non-overlapping areas to the next highest scoring applicant for a subsidy amount proportionate to the remaining non-overlapping area. If that applicant rejects the offer, the IOB could then ask the applicant that was selected to serve the overlapped area to absorb the non-overlapping area rejected by the next highest scoring applicant, at the proportionate subsidy offered to the next highest scoring applicant. If no applicant accepts the offer, the eligible locations in the area would remain available for Round 2.

☐ Round 2: The IOB would make remaining eligible locations available and accept bids from all applicants on a pre-defined geographic basis, such as Census Block Groups (“CBGs”), and subgrantees could be required to serve every eligible location within the application area to ensure complete coverage of at least every unserved area in Idaho (subject to the removal of “high cost outliers” as discussed in more detail below).

If programmatic data from Round 1 suggests that the subsidy required to select priority broadband projects to serve every remaining unserved location in Round 2 would exceed the remaining BEAD Program allocation, the IOB should set the Extremely High Cost Per Location Threshold (“EHCPLT”) before Round 2 based on data from priority broadband projects submitted in

Round 1. After accepting Round 2 applications, the highest scoring priority broadband project (fiber project) that proposes an average subsidy per location at or below the EHCPLT, if applicable, should be automatically selected. Alternatively, if the highest scoring priority broadband project proposes an average subsidy per location above the EHCPLT, the applicant would be given the opportunity to accept a subsidy per location level at or below the EHCPLT. The IOB would also reserve the right to subdivide application areas into smaller geographic units, such as individual census blocks, if a small subset of “high cost outlier” locations are responsible for driving the total project subsidy request above the EHCPLT. In that scenario, the IOB would engage with the prospective subgrantee, as specifically permitted by the BEAD NOFO, to subdivide a project area to ensure that the priority broadband project is selected to serve as many locations as possible at a subsidy per location at or below the EHCPLT. If no applicant proposing a priority broadband project chooses to accept the subsidy level offered, the IOB would select the highest scoring non-priority broadband project."

**Jonathan Wheatley Hawley Troxell attorneys on behalf of Idaho Cable Broadband Association  
Attorney 10/31/2023**

*IP Vol 2 - General Comment - Entire Plan*

"V. Subgrantee Scoring

IOB's subgrantee selection process should utilize and weight selection criteria such that only the most qualified applicants are selected to deploy high-speed and reliable networks to unserved and underserved Idahoans. Although the ICBA strongly appreciates and supports IOB's proposal to allocate 50% of the total score to Minimal BEAD outlay, IOB should make targeted changes to the proposed evaluation and weighting of the Affordability, Speed of Network, Open Access, and Local Coordination selection criteria."

**Jonathan Wheatley Hawley Troxell attorneys on behalf of Idaho Cable Broadband Association  
Attorney 10/31/2023**

*IP Vol 2 - General Comment - Entire Plan*

"A. Affordability

ICBA provides recommendations for the affordability criterion as part of its broader feedback

on the Proposal's affordability measures in Section II above."

**Jonathan Wheatley Hawley Troxell attorneys on behalf of Idaho Cable Broadband Association  
Attorney 10/31/2023**

*IP Vol 2 - General Comment - Entire Plan*

"B. Speed of Network

As an initial matter, the NOFO limits evaluation of "speed of network" to proposed non-FTTH deployment projects to ensure that states can adequately weigh non-FTTH technologies that may be inferior to fiber. It is therefore particularly inappropriate for the IOB, which in contravention of the NOFO hails its proposal as "communicating that the state seeks active participation from all types of broadband providers and that an 'all of the above' broadband technology strategy," should be picking the particular type of fiber network architecture it proposes to preference.

ICBA members employ fiber network architecture that is scalable up to 10 Gbps symmetrical speed. There is simply no reason for the IOB to determine that such a network architecture should by definition not receive full scoring credit in this category, separate and aside from the fact that, as stated, the category was not designed nor intended to evaluate FTTH proposals at all.

XGS-PON, EPON, and other "PON" based fiber technologies are all robust and offer scalability to multiple gigabit speeds in the future. ICBA members, like other broadband providers, use different approaches to their fiber broadband technologies, but all PON technologies offer massive amounts of bandwidth and scalability. If the IOB prefers one among several proven fiber technologies, it will significantly limit the applicant pool, reduce the incentive for "preferred" fiber technologies to bid economically, and will ultimately frustrate the ability to serve all of the unserved and underserved locations in the State."

**Jonathan Wheatley Hawley Troxell attorneys on behalf of Idaho Cable Broadband Association  
Attorney 10/31/2023**

*IP Vol 2 - General Comment - Entire Plan*

"C. Open Access

The Draft Proposal includes "open access" as a secondary selection criterion and proposes to

award 7.5 points to the “[r]ecipients that commit to offering wholesale broadband services at reasonable

and nondiscriminatory rates and terms for the useful life of the network assets will receive points based on the open access details in the application.”<sup>36</sup> IBCA cautions the State against treating open access as an additional prioritization criterion in the ISP selection process. As a threshold matter, neither federal law nor NTIA’s guidance requires states to incorporate open access preferences into their ISP selection processes.

This is for good reason: incorporating “open access” as a selection criterion would be unwise as a policy matter. Open access is expressly not required because its inclusion would deter participation in the BEAD Program by many qualified providers and jeopardize the quality and sustainability of funded networks.<sup>37</sup> Open access obligations remove incentives for individual last-mile providers to innovate and invest in upgrades and otherwise differentiate their services based on performance. Thus, these obligations risk impairing competition between providers that could “offer consumers more affordable, high-quality options for broadband service.”<sup>38</sup>

Out of a total of 25 points in the Secondary [Scoring] Criteria, 7.5 points is available for applicants that agree to provide open access networks. As has been well documented, many private providers – such as ICBA members that have invested over a billion dollars in broadband networks in Idaho – are reluctant to now allow competitors to unfairly benefit from years of historic private network investment, and from the significant matching being offered in BEAD grant applications. For this reason, the ICBA recommends that zero points be assigned to open access networks, but if points are going to be awarded, the total points awarded should be decreased down to a total of 2.5, as follows: (i) “Details regarding open access policy” – 1 point; (ii) “Clear description of wholesale service and rates” – 1 point, and (iii) Identification of ISP partners and status of contract negotiations (e.g. MOU signed commitment, etc.)” – .5 points. This would decrease the total points awarded for open access down to 2.5 points, for the reason that ICBA members believe that having to overcome a 7.5 scoring disadvantage against predominately government operated networks is a severe impediment to both applying for a BEAD grant, much less winning a BEAD grant. The 5 point reduction from open access should be equally distributed between “Speed to Deployment” and “Speed of Network and other Technical Capabilities.””

**Jonathan Wheatley Hawley Troxell attorneys on behalf of Idaho Cable Broadband Association  
Attorney 10/31/2023**

*IP Vol 2 - General Comment - Entire Plan*

"D. Local, Tribal and Regional Broadband Planning Processes

The ICBA is concerned that the Proposal would delegate half of the available "Local and Tribal Coordination" points to the sole discretion of local/tribal authorities. While the ICBA supports consultation and coordination with community leaders, affording localities unfettered discretion to award 2.5% of available points opens the door for favoritism, especially where several Idaho counties have locality-controlled broadband networks which offer or may plan to offer broadband service. There should be procedural safeguards in place to ensure that localities act in a reasonable and nondiscriminatory

manner, in furtherance of the NOFO requirement that the subgrantee selection process be "fair, open, and competitive."

To alleviate such concerns, the ICBA suggests striking the sentence that reads "Local and tribal governments may support one or multiple applicants." In its place, the Office of Broadband should provide: Local and tribal governments are encouraged to support all reasonable applications and such support shall not be unreasonably withheld. Accordingly, where such governments decline to support an application, they must explain their reasoning. Where an applicant has met the "Information and Consultation Meeting" criteria above, there shall be a rebuttable presumption that the Local and Tribal government is supportive of the application. If the Local and/or Tribal government is not supportive of the application, it may issue a statement explaining the reason for its lack of support. If the Local and/or Tribal government issues such a statement, an applicant must include that statement in its application. The applicant may submit a rebuttal to such a statement from a local or tribal authority in its application to explain why such non-support is unreasonable. If the Office of Broadband determines that the locality or tribal authority acted unreasonably in withholding support, the Office of Broadband may award all or a portion of such points to the applicant. Furthermore, to prevent unreasonable discrimination by localities or

Tribes against competing applications, the Office of Broadband will award full credit under this criterion to any applicant proposing to serve the same area as an applicant that is affiliated with a Local or Tribal government.

To further reduce the risk of favoritism, the ICBA suggests that the weight given to a letter of support be reduced from 2.5% to 1%, with the 1.5% differential being added to the Information and Consultation Meeting.

With respect to the secondary criteria, Idaho should recognize that both “speed to deployment” and “speed of network and other technical capabilities” are important criteria for ensuring that BEAD funded networks provide reliable, high-speed broadband. Indeed, the IJA expressly declares that states “shall give priority to projects based on . . . [among other things] the speeds of the proposed broadband service [and] the expediency with which a project can be completed.<sup>39</sup> Specifically with regard to “speed to deployment”, Idaho should not, however, accept claims of rapid deployment at face value without assurance of an applicant’s expertise and capability. The application process should therefore recognize as the most credible the deployment timelines of applicants with demonstrated expertise in building and operating broadband networks.”

**Jonathan Wheatley Hawley Troxell attorneys on behalf of Idaho Cable Broadband Association  
Attorney 10/31/2023**

*IP Vol 2 - General Comment - Entire Plan*

"VI. Letter of Credit

Consistent with the NOFO, applicants must submit a letter of credit similar to that established for the Rural Digital Opportunity Fund.<sup>40</sup> However, NTIA’s BEAD Program director recently stated that NTIA is working to develop letter of credit alternatives.<sup>41</sup> Accordingly, IOB should consider alternative means for applicants to demonstrate creditworthiness without having to obtain a letter of credit for each project since such letters can be expensive and burdensome to obtain. For example, performance bonds, which are commonly used on construction projects would allow applicants to provide a financial guarantee for the deployment project without a large amount of upfront capital. As in other broadband grant programs, applicants also could submit a parent company guarantee assuring that the construction will be completed as approved in the application. The Commonwealth of Virginia adopted similar alternatives to the letter of credit in its Initial Proposal submitted to NTIA, and the IOB

should consider the same approach.<sup>42</sup> At minimum, if letters of credit are required, the Office should clarify that it will accept a single letter of credit for all applications submitted by an applicant and that a single letter of credit for a parent company at any level above the grant recipient will suffice if different subsidiaries are applicants."

### **JD Bennetts Custer Telephone Cooperative CEO/General Manager 10/31/2023**

#### *IP Vol 1 and 2 - General Comment - Entire Plan*

"Good afternoon, Members of the Idaho Broadband Advisory Board and Idaho Office of Broadband, I appreciate the opportunity to provide input on the BEAD proposal. In the interest of efficiency, I have communicated and coordinated my input to the Idaho Telecom Alliance, of which Custer Telephone Cooperative is a proud member. The comments submitted by ITA are supported by Custer Telephone. Below, I will briefly summarize several key points that are very important to Custer Telephone.

- As a Cooperative we are owned by those we serve, and any profits made by the Cooperative are returned to the Member Owners. Given our not-for-profit model, affordability is always top of mind, however in order to ensure that our organization is able to remain viable in a very costly industry, arbitrary rate regulation takes the ability to manage our business away from the Member Owners and Board of Directors. Market forces have and will continue to manage pricing without the need for additional regulatory oversight.
- Being fiscally conservative is a core value of our Cooperative and I welcome smart and appropriate accountability when it comes to spending taxpayer funds in the form of Grants. I encourage the IBAB and IOB to maintain a light touch when it comes to increasing our already substantial regulatory burden. The FCC, USAC, NECA, IPUC, and numerous other entities already require many reports from us on an annual, quarterly, and monthly basis so I ask that duplicative reporting and regulations be avoided. Additional hurdles and red tape will just add delay and distract our already limited rural resources from our most important goal of providing our residents with world-class connectivity.
- I am excited by the opportunity for service providers to gain a supportive partner, being the State of Idaho. I believe that by working together we can provide the rural parts of our State with the connectivity they deserve. A strong partnership based on trust, honesty, transparency, and understanding is essential in navigating the dynamic and unprecedented environment we will face over the next 5+ years. There will be many factors that are outside of our control that will conspire to prevent us from reaching our goals and only by being realistic in our expectations and navigating these challenges together without punitive policies and procedures will we be able to succeed. Challenges in the supply chain, workforce, housing, limited construction resources, permitting, private landowner access, environmental litigation, and many others will undoubtedly surprise us with the unforeseen and it is imperative that the IBAB and IOB maintain a fair and understanding outlook in their processes to help awardees ultimately persevere and create the successful outcomes we all strive for.

I know you have many other comments to read so I will summarize by saying that I feel fortunate to be a part of something that we'll all look back on and be proud of accomplishing. I commend the IBAB and IOB for their willingness to glean insights from the valuable expertise of service providers, local counties and communities, tribal communities, key stakeholders, and the citizens of the best State in the Union. These are challenging times, but I'm certain that everyone involved is deeply passionate about this historic opportunity and welcome the Challenge.

Thank you for your time. "

**Kyle Bradshaw General Manager Idaho Telecom Alliance 10/31/2023**

*IP Vol 2, Section 2.4*

"1.

Application Service Area Definition

In section 2.4, Deployment Subgrantee Selection, the Proposal encourages comment on how application service area boundaries will be defined (Volume II Initial Proposal at p. 18). The Proposal lists several options for defining application service areas, including census block group boundaries, county and city boundaries, census designated places, and zip code tabulation areas. ITA requests IBAB and IOB consider subgrantee-determined proposed application service areas.

Broadband project boundaries are not solely constrained by government or political demarcations such as zip codes, cities, or census blocks. Geography takes precedence, often influenced by natural features like creeks, rivers, and man-made infrastructure like railroad crossings, in addition to considerations such as federal and state land permitting, which significantly impact the delineation and execution of these projects.

Allowing subgrantees to define their own proposed application service areas would provide another tool to ensure BEAD funding is distributed to the most efficient projects possible. This type of service area definition is utilized by the United State Department of Agriculture/Rural Utilities Service (USDA/RUS) programs such as ReConnect. To implement this, ITA recommends IBAB and IOB allow applicants to utilize the state's ArcGIS tool to upload proposed application service area boundaries, similar to the process used in the recent Idaho CPF grant program."

**Kyle Bradshaw General Manager Idaho Telecom Alliance 10/31/2023**

*IP Vol 2, Section 2.4*

"2.

Overlapping Application Areas

The proposal indicates that IBAB and IOB will address overlapping applications by identifying "overlaps between applications that serve the identical locations. For the applications that have overlap service areas, a member(s) of the grant review committee will contact applicants directly via the information

provided on the grant application and work with specific applicants to broaden or amend their proposed project area into uncovered areas to allow for comparison of competing applications.” (Volume II Initial Proposal at p. 19)

ITA recommends that the IOB follow NTIA’s guidance as stated in the BEAD Initial Proposal Guidance and award such areas based on the competitive scoring criteria to be adopted (see BEAD Initial Proposal Guidance at p. 41). The process outlined by the Proposal risks a protracted, time-consuming, and expensive undertaking, and could adversely affect subgrantee applicant business, engineering, and financial plans used to generate the competitive applications.”

**Kyle Bradshaw General Manager Idaho Telecom Alliance 10/31/2023**

*IP Vol 2, Section 2.4*

"3.

**Affordability**

ITA understands the Proposal must include Affordability as part of the primary criteria scoring. However, the scoring rubric for 1 Gbps/1 Gbps on Table 6 amounts to impermissible rate regulation<sup>1</sup>. Instead, the Proposal should use the Federal Communications Commission’s (“FCC”) Urban Rate Survey<sup>2</sup> as the basis for measuring affordability. Each year, the FCC conducts a survey of fixed broadband service rates offered to consumers in urban areas. The FCC uses the survey data to determine the reasonable comparability benchmarks for broadband and voice service for its universal service fund programs.

For purposes of BEAD, if an applicant is able to offer 1 Gbps/1 Gbps service at a rate that is equal to or less than the then-current FCC benchmark rate, the applicant should be awarded the full 15 primary criteria scoring rate. Using the FCC’s benchmark rate is a measure of affordability based upon actual market conditions. The rates set forth in Table 6 are arbitrary and reward applicants points for setting rates that are unrelated to what consumers can afford and what it costs applicants to provide the service. This type of favoritism amounts to rate regulation which is prohibited.”

**Kyle Bradshaw General Manager Idaho Telecom Alliance 10/31/2023**

*IP Vol 2, Section 2.12*

"4.

**Low-Cost Broadband Service Option & Middle Class Affordability Plans**

The BEAD NOFO requires that a low-cost broadband service option must be offered by subgrantees (BEAD NOFO section IV.C.2.c.i; Volume II Initial Proposal at p. 78-79). The Proposal defines this low-cost option to include, among other things, a price of “\$30 per month or less, inclusive of all taxes, fees, and charges if the subscriber does not reside on Tribal Lands, or \$75 per month or less, inclusive of all taxes, fees, and charges if the subscriber resides on Tribal Lands with no additional non-recurring costs or fees to the consumer.” (Volume II Initial Proposal at p. 79).

The proposed requirement that the low-cost option includes a specific rate, in this case \$30 per month or less for non-Tribal areas and \$75 per month or less on Tribal Lands, amounts to impermissible rate regulation.

Beyond this recent FCC dictate, in the Infrastructure, Investment and Jobs Act (“IIJA”), which includes the creation of the BEAD program, Congress included a provision titled, “NO REGULATION OF RATES PERMITTED,” which established that “[n]othing in this title may be construed to authorize” NTIA “to regulate the rates charged for broadband service.”<sup>3</sup> This directive extends to Idaho’s – and every other Eligible Entity’s – BEAD program, as Congress mandated that NTIA review and approve each Eligible Entity’s proposal for BEAD implementation.<sup>4</sup> Thus, NTIA may not approve any proposal that caps rates for BEAD broadband service without engaging in prohibited rate regulation.<sup>5</sup>

The low-cost provisions of the Proposal are also preempted by federal law for multiple reasons. First, it conflicts with the federal policy of nonregulation of broadband.<sup>6</sup> The FCC has determined that broadband is subject to light-touch regulation as an information service under the federal Communications Act<sup>7</sup>, and that classification forecloses federal and state officials alike from imposing common carriage regulations on broadband providers, including restrictions on rates.<sup>8</sup> In its recent Notice of Proposed Rulemaking to reinstate Open Internet rules, the FCC proposed to “forbear from all provisions of Title II that would permit Commission regulation” of broadband rates. Thus, even if the FCC were to reclassify broadband as subject to Title II it will not regulate broadband rates.

Second, the low-cost proposal is preempted because federal law occupies the field of interstate broadband regulation, foreclosing the possibility of state regulation.<sup>9</sup> While IBAB and IOB may implement the directives of Congress and NTIA under BEAD as an Eligible Entity, that authority does not provide license to go further and restrict the rates that broadband providers may charge. Finally, Congress has expressly prohibited states from regulating rates for wireless broadband, including fixed wireless broadband service, that may also be part of BEAD deployment.<sup>10</sup>

Third, preemption applies even though the proposed language would be part of the BEAD program and not a standalone regulation, because IBAB & IOB would be acting in a regulatory capacity. The Supreme Court has held that preemption will apply where the government acts as a regulator but not when it acts as a market participant.<sup>11</sup> A federal appeals court has concluded that a state action framed as a condition on funding nonetheless is regulation that may be preempted if the answer to either of the following questions is “no:” “First, does the challenged funding condition serve to advance or preserve the state’s proprietary interest in a project or transaction, as an investor, owner, or financier? Second, is the scope of the funding condition ‘specifically tailored’ to the proprietary interest?”<sup>12</sup> Here, the answer to both questions are clearly “no.” The proposed approach is intended to compel providers to make broadband service less expensive for residents, i.e., it is intended to set rates, not to advance the interests of the State of Idaho as a market participant. Thus, the condition neither advances the state’s proprietary interest nor is it in any way tailored to that interest.

Notably, other states implementing BEAD have run into this exact same issue. Specifically, Virginia and Louisiana, the only two states so far to submit their respective Volume II drafts to NTIA, both included mandating specific low income and middle income rates in their initial draft plans. Recognizing the prohibition on states regulating rates as part of the BEAD process, the revised plans they have submitted to NTIA have removed specific rate mandates for sub applicants. <sup>13</sup>

Instead of establishing a certain maximum rate for low-cost broadband service options, ITA recommends IBAB and IOB rely on the Affordability Connectivity Program (ACP) to ensure broadband rates for qualifying households are affordable (see Volume II Initial Proposal at p.79). In addition, the Proposal could define an affordable or low-cost rate for broadband as anything below the FCC's Broadband Reasonable Comparability benchmark rates established each year.<sup>14</sup> These requirements would satisfy the NOFO's requirements without IBAB and IOB having to engage in impermissible rate regulation.

The same arguments are applicable to the proposal's Middle-Class Affordability Plans (Volume II Initial Proposal at pp. 80-82). Table 27 requires applicants to offer a Middle Class affordability plan at \$50 per month. For all the same reasons identified above, mandating a specific middle class rate is impermissible rate regulation. Similar to the low cost rate, the Proposal should use the FCC's Urban Rate Survey as setting the middle-class rate—i.e. so long as an applicant commits to offering a middle class rate at or equal to the FCC's benchmark rate it will be deemed to have complied with BEAD grant requirements.

Beyond these legal arguments, mandating a low-cost and middle class rate unfairly discriminates against smaller and rural providers like ITA members, violating the NOFO's mandate that all Eligible Entities, including Idaho, "must establish fair, open, and competitive processes for selecting subgrantees."<sup>15</sup> ITA members serve the highest cost, least dense areas of Idaho. It is important to note that while BEAD may cover a large portion of the capital expenses associated with a project, successful applicants will have ongoing operating expenses to operate and maintain these networks. In rural areas, these costs can be significantly higher than in urban areas. Simply put, a result of the mandated rates in the initial proposal could result in some ISPs not submitting bids because the mandated, artificially low rates disallow the applicant the opportunity to fully recover its costs.

For all of these reasons, IBAB and IOB should remove the specific low cost and middle class rates and instead use the FCC's benchmark rates as the required low cost and middle class rates."

**Kyle Bradshaw General Manager Idaho Telecom Alliance 10/31/2023**

*IP Vol 2, Section 2.4*

"5.

Open Access

According to the Proposal, the BEAD Program "encourages Idaho to adopt selection criteria promoting subgrantees' provision of open access wholesale access to last-mile broadband service providers for the life of the subsidized networks, on fair, equal, and neutral terms to all potential retail providers."

(Volume II Initial Proposal at p. 28) It is unclear whether the term "Open Access" refers to subgrantees providing access to last mile facilities for the purpose of allowing the provision of wholesale internet access service or whether subgrantee should be required to offer wholesale internet access service to third parties to provide broadband to service to end-user locations. ITA strongly opposes a requirement that its members would need to allow third parties access to its last mile distribution facilities, especially where BEAD funding may be used to build onto the far edge an existing network. ITA requests that IBAB and IOB clearly define Open Access requirements for BEAD Program subgrantees and that it does not require applicants to open up their last mile distribution networks. Subgrantees will need clear open

access requirements to properly generate the data necessary for submitting a proposal that accurately reflects the funding needs for the proposed application service area. In addition, according to the BEAD NOFO, open access requirements include a “discount from the provider’s retail rates reflecting the costs that the subgrantee avoids by virtue of not providing retail service to the end user...” (BEAD NOFO at p. 14, section I. C.(q)). The IBAB and IOB should, at a minimum, define how this wholesale discount will be calculated."

**Kyle Bradshaw General Manager Idaho Telecom Alliance 10/31/2023**

*IP Vol 2, Section 2.4*

"6.

Technology

In Table 10 on page 28 of the Volume II Initial Proposal, the Proposal includes a list of fiber technologies and the scores each will generate in the subgrantee application review process. The purpose of the score is to identify applications that propose to use technologies that “exhibit greater ease of scalability with lower future investment for priority projects.” (Volume II Initial Proposal at p. 27).

While ITA agrees with the Proposal’s characterization of fiber technology, we recommend IBAB and IOB not use specific fiber technologies (XBG-PON, G-PON, etc) which consist of an ever-changing group of technologies, because such a list may not be complete and certainly is not forward looking to include emerging technologies. For example, the list does not include active ethernet technology that is capable of speeds beyond 10 Gbps. Instead of listing specific fiber technologies, ITA recommends IBAB and IOB base the score on fiber optic throughputs."

**Kyle Bradshaw General Manager Idaho Telecom Alliance 10/31/2023**

*IP Vol 2, Section 2.4*

"7.

Unallocated Locations

The Proposal proposes to address eligible locations that are not included in any subgrantee application by in essence forcing subgrantee applications to extend their proposed application service areas to encompass these locations. (Volume II Initial Proposal at p. 42). If there are no applications with proposed service areas adjacent to these eligible locations, the Proposal proposes to “seek estimates from ISPs located near the location to extend internet access as well as relevant information needed by applicants to receive funding under the BEAD Program. To enable the ISP to submit a full application for service in respect of those locations, the IOB will contact ISPs during the first few days and weeks of the whole 90-120 calendar day review period.” (Volume II Initial Proposal at p. 42)

It is clear that the \$583 million in BEAD funding allocated to Idaho is not sufficient to ensure deployment to all unserved and underserved locations in the state. Adding these unclaimed eligible locations to already-defined proposal applications service areas would only serve to (1) increase the costs of those

applications, and (2) force applicants to reengineer the planned network, obtain additional permits, and substantially revise financial projections. Therefore, ITA urges IBAB and IOB to not require subgrantee applicants to extend proposed application service areas to encompass eligible locations not otherwise included in any applications; instead, the Proposal should request applicants to extend proposed service areas and provide sufficient time for such potential subgrantees to revise applications."

**Kyle Bradshaw General Manager Idaho Telecom Alliance 10/31/2023**

*IP Vol 2, Section 2.4*

"8.

Satellite Technology

The Proposal states that IBAB and IOB will consider certain "less costly" technologies when deciding how to award funding to areas that exceed the "Extremely High Cost Per Location Threshold." (Volume II Initial Proposal at p. 42-43) Included in these less costly technologies is low earth orbit (LEO) satellite technology. LEO technology is also considered in the scoring rubric for "other last mile deployment projects." (Volume II Initial Proposal at Table 18).

ITA objects to using Idaho's BEAD program funding to support satellite-based technology of any kind. LEO and other satellite-based technology is not included in the BEAD program's definition of reliable broadband service, and should not be subsidized regardless of the cost of the locations to be served. In addition, the FCC expressly excluded Starlink, a major LEO technology-based internet service provider, from participating in the Rural Digital Opportunity Fund (RDOF) universal service support program, stating the provider "is not reasonably capable of complying with the Commission's requirements" and because "Starlink's speeds have been declining from the last quarter of 2021 to the second quarter of 2022" the FCC had to avoid "subsidizing risky proposals." (See Public Notice, DA 22-848, rel. Aug. 10, 2022, at p. 9) To ITA's knowledge, satellite-based internet access service has not yet demonstrated widespread capability to perform consistently at a certain level of performance in rural areas. Furthermore, satellite-based service does not provide any type of local support and the consumer premises equipment is oftentimes prohibitively expensive.

Instead, ITA urges IBAB and IOB to fund networks deployed with technologies that have proven to be long-term and scalable solutions."

**Kyle Bradshaw General Manager Idaho Telecom Alliance 10/31/2023**

*IP Vol 2, Section 2.7*

"9.

Local Hires

The Proposal states that "a portion of the workforce hired for the project should come from the local community. This inclusion can help boost local employment and economic activity." (Volume II Initial Proposal at p. 61)

ITA urges IBAB and IOB to specifically define this requirement, as the demand for broadband deployment workforce has been significantly increased coincident with the historic level of state and federal broadband deployment funding available. As a result, subgrantees may be forced to use contractors from outside of the local area, and possibly outside of Idaho.

ITA recommends that the Proposal define exactly what percentage of the total workforce must be local, and urges IBAB and IOB to adopt a relatively low percentage due to the factors noted above. Preferably, the local hire requirement should include a mile range or area where employees or contractor can be hired and still be considered local under the BEAD program requirements."

**Kyle Bradshaw General Manager Idaho Telecom Alliance 10/31/2023**

*IP Vol 2, Section 2.8*

"10.

**Listing Contractors**

The Proposal aims to require subgrantee applicants to "state in the application the names and business license information of the entities of any contractors and/or subcontractors performing the work. (Volume II Initial Proposal at p. 64) Subgrantee applicants will typically obtain bids from contractors after the grant award is made and then choose the best applicant (usually the lowest bid). In general, since the subgrantee applicant will not know the contractors to be used to complete the funding project until after the grant award is made, ITA recommends this requirement be removed from the Initial Proposal Volume II."

**Kyle Bradshaw General Manager Idaho Telecom Alliance 10/31/2023**

*IP Vol 2, Section 2.16*

"11.

**Reporting Requirements**

In compliance with federal and BEAD program reporting requirements, the Proposal lists a substantial number of requirements with which subgrantees will have to comply. These requirements range from semi-annual performance and financial reports and close-out reports. The Proposal then adds a monthly reporting requirement to track the status of funded projects.

ITA recommends IBAB and IOB limit the reporting for subgrantees, especially small companies, to those required by federal rule or statute, and specifically exclude the monthly reporting requirement. Monthly reporting would be a time consuming and costly activity for small providers, and would divert attention and resources away from the broadband deployment project.

In addition, the Proposal mentions that a "Cost Performance Index" (CPI) method will be used to measure the "cost efficiency of the project..." (Volume II Initial Proposal at p. 85). This formula contains two variables: earned value (EV) and actual cost (AC), with the CPI being calculated as EV/AC. However,

the Proposal does not specifically state how the EV or AC will be determined, and ITA recommends that each variable be fully defined."

**Kyle Bradshaw General Manager Idaho Telecom Alliance 10/31/2023**

*IP Vol 2, Section 2.4*

"12.

**Extremely High Cost Per Location Threshold**

The Extremely High Cost Per Location Threshold plays an important role in the BEAD program, as it determines a demarcation point between priority broadband projects and those that may be completed using cheaper technologies. The Proposal states, among other things, that this Threshold will be determined through "evaluating applications submitted in previous Idaho broadband funding opportunities, that primary [sic] extended broadband access to unserved areas, and applications received under the BEAD program." (Volume II Initial Proposal at p. 43)

ITA urges IBAB and IOB to precisely define how the Extremely High Cost Per Location Threshold will be determined, how it will be utilized, and if/how affected applicants will be allowed to challenge the Threshold calculation. Factors considered in determining the Threshold at a minimum should consider Idaho's difficult terrain, short construction season, and other factors that make it challenging to deploy, maintain, and operate a broadband network in many areas of the state.

Furthermore, some BEAD Program requirements, such as Davis-Bacon rules, environmental clearances, and the requirement to obtain a professional engineer signature on any network deployment plan, also add to the cost of deployment. These cost pressures, along with the requirement to maintain certain levels of rate affordability and offer a low-cost options will undoubtedly lead to higher cost proposals, and may lead some potential applicants to forego the BEAD Program altogether even though they may be the best provider in the area."

**Kyle Bradshaw General Manager Idaho Telecom Alliance 10/31/2023**

*IP Vol 2, Section 2.9*

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

ITA fully supports the proposed initiative regarding the inclusion of Minority Business Enterprises (MBEs)/Women's Business Enterprises (WBEs)/Labor Surplus Firms (Volume II Initial Proposal at p. 65). Encouraging diversity and inclusion within these projects aligns with our values and objectives.

While we fully endorse the intent behind this requirement, we wish to highlight potential challenges that might arise, especially in the context of rural areas in Idaho. In some remote and underserved regions, the presence of such groups may be limited or non-existent. Imposing a hard requirement for the involvement of MBEs/WBEs/Labor Surplus Firms could inadvertently burden smaller and rural providers with impractical expectations.

It's crucial to strike a balance between fostering diversity and acknowledging the varying landscapes and capabilities across the state, especially in the more remote and rural areas. We recommend providing flexibility in these requirements, allowing consideration of the local context and challenges. This flexibility will ensure that the policy remains inclusive without creating undue burdens for smaller providers.

Our suggestion is to make the involvement of MBEs/WBEs/Labor Surplus Firms a recommended or encouraged practice rather than a strict mandate. Such a nuanced approach will foster an environment of support and encouragement while acknowledging the practical limitations in certain regions."

Tim Alborg Director Government Affairs

**Patricia Weber 10/30/2023**

*IP Vol 1 and 2 - General Comment - Entire Plan*

"Addressing the Challenge Type: Availability

Just recently, our household received a notice from our internet provider, CenturyLink, about a critical change that will impact our internet service. A statement regarding the equipment which delivers the service has been retired by the manufacturer and they have chosen to longer repair or replace the equipment leaving our service at risk for permanent outage. But they will maintain the phone line. After talking with a virtual chat....their response was to choose a satellite service.

We feel this is unacceptable for a provider to interrupt service because they choose not to upgrade to our residence which is in a small subdivision located adjacent to other subdivisions with service, even cable.

We are located outside of Twin Falls (roughly 2.5 miles) and we cannot use T-Mobile or Verizon for home internet service either.

When looking at availability, there are Bermuda Triangles in populated areas also. Designing an all encompassing service grid is a necessity in fast growing areas. And customers using a provider should not be worried about losing service."

**Christina St. Germaine Local Partnerships Manager Ziplly 10/30/2023**

*IP Vol 1, Section 1.1*

"Req. 3 Existing Broadband Funding

The Idaho Office of Broadband ("IOB") Draft Volume 1 does not appear to account for all allocated/expended funds in Table 1: Existing Broadband Funding. Specifically, it appears that Coronavirus Aid, Relief, and Economic Security Act (CARES) funds were omitted. Ziplly Fiber recommends

expansion of existing and previously committed broadband efforts from the CARES Act in Idaho as presented in the Idaho 5 Year Action Plan."

**Christina St. Germaine Local Partnerships Manager Ziplly**

*IP Vol 1, Section 1.2*

"Req. 5 Unserved and Underserved Locations

The NTIA Policy Notice provides additional guidance regarding the Initial Proposal. This policy states, the data source for determining the number of unserved and underserved locations is the National Broadband Map, and the map version should not be more than 59 days old. We suggest IOB use a more recent version of the National Broadband Map as its data source.

IOB has omitted the Unserved and Underserved location files as part of the Draft Initial Proposal Volume 1. Per the BEAD Notice of Funding Opportunity (NOFO) Guidance 1.2.1 and 1.2.2, .csv files are required attachments. We request IOB immediately release these files for public review and comment"

**Christina St. Germaine Local Partnerships Manager Ziplly**

*IP Vol 1, Section 1.3*

"Req. 6: Community Anchor Institutions

The BEAD NOFO Section 1.C.f defines Community Anchor Institution (CAI) and notes that if additional types are proposed, an explanation shall be provided. Idaho's interpretation of local, state, and federal government facilities is an expansion of the definition without further clarification. As an example, are all

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City government buildings considered CAI or simply a Town/City Hall? Are all remotely located government facilities, such as Idaho Fish & Game facilities included as CAI's? The IOB Footnote 6 (page 12) suggests a determination of CAI based on government function not regarding how these proposed government building locations facilitate greater use of broadband service by vulnerable populations. We believe IOB's suggestion that all government facilities are CAIs as defined and proposed are outside of the scope of a BEAD defined CAI. Additionally, the remote nature of certain government facilities will result in excessive cost to enable Gigabit tier broadband services.

Given IOB desires to connect as many public facilities as possible, we suggest consideration of the NTIA Middle Mile guidance on connecting CAIs within 1,000 feet of planned infrastructure (NITA Middle Mile Application Guide 2.5.2.1). If this approach is selected, IOB would want to include the identification of CAIs as a distance reference in the Volume 2 Service Area definition.

IOB has not included .csv files of the Unserved CAI locations it identified as part of the Draft Initial Proposal Volume 1. Per the BEAD Guidance 1.3.2 csv files are required attachments. We request IOB immediately release these files for public review and comment."

## **Christina St. Germaine Local Partnerships Manager Ziply**

### *IP Vol 1, Section 1.4*

#### "Req. 7 Challenge Process

IOB notes it has compiled a list of federal, state, and local enforceable commitments and that a .csv file of these will be included in its submission of the Initial Proposal to NTIA. We believe the narrative is inaccurate and that per the NTIA Guidance 1.4.5, the correct narrative is: Submit a list of the federal, state, and local programs that will be analyzed to remove enforceable commitments from the set of locations eligible for BEAD funding. We suggest a proposed list as follows: FCC Rural Digital Opportunity Fund (RDOF), FCC Alternative Connect America Cost Model (ACAM), NTIA Tribal Broadband Connectivity Program (TBCP), NTIA Middle Mile, FCC Connect America Fund Phase II (CAF-II), USDA ReConnect, USDA Community Connect, CARES Act, Capital Projects Fund, the Idaho Broadband Fund, and any locally funded broadband projects funded with ARPA-State Local Fiscal Recovery Funds. We request IOB immediately release these files for public review and comment.

Federally enforceable commitments have a variety of compliance reporting and validation processes. For instance, RDOF participants must provide documentation of the deployed network and randomized speed testing. It would be onerous for IOB to add additional obligations to these programs that, in many cases, are beyond the authority of IOB to regulate.

IOB indicates for questioned projects, it will reach out to the provider seeking a binding agreement certifying actual broadband speed deployed. What are the terms of this binding agreement? We suggest this is an administrative exercise that could be eliminated. A previously deployed project would have each location reported to the National Broadband Map with the maximum capable speed available. IOB's request for a binding agreement certifying actual broadband speed deployed seems unnecessary and redundant given that in submitting to the National Broadband Map, the Provider had to certify the deployment and speed available as well as technology.

How will permissible challengers be able to challenge an IOB determination of an eligible Community Anchor Institution?

The NTIA BEAD Model Challenge Process Policy Notice allows up to 120 days. The Policy states Challengers will have 30 calendar days to submit a challenge; Providers will have 30 business days from notification to provide rebuttal; and final determination will be made within 30 calendar days of the received rebuttal. We respectfully request IOB revise its Challenge Process timeline to be consistent with the NTIA Policy.

Given our experience with the FCC National Broadband Map Challenge process, where providers are allowed up to 60 days, the tasks required to respond to an individual challenge are a multi-hour exercise. As the number of challenges submitted is an unknown quantity, we respectfully request at least 30 calendar days within the rebuttal phase of IOB's Challenge Process. IOB states the final determination phase will begin within 80 days of the Rebuttal phase, but that reviews will occur on a rolling basis. Given that IOB will review on a rolling basis, the reviews could take place upon the portal

acceptance of the first rebuttal. So, an extension of the Rebuttal Phase would not likely affect the amount of time IOB has to process final review(s).

Why does IOB Table 2 Acceptable Challenge, Planned Service indicate broadband deployment at the location by June 30, 2024? Per the NTIA BEAD Challenge Process Policy, a Planned Service can be demonstrated by a provider offering convincing evidence of build out without government subsidy. At the current rate of pole attachment approval and municipal permitting in Idaho, planned projects using private investment are taking upwards of a year to complete construction from capital appropriation. If IOB must include a date certain by which services must be operational, that deadline should be closely related to the anticipated date that BEAD funded projects will be operational, but no sooner than December 31, 2025.

How will providers be trained how to use the Rebuttal Portal? How long prior to the Rebuttal period will the portal be operational? Will Providers be afforded enough time to be proficient in the system before they must use it? To allow for thorough, thoughtful engagement, we request at least 30 days prior to the opening of the Rebuttal Portal before the challenge window opens to ensure our teams are appropriately trained in the Rebuttal Portal.

In the Rebuttal phase, how does a service provider “transition the location to the sustained state”? What steps are necessary?

On IOB Draft Initial Proposal Volume 1 Page 22 Paragraph 1 states, “the provider receiving an area or MDU challenge must demonstrate that they are indeed meeting the availability, latency, data cap and technology requirement, respectively, for all (served) locations within the area or all units within an MDU. The provider can use any of the permissible rebuttals listed in Table 2.” However, Paragraph 5 states, Area challenges for availability need to be rebutted with evidence that service is available for all BSL within the census block group, e.g., by network diagrams that show fiber or HFC infrastructure or customer subscribers. For fixed wireless service, the challenge system will offer a representative random sample of the area in contention, but at least [10], where the provider must demonstrate service availability.” We seek guidance on which paragraph on Page 22 is the required action.

Is the Standard Operating Procedure for final determination available for review? If not, when will it be available? How will the Reviewers be selected? What training will be provided?

#### Transparency Plan

We appreciate the proposed open and transparent nature of IOB’s BEAD process. To allow for thorough, thoughtful engagement, we request at least 30 days prior to the opening of the challenge portal before the challenge window opens to ensure our teams are appropriately trained in the Challenge Portal.

Are multiple individuals within a service provider organization allowed to sign up for portal updates, information, and challenge notifications? The proposal states that the IP address, name, and street address will not be publicly disclosed, however it is not clear how will IOB guard this information against public disclosure?"

**Christina St. Germaine Local Partnerships Manager Ziplly**

*IP Vol 2, Section 2.1*

"Req. 1 Long Term Objectives

Regarding IOB's identified objective to prioritize investments focused on CAI's, we seek clarification as to whether IOB considered Emergency Communications Centers in the pool of public safety facilities as a CAI.

Considering the BEAD NOFO principle focus on deploying broadband to unserved locations and underserved locations, IOB's Draft Initial Proposal goals and objectives present a broad-brush approach. While we appreciate the opportunity these goals/objects offer in breadth, we find disconnection in the remainder of the document regarding the precise approach being proposed by IOB for distribution of the BEAD funds"

**Christina St. Germaine Local Partnerships Manager Ziplly**

*IP Vol 2, Section 2.2*

"Req. 2 Local, Tribal and Regional broadband Planning

The NTIA Guidance for Volume 2 allows a reproduction of the 5 Year Action Plan Engagement activities.

While reproduction is allowed, there is a reference in Draft Initial Proposal Table 2 to Section 5.1, which does not exist in the Draft Initial Proposal Volume 2.

Is there a schedule of planned quarterly Internet Service Provider (ISP) Roundtable events? How will ISPs be notified of upcoming opportunities to participate? How can ISPs be included in the workforce development focus group discussions? Will IOB make the Stakeholder Database and the Broadband Action Team contacts available? Such a contact list will facilitate provider-local engagement."

**Christina St. Germaine Local Partnerships Manager Ziplly**

*IP Vol 2, Section 2.3*

"Req. 4 Local Coordination

Throughout this section of IOB's Draft Initial Proposal Volume 2, we found reference to the IOB 5 Year Actions Plan that may be copy/paste errors.

Page 12 §2.3.1 of the paragraph 2 references Section 5.2 and Section 5.5. We believe this is a copy/paste from the IOB 5 Year Action Plan; the Draft Initial Proposal Volume 2 does not have a Section 5.

NTIA Initial Proposal Guidance 2.3.1 suggests a summary of the impact coordination had on the context of the Initial Proposal. With all the engagement IOB touts held, why isn't any of the input discussed regarding shaping this document? Will the Local Coordination Tracker be made available for public review?"

## **Christina St. Germaine Local Partnerships Manager Ziply**

### *IP Vol 2, Section 2.4*

#### "Req. 8: Deployment Subgrantee Selection Process

We request the application intake timeline of 45 calendar days be extended to 60 calendar days; given that IOB believes one round of funding will be made available, the more time allowed to develop a thoroughly planned network design, costing and milestones will ensure more comprehensive applications are submitted.

Ziply Fiber appreciates Idaho's request for stakeholder input regarding defining application service area boundaries. We offer the following thoughts and considerations. The NOFO § IV.7.a.7 states proposals may be solicited from perspective subgrantees at the geographic level of its choosing... may alternatively solicit proposals defined by perspective subgrantees to define project areas. In November 2022, the Idaho Broadband Advisory Board (IBAB) Request for Proposals responses could be used to demonstrate where providers FttP solutions could be deployed and the size of serviceable project areas.

Complementarily, the NOFO § IV.7.a.9 enables IOB to follow up an initial round of subgrantee defined project area awards; then conduct a follow up engagement with providers and/or other prospective subgrantees to find providers willing to expand existing networks, proposed services areas to reach the remaining unserved and underserved locations within the financial realm of IOB's Extreme High-Cost threshold. Alternatively, if determining defined serviceable area boundaries is IOB's preference, we suggest using proximity to infrastructure. Although provider fiber network locations are not public due to regulatory compliance constraints, the FCC National Broadband Map can be used to determine proximity of fiber served locations and adjacent under and unserved locations. IOB in partnership with the Idaho GIS team could use the locations reported with less than 100/20 Mbps as the basis for the definition. Using the States projected cost per mile location from the 5 Year Action Plan, IOB could create polygons with modeled fiber deployment costs of a predetermined range that would deem a project financially viable. Density of unserved and underserved locations: the NOFO § I.C.ee defines an Unserved Service Project where not less than 80 percent of BLS are unserved. IOB could define area boundaries using this rule and divide the state accordingly.

Will there be a determined amount of the state's BEAD funds available specifically for deployment?

Page 19 says: In awarding BEAD grants, IOB plans to award grants in a single round ... for the project areas defined by service area boundaries mentioned above. However, there is no definition of the service areas boundaries. When will IOB determine the service area boundary definition, and will the proposed service area definition be open for public comment?

Page 19 Paragraph 4 states, application areas will be bounded by county and city boundaries. Is IOB's intent to define application service areas by county?

For unserved, underserved, or a combination of both the IOB will seek estimates from ISP's located near (within 1-5 miles, have submitted an application, or have a state or federally funded project to serve the adjacent locations). The IOB will contact the ISP's during the first few days and weeks of the 90-120 calendar day review period. Will IOB request estimates from multiple providers in proximity? The BEAD

NOFO, Section IV.B.7.a.ii.9 states is after soliciting proposals, the Eligible Entity has received no proposals to serve a location or group of locations... the Entity may engage with existing providers to find providers willing to expand existing or proposed service areas. For the sake of timeliness and responsiveness during the 120 calendar day review period, we suggest an abbreviated application be allowable in this process.

Are the criteria for selecting other review committee members going to be publicly available?"

### **Christina St. Germaine Local Partnerships Manager Ziplly**

*IP Vol 2, Section 2.7*

"Req. 11: Labor Standards and Protection

Regarding IOB's requirement for applicants to disclose violations of labor and employment laws. We recognize the OSHA and FSLA, but seek clarification and specification of "other applicable labor and employment laws".

IOB is mandating several actions applicants take, which we seek clarification on:

- Davis Bacon Act requirements for awards >\$5 million raises questions; Idaho as a Right to Work state, does not have a prevailing wage law nor a process, that we are aware of, to determine prevailing wage rates. Additionally, in our outreach to the US Department of Labor Spokane Office, we learned there are no federally determined wage rates for fiber deployment specific job classifications. What is IOB planning to address this lack of available information or to assist applicants in identifying the appropriate information to support appropriate job classification determination and wage rates? We believe this should be a component of IOB's Initial Proposal.
- The requirement that a portion of the workforce should be from the local community. What does IOB mean by "a portion"? What is the parameter of "local"? What if we do not need to hire additional workers? What if there are not qualified workers in the "local" area?
- IOB's mandate that subgrantees must hire appropriately credential employees is a bit contradictory. If no local perspective workers have appropriate credentials, why mandate local hiring? Regarding the inferred engaged with Registered Apprenticeship programs in Idaho, we seek clarification or direction on where these programs exist to utilize.
- IOB mandates subgrantees prevent misclassification of workers. What are the criteria used to determine how workers are classified?

IOB goes further to require subgrantees to participate in job fairs and to hire locals. Again, we seek clarification and a deeper understanding of this requirement; what if we do not need to hire workers to implement broadband deployment projects?"

Christina St. Germaine Local Partnerships Manager Ziplly IP Vol 2, Section 2.8

"Req. 12: Workforce Readiness

We appreciate the intent of the Infrastructure and Investment in Jobs Act (IIJA) to impact quality jobs in association with the deployment of broadband infrastructure. However, in this section of IOB's Draft

Initial Plan raises concerns and questions. In the narrative of Requirement 10, IOB states it will not subgrant workforce development related activities, yet throughout this section IOB mandates applicants/subgrantee roles/responsibilities directly related to workforce development.

If an applicant/subgrantee has unionized workforce, according to the BEAD NOFO Section IV.C.1.e an effective plan for compliance and include a subgrantees binding commitment to strong labor standards. The section goes on to note that if the workforce of a subgrantee is not unionized, the subgrantee must provide job titles, the size of the workforce (FTE positions, including for contractors and subcontractors) and detail for each title. Although IOB will not require unionized workforce, IOB mandates details for each job title. Why does IOB require this level of detail for applicants/subgrantees who are unionized? We respectfully request for perspective applicants with unionized workforce, IOB adhere to the NOFO and remove this mandate in its Initial Proposal.

We seek clarification on IOB's desire for applicants to provide a description of our customer service training program and accountability measures. We suggest IOB use the National Promoter Score (NPS) as a factor to consider evaluating the customer satisfaction of a provider. NPS is a nationally recognized and industry used measure of customer satisfaction.

IOB's desire for applicants to ensure access to adequately trained staff requires that applicants submit all of the contractors and subcontractors intend to be used on a deployment project. There is not a clear path for us to provide this level of detail in an application. Ziplly Fiber has a large pool of highly skilled contractors contracted as we are actively building thousands of miles of fiber each year. Contractors for perspective projects will depend on several factors: where they have available crews, the scale and scope of the project, the geographic location of the project, the time of year the project will be constructed, and requirements for open-competitive bidding, to name a few. We seek clarification from IOB on the intent of this applicant requirement. Perhaps a requirement to ensure all contractors/subcontractors are registered in the State of Idaho and appropriately insured/licensed is a more realistic requirement for a program of this scale and nature.

We request the IOB include a clear presentation the minimum qualification required to satisfy the insurances of a skilled, diverse, and accredited workforce. Are the minimum's all or a portion of the criteria listed?"

**Christina St. Germaine Local Partnerships Manager Ziplly**

*IP Vol 2, Section 2.9*

"Req. 13: Minority Women Business Enterprise/Labor Surplus firm Inclusion

We are familiar and have process in place to adhere to the 2 CFR 200.321. We appreciate IOB's and Idaho Department of Commerce assuming the responsibility of engaging and creating tools to facilitate applicant/subgrantee awareness and prequalifying perspective Minority and Women Business Enterprises."

**Christina St. Germaine Local Partnerships Manager Ziplly**

*IP Vol 2, Section 2.10*

"Req. 14: Cost and Barrier Reduction

IOB presents the possibility of bonus points for use of existing infrastructure. Are bonus points allowable beyond the primary scoring criteria and secondary criteria?

Regarding IOB's suggestion it will streamline pole attachment permitting, what efforts will be made to engage the regulatory agency, the Idaho Public Utilities Commission (IPUC), in supporting the IOB's suggestions? Will the propensity for make ready costs in excess of reasonable cost be flagged for remediation by the IPUC?"

**Christina St. Germaine Local Partnerships Manager Ziplly**

*IP Vol 2, Section 2.11*

"Req. 15: Climate Resiliency

Will IOB climate resiliency mitigation strategies employed by subgrantees be factored into the IOB scoring rubric?"

**Christina St. Germaine Local Partnerships Manager Ziplly**

*IP Vol 2, Section 2.16*

"Req. 19: Certification of Compliance

What specific data elements will IOB require in reporting? Are the Cybersecurity and Supply Chain Risk Management Operational Plans required to be operational at the time of submittal? Or will having the plans prepared and ready to be operationalized satisfy this requirement?"

**Diosa Bahe Law Clerk Kootenai Tribe of Idaho**

*IP Vol 1, Section 1.3*

"Volume I, 1.3: Community Anchor Institutions (CAIs) (Requirement 6).

The proposal's definition of Community Anchor Institutions (CAI) is unclear as to whether tribal housing qualifies as a CAI. The Tribe recommends that the Idaho Office of Broadband clarify that CAI designations apply to tribal housing and Tribally Designated Housing Entities (TDHE)."

**Francis Goli Tribal Broadband Manager Shoshone-Bannock Tribes 10/30/2023**

*IP Vol 1, Section 1.4*

Req. 7: Challenge Phase - Timeline.

Increase the challenge period to 45 calendar days to submit a challenge to allow sufficient time.

**Francis Goli Tribal Broadband Manager Shoshone-Bannock Tribes 10/30/2023**

*IP Vol 1, Section 1.4*

"Req 7: Description of Acceptable Challenge Types

Specific Examples:

A service request denial happens in person, options include an online form to validate the denial of service when service provider doesn't provide an email or letter to consumer.

Example:

Service Provider: Sample Provider Name

Service Location: Example Fort Hall Reservation (Longitude & Latitude pin)

Provider Service Denial: Yes

Date: 1/1/2024

Consumer verifies that service provider does not service location

Name: John Doe

E-signature:

Disclosure: Consumer verifies that service was not available.

Submit

Reason: Tribal Lands service maps are unavailable by provider; the service providers will drive to the consumers residence only to verbally tell the resident the residence isn't serviceable. Therefore, no email or letter is provided to residents."

**Francis Goli Tribal Broadband Manager Shoshone-Bannock Tribes 10/30/2023**

*IP Vol 1, Section 1.4*

"Req. 7: Availability.

Internet Provider service is down for days/weeks or constantly down, set standards for active internet to be available for 90% of the time.

Reason: The Tribal lands have limited service providers, and will be down for multiple days. Due to the limited providers residents are unable to switch providers should be able to document service provider unable to provide internet service at least 95% of the time."

**Francis Goli Tribal Broadband Manager Shoshone-Bannock Tribes 10/30/2023**

*IP Vol 1, Section 1.4*

"Req. 7: Speed Test.

Add state speed test module for validating the speed test.

Reason: Measuring the speed test varies by platform. Therefore, to mitigate a large variance from various platforms for example include Ookla's Speedtest.net, Fast.com (powered by Netflix), and Google's "Speed Test" (you can search "speed test" on Google). You can use any of these or similar services"

**Steve Schwerbel State Advocacy Manager WISPA – Broadband Without Boundaries 10/31/2023**

*IP Vol 1, Section 1.4*

"Challenge Process:

First, Idaho should use the most current version of the National Broadband Map at the start of the challenge process. Using current information will help avoid or limit the “map gap” that would not account for deployment post-dating an earlier version. Reliance on the most

current version also will limit challenges that would be based on outdated information, allowing the commonwealth to focus its scarce administrative resources on resolving a smaller universe of legitimate challenges"

**Steve Schwerbel State Advocacy Manager WISPA – Broadband Without Boundaries 10/31/2023**

*IP Vol 1, Section 1.4*

"Challenge Process:

Second, the deduplication process will help eliminate waste by mitigating substantially funding of locations that are subject to an “enforceable commitment.” WISPA and its members are extremely concerned that some locations may be subject to duplicate governmental funding, and Idaho should implement the final guidance’s two-phased process to deduplicate locations. Relatedly, Idaho should adopt the final guidance’s evidentiary examples that allow planned service to be considered – again, this will help avoid funding where broadband service already exist."

**Steve Schwerbel State Advocacy Manager WISPA – Broadband Without Boundaries 10/31/2023**

*IP Vol 1, Section 1.4*

"Challenge Process:

Third, WISPA supports NTIA's model 120-day challenge timeline and supports Idaho's plan to use the full timeline to administer a challenge process sufficient to allow the agency to fully realize the benefits of transparent, thorough, and unbiased review and resolution of challenges. Many WISPA members are small companies, with limited staff time available to compile the (appropriately) significant evidence required to rebut a challenge – allowing 30 days for rebuttal of a challenge, rather than the 15 days proposed, would improve challenge outcomes. WISPA encourages Idaho to continue to work with providers to ensure this is an appropriate timeline."

**Steve Schwerbel State Advocacy Manager WISPA – Broadband Without Boundaries 10/31/2023**

*IP Vol 1, Section 1.4*

"Challenge Process:

WISPA members have expressed concern about the types of evidence that will be considered acceptable for Code P rebuttals demonstrating planned service, and we encourage Idaho to consider giving providers greater clarity on the meaning of "necessary permits" – given the complexity of municipal permitting fees, a provider may not wish to pay for a particular local permit until it is certain that a customer or customers will request service. States such as Utah have added engineering or plant designs with Bill of Ladings to demonstrate a commitment to a challenged area ("Enforceable Commitment" and "Planned Service" rebuttals), as well as the expanded rebuttal examples for Availability.<sup>2</sup> Expanding the range of evidence for a provider's intention to enter and serve an area is appropriate and useful. WISPA also supports language

suggested by Utah and others requiring that all speed test challenges include "a certification of the speed tier the customer subscribes to," which will help to ensure that IOB gets answers to the question it is actually asking in the speed test process and reduce the likelihood of ISPs spending valuable time responding to "false positives" in the challenge process."

**Steve Schwerbel State Advocacy Manager WISPA – Broadband Without Boundaries 10/31/2023**

*IP Vol 1, Section 1.4*

"Challenge Process:

WISPA notes, however, that the final guidance does not establish an evidentiary standard for resolving challenges. Although Idaho notes it will adjudicate challenges "based on fairness for all participants and relevant stakeholders" and "in detail without bias," it does not describe what its evidentiary standard should be. WISPA recommends that Idaho adopt in its Standard Operating Procedure a "preponderance of the evidence" standard, which will be administratively easier to implement than, for example, a "clear and convincing evidence" standard that could be

interpreted differently by challenge adjudicators. In addition, the challenger, whether a governmental or tribal entity, nonprofit organization, or broadband provider, should have the burden of proof"

**Steve Schwerbel State Advocacy Manager WISPA – Broadband Without Boundaries 10/31/2023**

*IP Vol 2, Section 2.1*

"Idaho sets out laudable and far-reaching goals for its BEAD program, and WISPA supports the state's vision of expanding the benefits of broadband access as far as it can through this historic funding opportunity. IOB has, however, consistently voiced concern regarding ability to fully close the digital divide in the Idaho; noting in Section 2.4.3 of the draft Initial Proposal, "In view of the cost projection outlined in Idaho's Five-Year Action Plan, the IOB firmly expects that there will be insufficient financial resources available to connect all unserved and underserved locations as set out in the BEAD program." (IP Vol 2 p. 39) Taken together, this suggests that the fundamental goal of Idaho's BEAD program should be to successfully connect all unserved and underserved BSLs as quickly and cost-effectively as possible using the widest range of available technologies in order to maximize its investment."

**Steve Schwerbel State Advocacy Manager WISPA – Broadband Without Boundaries 10/31/2023**

*IP Vol 2, Section 2.4.1*

"IOB requests input on the question of how to define application service area boundaries, suggesting alternatively using census blocks, county or city boundaries, census designed places, Zip Code tabulation areas, or other iterations. WISPA appreciates the need for manageable project areas to review, but believes that using these pre-existing and artificial area boundaries may present more challenges than solutions, as providers may see approaches to building out networks that are not immediately apparent to the state, and existing networks may suggest approaches to covering grant areas in unforeseen ways. Bounding grant areas by census blocks or political subdivisions may thus may not best serve to increase the number of providers able to participate in the final round of subgrantee selection.

For consideration, WISPA offers an alternative 3-stage process by which applicants would define their own proposed funding areas. This may lead to overlapping applications, in whole or in part, that could be resolved through deconfliction, scoring, and settlement. The goal of this process is to determine the most cost-efficient approach to serving unique geographies in a way that incentivizes more applicants to consider a given area and allowing each provider to identify the "best tool" for serving a unique population that may not conform to geopolitical or census boundaries."

**Steve Schwerbel State Advocacy Manager WISPA – Broadband Without Boundaries 10/31/2023**

*IP Vol 2, Section 2.4.1*

Deconfliction – Following the application deadline, all applicants that have filed would have a 15–30-day review period to determine whether they wish to make changes in their proposals to remove overlaps

with other applicants. A brief filing window would open for applicants to remove areas from their proposal on a first come, first served basis such that only a total of “n” minus one may remove a given overlap area from their proposals, where “n” is the total number of proposals covering the overlap area. Applicants would be prohibited from eliminating locations that would create any gap in coverage between BEAD areas proposed for service. Thus, all areas initially subject to a request for funding would remain covered by at least one proposal.

**Steve Schwerbel State Advocacy Manager WISPA – Broadband Without Boundaries 10/31/2023**

*IP Vol 2, Section 2.4.1*

"Scoring – Following the deconfliction period, each remaining overlap area would be separately scored on critical criteria to evaluate the optimal proposal in each such discrete area. First, any proposal that fails to provide new service to all unserved locations within an overlap area would be eliminated from further consideration in comparison to other applicants in that area that provide full coverage of these locations, regardless of cost. Second, applicants that provide coverage to underserved locations that exceed that proposed by others in the overlap area would receive a preference equivalent to a multiple of 1.5 times the percentage coverage of such locations by which it exceeds the coverage of each other competing applicant. Third, each applicant would receive a preference versus each other applicant based on the percentage by which its proposed cost per location served falls below that proposed by each other applicant. This scoring would create a hierarchy of proposals within each overlap area with the high scorer being provisionally assigned to that area. The scoring system ensures that all unserved locations would be covered, while providing a modest preference for even broader coverage in relation to lower cost of deployment.

Once each overlap area is provisionally assigned, each area assigned to an applicant would be aggregated both with all other areas provisionally assigned to that applicant as well as those areas, if any, in which it was the only applicant proposing service. To the extent that these assignments create discrete “islands” within broader territories assigned to a different applicant, these areas would be consolidated with the “dominant” applicant over the larger territory. Each surviving applicant would be provisionally assigned its own contiguous area and no applicant would be assigned a total coverage area comprising less than 25% of its original proposal, such that in any circumstance where 75% or more of the locations would otherwise be assigned to one applicant, that applicant will instead be assigned all the territory subject to the overlap analysis."

**Steve Schwerbel State Advocacy Manager WISPA – Broadband Without Boundaries 10/31/2023**

*IP Vol 2, Section 2.4.1*

"Settlement – Following the provisional assignment stage, to the extent that multiple applicants have been assigned to different territories within an initial overlap area, there would be an additional brief period within which those entities could negotiate to adjust their proposals to cede or trade areas that they propose to cover. This may result in an applicant assigned a relatively small percentage of its

original proposed area (25%-35%) turning that obligation over to an applicant that has been assigned the larger portion of that overlap area, or it may simply result in two entities assigned closer to 50% of a broader overlap area adjusting their respective territories to optimize efficiencies that can be gained in construction and service deployment.

Although this process may be somewhat more involved on the front end, it will produce better results and give IOB a better understanding of the best use of individual subgrantees' resources. The ability to aggregate locations that do not conform to geopolitical or census boundaries also may lead to more locations being the subject of applications, as less attractive and hard-to-serve locations could be grouped together alongside those locations that are more likely to be applied for. Additionally, undertaking this deconfliction process at the beginning of Idaho's application process will address challenges noted in subsequent sections, in which IOB envisions the possibility of certain areas receiving no bids, and thus requiring significant renegotiation with providers who bid on adjacent areas to expand to cover the "undesirable" territories.

If IOB chooses to forgo this alternative process, WISPA suggests that project areas should not be based on geopolitical boundaries such as county borders or census blocks, but on independent criteria focused on respecting geographic features and population densities. Generally, prioritizing a small project area will ensure that geographic factors remain reasonably consistent, climate considerations are held constant, and proposed projects will not have to address significant disparities in service types.

However, WISPA sees much to like in other portions of this section: IOB's intention "to simplify the application process for applicants in the BEAD Program, while ensuring compliance with the requirements outlined in this document and in the BEAD NOFO" is appropriate. Focusing on employing a "light-lift" document that is easy to fill out will contribute to ensuring IOB is able to solicit the widest participation from providers. Similarly, providing meaningful but unbiased technical assistance will encourage small providers and providers who may not have participated in previous efforts to contemplate applying for BEAD funds. Finally, WISPA appreciates the composition of Idaho's proposed scoring committee, but encourages the state to ensure representatives from each sector have a solid understanding of broadband technology and policy considerations"

**Steve Schwerbel State Advocacy Manager WISPA – Broadband Without Boundaries 10/31/2023**

*IP Vol 2, Section 2.4.2*

"WISPA strongly supports IOB's focus on maximizing its BEAD investment through scoring its primary criteria for both Priority Broadband Projects and Other Last-Mile Broadband Deployment Projects by weighting "Minimal BEAD Outlay" at 50%. This scoring makes clear that IOB takes seriously its responsibility to find opportunities to connect as many unserved and underserved locations as possible with the money it has. This prioritization is entirely appropriate.

IOB is similarly on a strong path in scoring its secondary criteria for applications. However, WISPA believes that assigning 7.5% of the point value to “Speed of Deployment” and 5% to “Open Access” would more appropriately recognize the impact broadband access will have on those communities that lack it today. Broadband access delayed is broadband access denied, and technologies that are most able to quickly close the digital divide play a crucial role in ensuring students can learn remotely, parents can work from home, and families can take advantage of telemedicine opportunities. In a recent white paper, MIT’s Dr. William Lehr highlights the critical importance of speed to deployment as an economic concern for families: (footnote: Getting to the Broadband Future Efficiently with BEAD Funding (“the Lehr White Paper”), p. 22):

The Town of Litchfield, Maine demonstrates many of these issues in microcosm. In 2019, Litchfield examined its options for solving its broadband universal service challenge which left about 7% of the households unserved and most of the rest underserved. The options Litchfield evaluated included having the largest incumbent legacy cable TV provider, Charter Spectrum, build out its network to address the unserved households or overbuilding the entire town with a FTTP network. In the town of approximately 1,500 households, the cost of extending Charter’s cable TV-based infrastructure was about \$800,000, whereas the cost of a FTTP system was estimated to be \$5.6 million (or, \$3,700/HH). Although the cost of the FTTP option was significantly greater, it offered the dual advantages of addressing the Town’s universal broadband goals for both unserved and underserved residents; and offered the prospect of increased broadband competition for the incumbent operator. Ultimately, however, the Town opted for a fixed wireless broadband solution that offered comparable benefits to the FTTP system, but at substantially less cost and with a much faster delivery schedule. Redzone Wireless [a WISPA member] launched much-better-than 100/20 service using licensed-by-rule spectrum within six months to all households in Litchfield for a cost of \$800 per household. The decision by Litchfield to meet its broadband needs now and in the future by opting for fixed wireless technology will deliver much better broadband for all of its citizens at one fifth the cost of a FTTP alternative, and will expand broadband competition. If one accepts that there are 13 million unserved and underserved locations in the U.S., then serving all of these with similar FTTP (at \$3,700/HH) versus fixed wireless (at \$800/HH) represents a cost difference of almost \$40 billion.

The economic impact of waiting months, rather than potentially years, for access to reliable, high-speed broadband cannot be understated.

Finally, WISPA strongly supports IOB’s vision for waiving the 25% matching funds requirement if an applicant submits a project area that is a Priority Broadband Project where the average cost per location is above the [Threshold] established by the IOB.” While WISPA encourages IOB to ensure that providers have an appropriate level of “skin in the game” and believes the state should not be expected to fund 100% of any project with taxpayer funds, the draft Initial Proposal remains properly cognizant of the extreme challenges posed by many of the especially rural areas that remain unserved currently, and prepare for scenarios where communities and providers cannot afford to put up a 25% match, or where providing a 25% match would disqualify certain entities based on assets they have at a given point in

time. As Idaho pushes broadband projects into the most sparsely populated areas, it will find these communities least able to contribute a matching percentage. Seeking the waivers to allow individual projects to reduce the required matching percentage will broaden the ability of communities and small ISPs to participate in Idaho's BEAD program."

### **Steve Schwerbel State Advocacy Manager WISPA – Broadband Without Boundaries 10/31/2023**

#### *IP Vol 2, Section 2.4.5*

WISPA recognizes the need to contemplate implementation of Build America, Buy American (BABA) Act requirements, but encourages IOB to support NTIA's limited nonavailability waiver for certain construction materials and manufactured products, and to continue to work with Idaho's ISP community to understand the impact of supply chain issues on the potential need for other waivers that will support the swift and efficient deployment of broadband infrastructure across the state.

### **Steve Schwerbel State Advocacy Manager WISPA – Broadband Without Boundaries 10/31/2023**

#### *IP Vol 2, Section 2.4.9*

"Establishing an appropriate EHCLT is a critically important policy issue for WISPA members, and will be equally important for Idaho. If the Threshold is set too high, there will be a gap between locations funded with Priority Broadband Projects and those that do not meet the Threshold, leading providers to not bid on certain project areas. This is due in part to the demonstrably higher costs to deploy fiber than fixed wireless, as noted in the Carmel Report (footnote [https://www.wispa.org/docs/2021\\_WISPA\\_Report\\_FINAL.pdf](https://www.wispa.org/docs/2021_WISPA_Report_FINAL.pdf)).

The Lehr White Paper offers a framework for states to consider as they develop their Thresholds. Instead of prejudging outcomes by establishing the Threshold "as high as possible," Dr. Lehr recommends that states "set their EHCLT to optimize the effectiveness of public funds in promoting the State's broadband and digital economy strategies, not at some artificially high threshold that leaves unserved locations unserved and wastes public funding overbuilding locations that are already served." This is because "even assuming that a State is provided sufficient funds to serve every unserved location based on the average FTTP cost in a State (and that will be higher in higher cost States), then the more locations that have to be served that have much higher costs, the lower the EHCLT has to be set to enable a larger share of locations to be

eligible for funding by fixed wireless technologies."

Dr. Lehr recommends that states "learn as much as they can about the cost of providing service to all locations in the State using different technologies,... should consider evidence from multiple sources and should carefully examine the FCC mapping data to ensure it accurately reflects the true status of broadband service availability, competition, and infrastructure within the State." Given time constraints,

available resources and the complexity of developing a detailed cost model with multiple variables (e.g., topography, design, rights-of-way access, soil conditions, location density and dispersal, etc.), Dr. Lehr further observes that “the process needs to rely on some generalized modeling (e.g., a vetted FCC or other third-party produced engineering-cost model) that can produce standard cost estimates using standard data... Ideally,

several models might be used to get a better idea of how expensive it would be to provide broadband service to every unserved or underserved location within the State.” Here, Idaho’s ability to refer to state data captured by its history of broadband grants will help IOB anticipate BEAD deployment costs. IOB should use this data to identify the lowest justifiable number for the EHCLT in order to ensure there is no gap between Priority and Alternative Technology project areas and areas where alternative technologies can be deployed.”

**Steve Schwerbel State Advocacy Manager WISPA – Broadband Without Boundaries 10/31/2023**

*IP Vol 2, Section 2.4.9*

Because the IOB has determined that it will not have sufficient funding to connect all unserved and underserved locations, it would be a mistake for the state to simply rely on NTIA’s tool and set the Threshold “according to a way that ensures the maximum deployment of end-to-end fiber projects as feasible.” To the contrary, the IOB should lower the Threshold and/or increase the amount of funding that is available for Threshold locations in order to reduce the gap and achieve the objective of funding broadband access to all unserved and underserved locations (footnote: WISPA notes that Note that Idaho intends to consider the capex and opex costs for the life of the network in determining the Threshold. This approach is novel, and would suggest a high Threshold that would be counterproductive to the goal of achieving universal service.) A fiber-only approach is unlikely to meet that objective, by the state’s own omission.

**Steve Schwerbel State Advocacy Manager WISPA – Broadband Without Boundaries 10/31/2023**

*IP Vol 2, Section 2.4.10*

"WISPA appreciates Idaho’s recognition that end-to-end fiber topologies “may not meet the definition of reliable broadband.” IOB is entirely correct in saying, “Utilizing multiple forms of broadband technology will help ensure universal service across the state and that no location, no matter how remote or prohibitive the cost, will remain unserved.” Indeed, this argument strongly aligns with WISPA’s focus on the importance of an appropriate Extremely High Cost per Location Threshold.

WISPA notes, however, that IOB conflates licensed and unlicensed spectrum FWA deployments in this section. Licensed spectrum FWA has been deemed to meet NTIA’s definition of “reliable” (though not “priority”) broadband – it is unlicensed FWA that NTIA has determined does not meet this “reliable” definition. WISPA has confidence that this is merely a typographical error, which will be corrected in Idaho’s final draft.”

**Steve Schwerbel State Advocacy Manager WISPA – Broadband Without Boundaries 10/31/2023**

*IP Vol 2, Section 2.4.11*

"In addition to its contemplation of a waiver for the 25% match requirement, WISPA strongly encourages Idaho to request a waiver to the letter of credit requirement in this section of its final Initial Proposal. While NTIA and IOB have a legitimate interest in ensuring that subgrantees have the financial capability to undertake the projects they propose, the letter of credit mechanism is an inappropriate tool and will stifle, rather than encourage, applications by small business. Recently, Weiss bank safety ratings for many banks, even extremely large banks, have fallen below B-, making it even more difficult for smaller providers to obtain letters of credit, or to do so on acceptable terms. A number of CAF and RDOF recipients are currently being forced to replace letters of credit because the banks providing the letters of credit have recently become ineligible and leading to the potential suspension of federal support.

But even setting that aside, there are as many as three separate costs associated with letters of credit:

1. Some banks may require beneficiaries of letters of credit to deposit cash in the bank's account up to an amount equivalent to the value of the letter of credit. This means that the borrower must deposit cash into the bank's account as collateral for the letter of credit.
2. The monthly carrying cost of the letter of credit can be 1-5% of its value.
3. The letter of credit is treated as a contingent liability (essentially debt) on the borrower's books, meaning it limits the beneficiary's borrowing power.

These costs are explained in an ex parte letter WISPA filed with the FCC before the FCC released its Rural Digital Opportunity Fund (RDOF) Phase I Auction Order in February 2020 (footnote: <https://www.fcc.gov/ecfs/document/101231379529828/1>).

Note that not all banks apply the same policies and practices, and good customers of the bank or those with substantial assets may be able to obtain better terms. For instance, some customers may not need to post cash collateral. In this manner, larger companies have an advantage over smaller companies because their letters of credit can cost much less to obtain and maintain.

The letter of credit rule, which the FCC adopted for the RDOF Phase I auction, is discussed in paragraphs 96-113 and in Appendix A of the February 2020 RDOF Order (footnote: [https://docs.fcc.gov/public/attachments/FCC-20-5A1\\_Rcd.pdf](https://docs.fcc.gov/public/attachments/FCC-20-5A1_Rcd.pdf)). Importantly, each year of letter of credit value is only 10% -- not the 25% required in BEAD. Note that the FCC has extended these rules on a waiver basis to Connect America Fund Phase II recipients, who would otherwise be subject to escalating letter of credit values over the six-year deployment term. The CAF waiver expires at the end of 2023 unless it is extended again.

WISPA proposes two possible alternative approaches to the Letter of Credit:

Request performance bonds, but with carrying costs that suit businesses plans for BEAD deployment:  
Some state broadband offices accept performance bonds instead of letters of credit.

Another benefit to requesting performance bonds over letters of credit is that it would bring a wider range of financial institutions to protect the government's interest in the funds it disburses. Insurance companies and surety companies can offer performance bonds; only banks provide letters of credit.

Allow Idaho to use BEAD funds to reimburse subgrantee ISPs that would prefer to eventually receive these funds after they have built broadband networks: This approach can be preferable for smaller ISPs because it obviates the need for applicants to obtain financially burdensome letters of credit, and is the solution IOB proposes in Section 2.16.2 in this draft Initial Proposal. In a reimbursement program, because the broadband networks have already been built, there is no need to use letters of credit to protect the government's interest in the funds it disburses in order to build those networks. If a small ISP wants a lower cost loan to build a broadband network, before it seeks reimbursement, it can pursue loans or loan guarantees from the Small Business Administration. Including the reimbursement option in its request could provide Idaho the flexibility to consider applications from subgrantee ISPs that want the BEAD funds upfront along with letters of credit as well as applications from subgrantee ISPs that would prefer to build the broadband networks and then receive reimbursement."

**Steve Schwerbel State Advocacy Manager WISPA – Broadband Without Boundaries 10/31/2023**

*IP Vol 2, Section 2.4.13*

WISPA supports efforts to ensure proposed networks are properly designed and able to deliver the speed and reliability required by the BEAD program. However, IOB's requirement that network design and other technical plans be "certified by a Professional Engineer" may be inefficient and lead to a reduction in small providers' ability to participate. Frequently, professional engineers are not best qualified to evaluate network design if they do not have significant experience in broadband network design; further, many small companies may be unable to afford the cost of engaging a professional engineer, and, as the FCC determined in July 2022, (footnote:

<https://docs.fcc.gov/public/attachments/DA-22-733A1.pdf>) - such qualifications are not always readily available where a provider would otherwise like to hire one. WISPA encourages Idaho to consider the waiver conditions the FCC granted to its own professional engineering certification rules and to work with the provider community to determine alternative authorities who could qualify to certify that network plans are appropriately designed.

**Steve Schwerbel State Advocacy Manager WISPA – Broadband Without Boundaries 10/31/2023**

*IP Vol 2, Section 2.8.1*

"While WISPA supports strong job training programs to encourage young people to enter the broadband workforce, our members often find that existing programs are unable to fully match our workforce needs. One WISP operator recently explained the skills he looks for as "a cross between a network technician and a roofer." While fiber training and tower climbing skills are important, our members often look for applications who have a strong work ethic and a willingness to learn on the job, making apprenticeship opportunities especially attractive to this segment of the industry. Finding opportunities to expand and deepen support for such opportunities will give WISPA members another opportunity to reach into previously untapped labor markets for men and women who are eager to step into the industry.

To this end, Idaho may be interested in Wisconsin's 2017 Act 273, which gives high school seniors who are otherwise on track to graduate the opportunity to earn credit hours for attending apprenticeship programs (footnote: <https://docs.legis.wisconsin.gov/2017/related/acts/273>). This program allows students to get a feel for a particular skilled trade before making the decision of what post-secondary educational path they wish to pursue, encouraging them to consider the full range of options and opportunities available to them after graduation."

**Steve Schwerbel State Advocacy Manager WISPA – Broadband Without Boundaries 10/31/2023**

*IP Vol 2, Section 2.9*

"Concern about the impact of BEAD rules on minority businesses and women-owned business enterprises is appropriate, given the experiences these firms have had with past disparities. To this end, WISPA notes a memo recently sent to Secretary Gina Raimondo and Assistant Secretary Alan Davidson, describing the impact the Letter of Credit requirement is likely to have on these firms, titled "BEAD – Alternatives to the Irrevocable Standby Letter of Credit Requirement." (footnote: [https://connecthumanity.fund/wp-content/uploads/2023/09/Re\\_-BEAD-%E2%80%94alternatives-to-the-irrevocable-standby-letter-of-credit-requirement\\_Sep6.pdf](https://connecthumanity.fund/wp-content/uploads/2023/09/Re_-BEAD-%E2%80%94alternatives-to-the-irrevocable-standby-letter-of-credit-requirement_Sep6.pdf)). The letter makes the negative impact clear: "by establishing capital barriers too steep for all but the best-funded ISPs, the LOC shuts out the vast majority of entities the program claims to prioritize: small and community-centered ISPs, minority and womenowned ISPs, nonprofits, and municipalities." This letter was signed by more than 200 associations, non-profit organizations, internet service providers, and private citizens, including policy leaders such as Gigi Sohn, Executive Director of the American Association for Public Broadband; Shane Larson, Senior Director for Government Affairs and Policy for the Communication Workers of America;

Matthew Chase, Executive Director, National Association of Counties; and the heads of the broadband offices of Kansas, Washington state, and Vermont.

WISPA reiterates its encouragement to use the final Initial Proposal Volume 2 document to request a waiver from this requirement and pursue other mechanisms to ensure fiscal accountability in the BEAD grant process."

**Steve Schwerbel State Advocacy Manager WISPA – Broadband Without Boundaries 10/31/2023**

*IP Vol 2, Section 2.10*

As it further considers opportunities to reduce costs and barriers to speedy deployment, WISPA appreciates Idaho’s plans to streamline state and local permitting processes. IOB may also be interested in pursuing a “Broadband Ready Communities” model to give local communities an additional tool to grapple with the challenges of bureaucratic approvals and costs. This concept has states setting out a model ordinance local units of government, such as towns, cities, or counties, may voluntarily adopt to streamline the permitting process for new broadband projects. The model ordinance may include such items as identifying a single point of contact for broadband issues, commitments to timelines for project approvals, and defining reasonable fees for permits. A Pew memo (footnote: <https://www.pewtrusts.org/-/media/assets/2023/04/broadband-ready-communities-ta-memo-pdf.pdf>) describes the potential benefits of implementing these standards: “These programs are designed to create efficiencies in broadband deployment, provide a signal to developers and ISPs that a community is willing to work with them toward broadband expansion projects, and foster local leadership and collaboration in all broadband development efforts.”

**Steve Schwerbel State Advocacy Manager WISPA – Broadband Without Boundaries 10/31/2023**

*IP Vol 2, Section 2.11*

WISPA encourages IOB to consider including climate-related concerns in its scoring model: these issues can be addressed in unique ways by FWA networks. Given the cost of trenching fiber, particularly in the challenging topographies and soil conditions of Idaho, buried fiber will likely present significant hurdles in both cost and time, incentivizing providers to move toward aerial fiber deployments that are vulnerable to impacts from the wildfires, flooding, and extreme cold temperatures that Idaho discusses in this draft. By contrast, FWA deployments utilize towers and other vertical infrastructure that can better withstand severe climate events and changes and thus do not have the vulnerabilities presented by fiber, presenting a more appealing solution to the problem of deploying high-speed solutions in challenging terrains. Indeed, fixed wireless providers are frequently called upon to step in to provide emergency connectivity support for first responders battling wildfires in neighboring states like California, as WISPinfrastructure is unaffected by these natural disasters. Further, a recent white paper from Tarana Wireless, a vendor that leads the WISP industry in innovating FWA solutions, argues that “when calculated on a per-subscriber basis, the Tarana G1 platform generates 55% less cumulative carbon emissions compared to a fiber-to-the-home deployment, and 70% less net present carbon

emissions.”(Footnote: Next Generation Fixed Wireless Access: A Greener Future at 2.) Taken together with the above, FWA deployments may be part of an overall green strategy that OSIT could pursue in considering its final BEAD rules.

**Ken Pyle Viodi Managing Editor 10/31/2023**

*IP Vol 2, Section 2.4*

"Section 2.4.2 - Page 23 Does this criteria allow for an ISP to provide a no-cost plan that limits access to only municipalities, schools, states, federal and their associated agency websites? The premise for providing such a plan would be:

1. This offering would be a virtual extension of the physical spaces of the government and would help extend government services to all citizens, regardless of their respective physical locations.
2. This offering would be available to every residence or business within the BEAD subsidized serving area, regardless of income level.
3. There would be no monthly cost associated with this tier of service.

Benefits

1. It would not be dependent upon the Congressional renewal of the Affordable Connectivity Program.
2. By being available to everyone, regardless of income, it eliminates the ""benefits cliff"" that can leave people financially worse off as their incomes rise.
3. It should be simpler to manage than ACP or USF, as the provider would not require integration with a third party to verify eligibility. At the same time, it would not preclude ACP or USF.
4. It would prevent the subsidization of apps already banned by Idaho.

Buckeye Broadband in Ohio is an example of an ISP that provides a no-cost Internet tier. What makes it different is that it is ad-supported and unfiltered but with upload and download speed limitations.

<https://www.buckeyebroadband.com/freenet>"

**Ken Pyle Viodi Managing Editor 10/31/2023**

*IP Vol 2, Section 2.13*

"Section 2.13 Middle-Class Affordability Plans (page 82)

Page 82, Table 27, suggests a 5-year commitment to the pricing, performance, and terms.

In the narrative, it suggests that this low-cost option will be available over the useful life of the network

""The IOB will require that each applicant provide a certification that it will continue to provide a range of service offerings, including a low-cost option during the useful life of the network, as required by the NOFO.""

A few comments

1. Assuming that it is a fiber network, then one would expect the useful life of the network to be on the order of 20 to 30 years. If that is the case, then there seems to be a contradiction between the 5-year commitment mentioned in Table 27 and the ""useful life of the network"" mentioned in the narrative.
2. Whether it is a 5-year commitment or longer, shouldn't there be a factor for inflation when considering future affordability?
3. How is the IOB going to ensure that providers keep their commitments to providing affordable plans?"

**Ken Pyle Viodi Managing Editor 10/31/2023**

*IP Vol 2, Section 2.4*

"2.4.15B- Page 51""For at least two consecutive years prior to the date of submission of the application, the

applicant shall certify that it has provided voice, broadband, and electricity transmission or distribution services...""

Why not add Irrigation Districts as possible providers? They have rights-of-ways and are organized entities that might be able to facilitate broadband either by themselves or through partnerships."

**Melissa King Nez Perce Tribe Manager Department of Technology Services 10/31/2023**

*IP Vol 2, Section 2.4*

"Page 17:

#7. Tribal Implementation; Support

Please add a #6. Assist Tribes with Railroad applications, permitting, insurance, etc.

Page 18:

Application Intake Process

Add a #6. Tribal Boundaries - where any application includes Tribal lands a resolution of consent to claim service on those lands must be included with the application. The application should include the resolution of consent, the Tribal Employment Right's Office (TERO) plan and cultural or environmental review.

Page 20:

Table 4, Application Review Process

Add Tribal Consent to the bulleted list

Page 25:

Primary Scoring Criteria Broadband Projects

Secondary Criteria

Decrease Speed of Network & Other Technical capabilities to 2.5%

Increase Tribal Lands Inclusion to 7.5%

Page 28:

Table 10 adjust values to meet the 2.5 points

Page 29:

Table 12; Amend as follows

Coordination & Consultation 3

Change Letter of Support to Resolution of Consent and increase the points to 4.5

Page 33:

Primary Scoring Criteria Last Mile Broadband Projects

Secondary Criteria; Table 16

Decrease Speed of Network & Other Technical capabilities to 2.5%

Page 35:

Primary Scoring Criteria Last Mile Broadband Projects

Secondary Criteria; Table 16

Increase Tribal Coordination to 7.5%

Change Letter of Support to Resolution of Consent

Increase the points to 7.5

Page 36:

Decrease points for Speed of Network & other technical capabilities to 2.5

Page 37:

Increase points for Tribal Coordination to 7.5

Change Letter of Support to Resolution of Consent

Page 37:

Table 20; Amend as follows

Coordination & Consultation 3

Change Letter of Support to Resolution of Consent and increase the points to 4.5

Page 45:

B. Letter of Credit

List the waiver process for Tribes, companies servicing Tribal lands and partnerships with Tribes."

### **Matt DeTura CTIA Counsel, External and State Affairs 10/31/2023**

*IP Vol 2, Section 2.4* "1.

VOLUME 2 MUST DEFINE HOW IOB WILL SET THE EXTREMELY HIGH COST PER LOCATION THRESHOLD (2.4. Deployment Subgrantee Selection (Requirement 8))

The NOFO requires states' Initial Proposals to include "a detailed plan to competitively award subgrants consistent with Section IV.B.7.a of this NOFO," which must include "identification of, or a detailed process for identifying, an Extremely High Cost Per Location Threshold to be utilized during the subgrantee selection process."4 IOB's Volume 2 neither identifies an EHCPLT for Idaho nor sets out a detailed process for identifying one.

Failing to specify either an EHCPLT or the process for identifying one may make it less likely that Idaho will enjoy robust participation by a diverse set of subgrantees in the BEAD program, which would diminish the benefits of the program for all the residents and businesses of Idaho. However, while the NOFO clearly obligates states to set the EHCPLT or share a detailed process for setting it, if IOB's deferral of this task is part of a holistic, technology-neutral approach that embraces the use of non-fiber Reliable Broadband Service technologies to achieve broadband deployment as prioritized by the Infrastructure Investment and Jobs Act ("IIJA") and NOFO, then the approach could prove a useful tool in pursuit of programmatic goals.

In addition, Volume 2 suggests that, "[i]f IOB is unable to connect 100% of unserved and unserved locations in Idaho, the IOB has the right to raise the [EHCPLT] amount."5 It is likely IOB meant to reserve the right to lower the EHCPLT—that is, to establish a lower per-location cost at which the IOB will consider less-costly bids from other Reliable Broadband Service technologies, such as fixed wireless

broadband, to ensure that the IOB can connect 100% of unserved and underserved locations in Idaho within its set budget. CTIA asks the IOB to please correct Volume 2 accordingly."

**Matt DeTura CTIA Counsel, External and State Affairs 10/31/2023**

*IP Vol 2, Section 2.4*

"II.

IOB SHOULD CLARIFY HOW THE EHCPLT WILL BE UTILIZED IN THE SELECTION PROCESS TO CONFORM TO THE NOFO (2.4. Deployment Subgrantee Selection (Requirement 8))

The NOFO requires states' Initial Proposals to describe how the EHCPLT will be "utilized during the subgrantee selection process described in Section IV.B.7 of this NOFO."<sup>6</sup> Section IV.B.7.a of the NOFO, in turn, provides that, for locations that exceed the EHCPLT, states must first consider non-fiber proposals using other "Reliable Broadband Service" technologies, as defined in the NOFO.<sup>7</sup>

The technologies defined in the NOFO as "Reliable Broadband Service," in addition to fiber, are terrestrial fixed wireless technology utilizing entirely licensed spectrum or a hybrid of licensed and unlicensed spectrum, cable broadband, and DSL.<sup>8</sup>

Only if "no Reliable Broadband Service technology meeting the BEAD Program's technical requirements would be deployable for a subsidy of less than the Extremely High Cost Per Location Threshold at a given location" may a state consider other technologies that are not Reliable Broadband Service, though they still must meet program requirements.<sup>9</sup>

Volume 2 appears to misapply the NOFO's two-step process for considering non-fiber proposals for locations above the EHCPLT. Volume 2 states that "IOB will consider technology options proposed by Applicants agnostically and identify the most cost-effective technology options for each area through research with the respective areas and experts" and "will consider licensed fixed wireless and low-orbit satellite technology if no other technology meeting the Reliable Broadband Service requirements can be deployed for less than the Extremely High Cost Per Location Threshold at a given location."<sup>10</sup> Volume 2 also states that, "[i]f a priority broadband project area exceeds the [EHCPLT], the IOB will only consider projects that are not priority broadband projects that may not meet the definition of reliable broadband."<sup>11</sup> But these statements impermissibly ignore the NOFO's requirement that states consider Reliable Broadband Service technologies before considering non-Reliable Broadband Service technologies or prioritizing a non-Reliable Broadband Service technology (low-orbit satellite) ahead of Reliable Broadband Service Technologies, such as fixed wireless using licensed or a hybrid of licensed and unlicensed spectrum.<sup>12</sup> Volume 2 further suggests that both licensed fixed wireless and low-orbit satellite "may not meet the BEAD NOFO's definition of reliable broadband,"<sup>13</sup> but, as noted above, licensed fixed wireless is a Reliable Broadband Service technology per the NOFO, while low-orbit satellite service is not.<sup>14</sup>

For these reasons, IOB should revise Volume 2 to make clear that, in areas that exceed the EHCPLT, IOB will consider proposals based on other Reliable Broadband Service technologies, such as fixed wireless broadband. IOB should further revise Volume 2 to clarify that IOB will consider proposals from non-

Reliable Broadband Service technologies only if no Reliable Broadband Service proposals are presented for the given area."

**Matt DeTura CTIA Counsel, External and State Affairs 10/31/2023**

*IP Vol 2, Section 2.4*

"III.

IOB'S LOW-COST AFFORDABILITY PROGRAM SHOULD FOCUS SOLELY ON ACP PARTICIPATION (2.12. Low-Cost Broadband Service Option (Requirement 16))

CTIA and its members strongly support efforts to ensure that broadband service is affordable. The wireless industry has long been at the forefront of pioneering affordable options for consumers, such as the first prepaid wireless plans requiring no contract, credit check, or deposit. Wireless providers currently offer a variety of affordable plans in Idaho, including plans supported by the ACP and the Federal Communications Commission's ("FCC's") Lifeline program. The majority of ACP customers choose wireless broadband service, demonstrating a strong consumer preference for the benefits of wireless broadband.<sup>15</sup>

In Section 2.12 of Volume 2, IOB appropriately proposes to require BEAD subgrantees to participate in ACP.<sup>16</sup> The BEAD program and ACP are both products of the IIJA and are intended to work in concert.<sup>17</sup> NTIA's BEAD requirements make clear that ACP should be the centerpiece of states' low-income affordability efforts.<sup>18</sup> For example, the NOFO contemplates that states can require subgrantees to participate in ACP.<sup>19</sup> NTIA's guidance to states on initial proposals provides similar direction.<sup>20</sup> Focusing low-income affordability efforts on ACP participation will allow the BEAD program to maintain consistency across all states with respect to low-income affordability in an approach that comports with the IIJA and reduces burdens for implementation. Accordingly, CTIA urges IOB to revise Volume 2 to make subgrantee participation in the ACP program the sole means of satisfying BEAD's low-income affordability requirement.

CTIA further urges IOB to eliminate the proposed requirement that applicants must offer a service option that meets, at a minimum, specific plan criteria with a rate of \$30 or less.<sup>21</sup> Nothing in the IIJA nor NTIA's BEAD guidance authorizes IOB to specify particular rates or rate caps for broadband service. Indeed, in the process of enacting the IIJA, lawmakers negotiated and agreed upon programs like ACP and the low-cost option for eligible low-income consumers, while specifically barring broadband rate regulation in a subsection entitled "No Regulation of Rates Permitted."<sup>22</sup> As a result, NTIA is barred from regulating rates, and it cannot impose conditions on or provide incentives to Eligible Entities to accomplish that goal indirectly. Approving proposals like IOB's that contain a rate plan or otherwise engage in ratemaking violates this prohibition.<sup>23</sup> Moreover, broadband service is an interstate information service and, as such, may not be subjected to common carrier regulations.<sup>24</sup> Rate regulation is a classic form of common carrier regulation.<sup>25</sup> Consequently, IOB's authority to address affordability is cabined and circumscribed and may not include prescribing or otherwise regulating rates.<sup>26</sup>

CTIA therefore urges IOB to modify Volume 2 to establish that subgrantees can satisfy their obligation to provide a low-income affordability service option through full participation in the ACP. IOB also should consider efforts (e.g., using digital equity grant funding or other funding) to expand participation in the ACP among eligible households in Idaho.

If IOB nonetheless adopts the \$30 low-cost service option set forth in Volume 2, it should clarify that subgrantees are only required to offer that option to ACP-eligible customers. Doing so would ease implementation of the low-cost option and reduce customer confusion. IOB also should permit subgrantees to adjust the \$30 price for inflation and cost of living increases, which would be an economically sound approach."

**Matt DeTura CTIA Counsel, External and State Affairs 10/31/2023**

*IP Vol 2, Section 2.4*

"IV.

IOB SHOULD REVISE THE MIDDLE-CLASS AFFORDABILITY PLAN TO REMOVE THE REQUIREMENT FOR A "LOW-COST PLAN" (2.13. Middle-Class Affordability Plans (Requirement 20))

NTIA has directed states to "adopt diverse strategies" to ensure middle class affordability,<sup>27</sup> and clarified that the middle-class affordability requirement is a "strategy," not a specific service plan.<sup>28</sup> CTIA commends IOB for recognizing this and proposing a set of strategies in its approach to middle-class affordability.

However, the first element of this strategy, "availability," would require subgrantees to offer a "low-cost plan" to middle class households.<sup>29</sup> This is inappropriate because low-cost affordability is a separate requirement in the BEAD program (see *supra* Section V); there is no basis to require providers to offer a "low-cost" plan to middle class customers—particularly given IOB's recognition that data show that "broadband is currently affordable for middle-class households."<sup>30</sup> Furthermore, such a requirement runs afoul of the ratemaking prohibition described above. States are not permitted to regulate or require types of rate plans (such as a "low-cost plan"). This plan requirement is also inconsistent with the IOB's stated intent, in line with NTIA's requirements, to approach middle class affordability through a set of strategies rather than a specific plan."

**Matt DeTura CTIA Counsel, External and State Affairs 10/31/2023**

*IP Vol 2, Section 2.4*

"V.

IOB SHOULD ADJUST ITS APPROACH TO AFFORDABILITY SCORING TO ALIGN WITH LEGAL LIMITATIONS.

Another aspect of IOB's proposal that bears examination is its use of affordability as a scoring criterion, assigning more points for more affordable plans, up to a maximum of 15 points for affordability in total, to create an incentive for subgrantees to provide more affordable plans.<sup>31</sup> CTIA urges IOB to revise Volume 2 to remove the IOB-identified pricing tiers from the scoring process (and from other sections

where the same tiers are employed). As discussed above, there is an affirmative prohibition against ratemaking in the IJJA, so any attempt to impose state-selected rates—even if in the form of application points granted for rates meeting state-selected rate thresholds—is bad policy at best and precluded at worst. There is no reason for Idaho to take such an approach and CTIA suggests three alternatives for IOB to consider.<sup>32</sup>

The first two suggestions entail market-based approaches. Ohio's draft Initial Proposal, Volume 2, describes a market-based approach by which an average of applicant-proposed rates is calculated from all applications, and applicants are awarded points for proposed prices below the average.<sup>33</sup> Another approach is for IOB to focus on analyzing whether a subgrantee's broadband pricing is comparable between urban and rural areas of the state and/or across the provider's entire service territory.<sup>34</sup> Given the nationwide nature of much broadband pricing (particularly among wireless providers), and the wide adoption of broadband services, there is a strong basis to conclude that rate comparability is a strong indicator of middle-class affordability.

If IOB finds it necessary, however, to use an existing rate or rate structure as a reference point to award application points for affordability, CTIA suggests that IOB use the FCC's reasonable comparability benchmark.<sup>35</sup> That benchmark is based upon the FCC's urban rate survey of broadband pricing applicable to recipients of support through existing broadband deployment programs, such as the Connect America Fund Phase II and Rural Digital Opportunity Fund.<sup>36</sup> It shows that an unlimited data plan offering 100/20 Mbps would cost \$105.03.<sup>37</sup> Using an existing federal benchmark will at least provide a rational basis for IOB's scoring, notwithstanding the IJJA's prohibition against ratemaking. It also will help ensure that rate plans available on networks built in Idaho using federal deployment subsidies are similar, which will help avoid consumer confusion that could arise from companies potentially charging neighbors different rates depending on the federal subsidy program used to deploy the different network segments from which they receive service.

CTIA and its member companies are proud of their record of making service more affordable for all Americans and support the BEAD program's emphasis on ensuring affordable service offerings on BEAD subsidized networks. But Volume 2's approach to affordability does not lay out an effective, legally sustainable strategy to ensure that middle class households in Idaho can afford service from the providers funded by BEAD. These affordability requirements could also discourage qualified providers from bidding on areas at all, decreasing the likelihood of drawing competitive bids.

Finally, the additive requirement in Volume 2 requiring prospective subgrantees to outline "their plans for reinvesting network revenues into the network to help reduce consumer rates,"<sup>38</sup> while well intentioned, may lead to poor outcomes. Subgrantees should have the flexibility to operate and maintain their networks over time in response to consumer demands and other factors that influence such decisions over the lifetime of the network. Consumers may strongly prefer speed upgrades, for instance, over price reductions. Subgrantees have already committed to offering defined services over a period set by the IJJA and NOFO, so there is considerable certainty for consumers in the design of the program itself—including requirements for strategies. to ensure affordability (middle-class and low-income). Accordingly, this well-intentioned requirement should be removed from the proposal."

## **Christina Mangiapani Latah County Grants 10/31/2023**

### *IP Vol 1, Section 1.1*

"1.1

Existing Broadband Funding (Requirement 3) The sources of funding outlined in Table 1 of this section represent a non-exhaustive list. Funding pots that are missing include: the Connect America Fund (CAF), E-Rate program administered by USAC, Alternative Connect America Model (ACAM), Enhanced ACAM, US Economic Development Administration (EDA), among others. It may also be worth mentioning that "Existing Broadband Funding" does not include all public funding related to broadband. For instance, some of ITD's projects are not broadband-specific and yet include conduit for future fiber. There are also community development and other infrastructure funding pots that allow for or encourage broadband deployments as a consideration or add-on to major public works projects, like water and wastewater. If the goal in identifying funding is to get as clear a picture as possible of assets and opportunities, a more robust accounting seems prudent. We encourage the Idaho Office of Broadband (IOB) to collate as exhaustive a list as possible, not only to avoid duplication of efforts but also to identify potential opportunities to leverage existing infrastructure projects and funding for lower cost deployments as well as keep tabs on recent federal obligations that are either in danger of not being fulfilled or have much longer timelines than BEAD-funded projects would be able to accomplish."

## **Christina Mangiapani Latah County Grants 10/31/2023**

### *IP Vol 1, Section 1.2*

"1.2

Unserved and Underserved Locations (Requirement 5) We commend the IOB on its decision to consider unserved those locations that do not qualify as "reliable broadband service" as outlined in the BEAD NOFO, including those locations served only by satellite, unlicensed spectrum, or that have other high latency connections."

## **Christina Mangiapani Latah County Grants 10/31/2023**

### *IP Vol 1, Section 1.3*

"1.3

Community Anchor Institutions (CAIs) (Requirement 6) We are grateful to the IOB for recognizing the importance of CAIs for connecting our communities – especially rural ones – and therefore defining CAIs as broadly as possible to ensure that Gigabit symmetrical, scalable connections are prioritized and funded through BEAD."

## **Christina Mangiapani Latah County Grants 10/31/2023**

### *IP Vol 1, Section 1.4*

"1.4

Challenge Process (Requirement 7) We see that the IOB has chosen to utilize the “Module 1: No Modifications” option to reflect data not present in the National Broadband Map. We disagree with this choice. BEAD funding represents a historic infrastructure investment which should result in long-term assets with minimal additional capital investment required over the next few decades.

The only way to do this is by evaluating the existing infrastructure. Therefore, the

IOB should aim to paint a very clear and accurate picture of existing broadband infrastructure throughout the state with a goal of upgrading assets to be future-proof. This should mean identifying obsolete technologies, such as legacy copper wires, and replacing them with future-proof fiber. We urge the IOB to instead select “Module 2: DSL Modification.” This would allow the IOB to treat locations that the National Broadband Map shows to have qualifying broadband service (i.e., a location that is “served”) delivered via DSL as “underserved.” The benefits of choosing this option are at least two-fold: (1) It will reduce the workload of the IOB as well as the burden on citizens during the challenge process and (2) It will better reflect the locations as eligible for BEAD funding because it will facilitate the phase-out of legacy copper facilities and ensure the delivery of future-proof broadband service."

## **Christina Mangiapani Latah County Grants**

### *IP Vol 2, Section 2.2*

"2.2

Local, Tribal, and Regional Broadband Planning Processes (Requirement 2) It seems important to point out that this section is focused on planning, and yet what’s outlined as a response for this requirement is engagement. Planning and engagement are two different things – and the IOB will not be able to meet its local coordination requirements without supporting local planning efforts. Aside from mentioning the formation of Broadband Action Teams (BATs), the IOB has not yet supported this type of meaningful planning effort among local, Tribal, or regional communities, despite the Idaho Broadband Advisory Board (IBAB) setting aside \$500,000 for this very purpose in July 2022. We encourage the IOB to support rural, Tribal, and remote regions by distributing grant funds to establish local BATs and integrating the subsequently produced, community-driven plans into the state’s proposals."

## **Christina Mangiapani Latah County Grants**

### *IP Vol 2, Section 2.3*

"2.3

Local Coordination (Requirement 4) As outlined in Section IV.C.1.c of the BEAD NOFO, Local Coordination is key to the success of statewide broadband deployment. And yet, the IOB will not be able

to coordinate with localities that haven't yet had the opportunity to prepare or plan. (Please see comments from the above section 2.2) On page 53 of the NOFO in Section IV.C.1.c.i and in footnote 71, it clearly states that: "Each political subdivision and federally recognized Tribe must be given an opportunity to submit its own plan<sup>71</sup> to the Eligible Entity for consideration in the development of the Eligible Entity's Proposals." Where "

<sup>71</sup>Plans in this context refer to formal, local broadband plans addressing deployment, equity, or other issues relevant to the BEAD program goals." We encourage the IOB to support rural, Tribal, and remote regions by distributing grant funds to establish local BATs and integrating the subsequently produced, community-driven plans into the state's proposals"

### **Christina Mangiapani Latah County Grants**

#### *IP Vol 2, Section 2.4*

"2.4

Deployment Subgrantee Selection (Requirement 8) We thank the IOB for recognizing that, in order to reach the most remote unserved locations in rural Idaho, large long-term investments in future-proof infrastructure are required. And that those investments might be costly but will last the longest and yield the greatest public benefit for generations into the future. As a result, we support the review and subgrantee selection process as outlined, which will not prioritize the lowest cost applications but rather end-to-end fiber optic facilities. This also reinforces our request that IOB enlist "Module 2: DSL Modification" in the Challenge Process in Volume I. We also agree that using a standardized scoring rubric that awards funds to the highest scoring applications will also protect the integrity of the process as well as protect against collusion, bias, subjective decisions, conflicts of interest, and other factors that may undermine confidence in the program. However, we have major concerns about the scoring criteria. Generally, the criteria are written with large, for-profit companies in mind, which doesn't just tip the scales in favor of certain types of applicants over others but runs the risk of excluding non-traditional broadband providers altogether. It seems valuable to remind the IOB that the state is required to "ensure the participation of non-traditional broadband providers (such as municipalities or political subdivisions, cooperatives, non-profits, Tribal Governments, and utilities)," according to Section IV.B.9.b.10 of the BEAD NOFO on page 48. - Minimal BEAD Outlay is weighted at 50%. This runs directly counter to the state's commitment outlined above as well as in the review and prioritization process that rates projects by quality and not cost. The major barrier to building rural broadband infrastructure, despite over 20 years of doling out billions of dollars in government subsidies, has been the absence of a business case, which is exactly why we support separating infrastructure from service. While we can appreciate there are limited BEAD funds and the goal is to ensure universal connectivity, rural and remote areas need major BEAD outlay to get connected – presumably the whole point of this program. These areas have rough terrains, miles between locations, and climate and risk mitigation considerations that all add to the cost to deploy fiber but are vitally important to protecting the assets and the investment. How infrastructure is funded and who deploys it is directly correlated to how affordable it ends up being. In addition, the scoring description on page 22 is unclear, at best. We encourage the IOB to define "cost-efficient" as well as eligible match. And describe how this scoring category will be handled in the event of a match waiver. The percentage of points allocable to high-cost locations relative to their distance from cost-effective locations is extremely unclear, though seems like an attempt at a decent hedge. Nonetheless, we urge the IOB to consider reducing

the weight of this category to 15% or less

. - Affordability is inextricably linked to adoption and access, so should be weighted by 25% or more. We also caution the IOB in creating arbitrary service price thresholds that cannot be enforced. Affordability can most reliably be gauged by the type of deployment and business model, not necessarily by a service package price point. How will the IOB hold a company accountable for their pricing post-deployment, let alone for the life of the assets? - Fair Labor Practices seems like a category geared, again, toward large corporations and not other types of entities that will be vying to connect communities. It seems like it should be a check box or additional eligibility criteria for a certain type of applicant and not at all included in a weighted scoring metric. In other words, it's an all-or-nothing category that doesn't apply to all applicants or deployment models. - Speed to Deployment is almost entirely contingent on external factors, as outlined in the existing scoring narrative on page 25 as well as the specific weather and topography of a particular area. Completing projects is paramount and 5% seems like a fine weight for this category. However, there should be no scale (Table 9). Some projects will need four years to complete, and there's nothing that can be done about it. Why should a simpler or shorter build be prioritized over one that'll take longer but most likely connects more unserved locations? Score should be based on the thoroughness of the response demonstrating knowledge of the areas and applicable partnerships that will be more illustrative of success meeting deadlines, not a thin timeline commitment. - Speed of Network and Other Technical Capabilities seems like far and away the most important criteria to meet stated goals as outlined in other sections. We agree that capital assets with longer usable lives and greater ease of scalability should be prioritized, which is accomplished by the state's stated baseline prioritization of end-to-end fiber facilities. However, Table 10 does not represent scoring related to those goals. Why limit eligible technology to passive optical networks? What about active ethernet? Either way, this category should represent at least 15%. - Open Access is foundational to ensuring affordability and therefore adoption. It also stimulates competition, supports local businesses, and ensures that communities have a choice in who provides this critical service. We appreciate the scoring details as well (Table 11) since open access has come to mean many things. However, we encourage the IOB to make a distinction between wholesale providers and retail providers. Provider applicants who are both wholesale and retail providers cannot be relied upon to operate non-discriminatory open access infrastructure. They will prioritize their own retail business on their wholesale network, which discriminates against competing providers and undermines the entire premise behind open access. This fact also underlines why we support separating infrastructure from service. With this distinction and caveat, this category should be weighted at least 15%. - Local and Tribal Coordination has been lauded as key to any successful broadband deployment. Localities deserve to have a say in how infrastructure is deployed in their communities and who they partner with to deploy it. As such, meaningful coordination

should result in demonstrated

project support from localities, not just proof of time logged at a meeting. Therefore, points in Table 12 should be split to weight letters of support more than meetings. And this category should be weighted at least 15%, which would make the recommended split in subsequent points 10 for letters of support and 5 for meetings. - Equitable Workforce Development and Job Quality is very important to ensuring this historic investment pays dividends in our communities for decades – not just through connecting them but through building communities and economies. Local projects led by local leaders using local labor has the added benefit of stimulating the local economy and building the local workforce. This

category should be weighted at least 10%. Deployment Subgrantee Qualifications – Most items outlined under this section are not geared toward or friendly to all eligible applicants and seem written for large, for-profit corporations. How would other eligible applicants meet these application criteria? We urge the IOB to review all qualifications under this section with an eye toward leveling the playing field for all eligible applicants. And, in particular, we ask the IOB to work with NTIA to consider alternatives to the irrevocable standby Letter of Credit (LOC) requirement. This requirement does not just tie up capital for small private provider applicants, but it also requires them to accumulate and incur the cost of interest related to the funding, like a loan. In addition to creating an insurmountable obstacle for rural Idaho's small providers, it also excludes non-traditional providers, like local units of government. As pointed out in section 2.4 comments: In order to conform to the letter and spirit of the Infrastructure Investment and Jobs Act, the state is required to ensure the participation of non-traditional broadband providers (such as municipalities or political subdivisions, cooperatives, non-profits, Tribal Governments, and utilities), according to Section IV.B.9.b.10 of the BEAD NOFO and elsewhere."

### **Christina Mangiapani Latah County Grants**

*IP Vol 2, Section 2.10*

"2.10

Cost and Barrier Reduction (Requirement 14) We agree that reducing costs and barriers to broadband deployment can be achieved by promoting the use of existing infrastructure, promoting and adopting more robust Dig Once policies, streamlining state and local permitting processes, improving cross-jurisdictional communication, and streamlining cost-effective access to poles – which could look like “Hang Once” policies that should mimic Dig Once policies and prioritize open access."

### **Christina Mangiapani Latah County Grants**

*IP Vol 2, Section 2.11*

"2.11

Climate Assessment (Requirement 15) Climate considerations affect deployment type, cost, and speed to deployment, as represented by the mitigation categories outlined in Table 25. Nonetheless, these considerations are crucial to ensuring investments in long-term infrastructure are safeguarded from known risks. As such, these considerations should be accounted for in the scoring criteria, as we've suggested above in section 2.4 comments."

### **Christina Mangiapani Latah County Grants**

*IP Vol 2, Section 2.12*

"2.12

Low-Cost Broadband Service Option (Requirement 16) We commend the IOB for endeavoring to make broadband affordable. And we hope that they build the capacity to monitor and hold all accountable for the affordability provisions outlined here. But this seems extremely unlikely, if not impossible. So, it's worth noting that there are alternate, less costly, and less time-intensive ways of ensuring affordability – which are related to the deployment model and type of applicant, not seemingly unenforceable price caps."

### **Christina Mangiapani Latah County Grants**

*IP Vol 2, Section 2.13*

"2.13

Middle-Class Affordability Plans (Requirement 20) We commend the IOB for endeavoring to make broadband affordable. And we hope that they build the capacity to monitor and hold all accountable for the affordability provisions outlined here. But this seems extremely unlikely, if not impossible. So, it's worth noting that there are alternate, less costly, and less time-intensive ways of ensuring affordability – which are related to the deployment model and type of applicant, not seemingly unenforceable price caps."

### **Maureen McLaughlin Lumen Project Manager III 10/31/2023**

*IP Vol 2, Section 2.4*

"Deployment Subgrantee Selection (Requirement 8):

Approach 1, with the IOB designating existing units, like Census Block Groups (CBGs), is something that fits well into existing practices for providers. CBGs are easy to work with and are consistent with data gathering and compiling efforts that most providers use to analyze coverage."

### **Maureen McLaughlin Lumen Project Manager III 10/31/2023**

*IP Vol 2, Section 2.4*

"Scoring - Affordability:

Lumen agrees that the state needs to consider the pricing that customers will be paying for HSI. For example, if one provider is offering one gig symmetrical service for \$70 a month, that application should score higher than another provider who is offering the same/similar service for \$90 a month.

In comparing the monthly pricing between providers, the state needs to ensure a detailed comparison of what is included in the pricing. For example, Quantum Fiber (<https://www.quantumfiber.com/homepage.html>) current pricing for 940/940 (1 gig) is \$75 a month plus taxes and fees. The \$75 monthly price includes a free leased 360 WIFI modem with up to 4 WIFI

Pods, to improve the WIFI signal within the customer location. The one-time \$129 installation fee is waived. Also, usually the cost for placing the fiber drop to the customer location is less than \$1,500, and there is no charge to a customer unless the drop placement is more than \$1,500.

Also, it is not possible to impose specific pricing over the life of the investment. However, a provider like Lumen that has standardized rates ensures that customers in the generally more rural grant areas will continue to get the benefit of competitive rates and terms and conditions. As a result, providers with standardized pricing should score higher on their grant project applications."

### **Maureen McLaughlin Lumen Project Manager III 10/31/2023**

*IP Vol 2, Section 2.4*

"Fair Labor Practices:

Lumen agrees states should prioritize projects based on the provider's demonstrated record of compliance with federal labor and employment laws. Lumen has a history of successful compliance with applicable labor and employment laws. Lumen also requires its contractors and subcontractors to comply with federal labor laws on broadband deployment projects. For ensuring a highly skilled workforce, Lumen's new hire program offers training on technology, safety, customer experience, systems, processes, and standards/expectations. After this initial training, Lumen offers on-the-job mentoring, job shadowing, and coaching to ensure completed work meets a high standard. Lumen offers ongoing safety and refresher training based on job responsibilities, which ensures compliance with safety standards and laws. Lumen contractors are responsible for ensuring that their personnel are trained and in compliance with current industry/technology standards.

The definition of Fair Labor Practices includes the phrase "credentialed workforce" which is defined in the BEAD NOFO. This definition, see below, should be included in Idaho's Initial Proposal Volume 2.

The plan for a highly skilled workforce should include the following information:

- The ways in which the 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;
- 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;
- Whether the workforce is unionized,
- Whether the workforce will be directly employed or whether work will be performed by a subcontracted workforce; and

•The entities that the proposed subgrantee plan to contract and subcontract with in carrying out the proposed work. "

**Maureen McLaughlin Lumen Project Manager III 10/31/2023**

*IP Vol 2, Section 2.4*

"Secondary Criteria - Speed to Deployment:

There will be intense competition for limited resources like labor and materials. With all states on the same national timeline for BEAD buildouts, there are valid concerns about accessing these essential resources. Labor shortages may increase due to the high demand for skilled fiber technicians. Access to affordable materials and supply chain stability are major concerns. For these reasons, any promises about increasing the speed to deployment are questionable. No provider can offer a guarantee on this due to all the variables in play."

**Maureen McLaughlin Lumen Project Manager III 10/31/2023**

*IP Vol 2, Section 2.4*

"Secondary Criteria - Speed of Network and Other Technical Capabilities:

Lumen will deploy 10 Gigabit Symmetric Passive Optical Network (XGS-PON) FTTP (Fiber to the Premise) technology on all fiber builds. This demonstrates the company's commitment to remain an industry leading provider of fiber internet services. Customers served with XGS-PON FTTP will be provided with up to 940/940 broadband speeds and will have the ability to scale up to multi-gig in the future when there is more widespread deployment. The scalability of this technology will address all of the community's current broadband needs and any anticipated future requirements. The company will market this offering under its Quantum Fiber brand."

**Maureen McLaughlin Lumen Project Manager III 10/31/2023**

*IP Vol 2, Section 2.4*

"Secondary Criteria - Equitable Workforce Development and Job Quality:

Lumen agrees states should prioritize projects based on the provider's demonstrated record of compliance with federal labor and employment laws. Lumen has a history of successful compliance with applicable labor and employment laws. Lumen also requires its contractors and subcontractors to comply with federal labor laws on broadband deployment projects. For ensuring a highly skilled workforce, Lumen's new hire program offers training on technology, safety, customer experience, systems, processes, and standards/expectations. After this initial training, Lumen offers on-the-job mentoring, job shadowing, and coaching to ensure completed work meets a high standard. Lumen offers ongoing safety and refresher training based on job responsibilities, which ensures compliance with safety standards and laws. Lumen contractors are responsible for ensuring that their personnel are

trained and in compliance with current industry/technology standards. Lumen has employees across the state of Idaho. Currently the company employs over 160 technicians in at least 15 garage locations throughout the state. These technicians are skilled in various disciplines such as cable, design, network broadband techs, construction and fiber splicers."

**Maureen McLaughlin Lumen Project Manager III 10/31/2023**

*IP Vol 2, Section 2.4*

"Overlapping Applications:

The state should consider a process that allows the state to work with both providers with overlapping portions of grant projects. The state can award the overlapping area to one provider and the other provider would have the option to withdraw its application or resubmit a grant proposal excluding the overlapping areas."

**Maureen McLaughlin Lumen Project Manager III 10/31/2023**

*IP Vol 2, Section 2.4*

"Extremely High Cost Per Location Threshold:

The state should establish an extremely high cost per unserved customer location threshold based upon a set percentage above the average funding per unserved customer location that NTIA allocated to Idaho. The IOB should set the threshold as high as possible to maximize the fiber reach before resorting to other less reliable technologies to fill the remaining gaps.

The following illustrates a threshold based upon being 25% higher than the average funding per unserved customer location. (This is for illustrative purposes only and not a set recommendation. The state may want to consider a higher percentage such as 50%.)

A. Total BEAD Funding for Idaho:	\$ 583,256,249
B. Total number of unserved customer locations:	83,723
C. Average funding per unserved customer location (A/B)	\$ 6,967
D. Extremely High Cost Per Location Threshold (125% * C)	\$ 8,708

Under this example, any grant project requesting grant funding per unserved customer location above \$8,708 would be considered "extremely high cost."

**Maureen McLaughlin Lumen Project Manager III 10/31/2023**

*IP Vol 2, Section 2.4*

"Proposed Project Workplan Requirement:

For any project area, Lumen utilizes that same internal planning software and tools it has used to estimate costs for the millions of FTTP LUs that it has already successfully enabled. The company clearly has a comprehensive understanding for successfully preparing, engineering and constructing FTTP projects, and then providing robust fiber internet services to both consumers and businesses. Detailed engineering will take place after a grant is awarded.

Requiring a certified professional engineer will likely create a hardship for some providers that do not staff certified engineers internally. This will increase the overall cost of the projects due to having to contract with an outside engineer and be especially burdensome for the smaller providers in the state."

**Maureen McLaughlin Lumen Project Manager III 10/31/2023**

*IP Vol 2, Section 2.7*

"Labor Standards and Protection (Requirement 11):

Lumen agrees with the IOB's Labor Standards and protection requirements. It will be necessary for the IOB to define prevailing wage since there is no state wage scale in Idaho."

**Maureen McLaughlin Lumen Project Manager III 10/31/2023**

*IP Vol 2, Section 2.10*

"Cost and Barrier Reduction (Requirement 14):

The IOB should prioritize proposed projects that leverage the existing infrastructure and reduce costs to connect unserved/underserved locations in Idaho. For example, Lumen, is often able to overlash aerial fiber cable to its existing copper attachments on poles at a much lower cost than placing buried fiber. Also, in many areas where the company has built fiber to the node for CAF II, it has an existing fiber backbone into these areas. The existing infrastructure would be reflected through lower requested grant costs per passing."

**Maureen McLaughlin Lumen Project Manager III 10/31/2023**

*IP Vol 2, Section 2.10*

"Streamline ROW and Easement Permitting Processes:

Streamlining the permitting and easement process for broadband deployment infrastructure will reduce costs and minimize delays associated with construction and development. This is extremely important for tribal lands which have a multitude of jurisdictions. As required in Section IV.B.5.b.14 of the Broadband Equity, Access, and Deployment (BEAD) Notice of Funding Opportunity (NOFO), an Eligible Entity's Initial Proposal must identify steps it will take to reduce costs and barriers to deployment, including streamlining permitting processes.

Recommended actions for Eligible Entity to streamline permitting processes include:

- Eliminate non-cost-based ROW and permit fees. Fees are intended to recoup costs. Accordingly, and consistent with recent FCC and court decisions, ROW and permit fees should be limited to a reasonable approximation of the government's objectively reasonable costs.
  
- Prohibit excessive extra requirements that increase costs and slow down broadband infrastructure deployment. In addition to charging excessive ROW and permit fees, local governments sometimes seek to impose other requirements on providers that significantly increase costs while offering little to no benefit to the public. Examples of practices that should be rejected include:
  - o Excessive bonding requirements. Bonds should not be required for routine utility work. In the limited circumstances where a bond is indicated, the bond amount should be limited to incremental ROW restoration costs, not the entire cost of the project.
  - o Requiring Professional engineer review when no civil engineering work is involved. This requirement simply moves money from the provider to a professional engineer with no benefit to the public and should be prohibited.
  - o Excessive administrative fees, fines, and penalties. Utilities should not be required to re-apply to use the ROW (and pay a fee for such re-application) more than once every 10 years. Fines and penalties for minor administrative infractions should be objectively reasonable and no greater than necessary to recoup actual costs.
  - o Arbitrary height requirements for attachments that exceed national safety standards. Such requirements cause delays and excessive expense that can prohibit deployment of broadband to consumers.
  
- Require private third parties to pay for utility relocations they cause. To reduce cycle times and the likelihood of disputes, permits issued to a private developer or other third party should expressly state that the developer must pay for all necessary utility relocations.

- Prohibit non-reimbursable undergrounding mandates. Requiring providers to locate or relocate all facilities underground for reasons other than public safety materially increases costs and significantly slows the deployment of broadband infrastructure.
- Allow overlashing. Overlashing is often the most efficient means of providing higher quality broadband services at lower prices to the public and should be allowed, as they are under Federal Communications Commission rules.
- Secure and Limit GIS Mapping Data. GIS mapping data is highly sensitive and confidential. Requests for GIS mapping data should only be allowed when reasonable assurances can be provided that such data will be securely kept and will not be subject to disclosure pursuant to applicable laws."

Maureen McLaughlin Lumen Project Manager III 10/31/2023 IP Vol 2, Section 2.10  
 "Recommended Procedural Best Practices Include:

- Adhere to reasonable and transparent approval timeframes. A 30-day or less shot clock for ROW and permit approval encourages competition, reasonable service pricing and faster broadband deployment. Simple projects should be reviewed within 10 days or else be deemed approved.
- Create broadband-ready communities. States and communities should streamline and establish processes to enable rapid broadband deployment:
  - o Identify a single point of contact for projects;
  - o Allow for electronic submission of all forms, applications, and documentation;
  - o Encourage bulk permitting and agree on approval time frames for bulk projects;
  - o Be open to creative cost and time-saving alternatives that streamline processes; for example, the acceptance of photos of completed work in lieu of in-person inspections;
  - o Eliminate or expedite City Council approval of applications;
  - o Coordinate early and often with other branches of government (e.g., departments of transportation and Federal agencies) and easement holders (e.g., railroads)"

**Maureen McLaughlin Lumen Project Manager III 10/31/2023**

*IP Vol 2, Section 2.12*

"Low-Cost Broadband Service Option (Requirement 16):

Lumen is committed to working with states and the federal government to ensure that the Affordable Connectivity Program (ACP) continues to be funded in the future. Lumen has launched a no-cost broadband plan, called "ACP Internet," to subscribers that qualify. ACP Internet offers broadband speeds of up to 200 Mbps at no charge with no data caps, surcharges, or usage-based throttling. This includes free installation and free lease of the modem, along with 2 WIFI nodes to improve the WIFI signal within the customer location."

**Maureen McLaughlin Lumen Project Manager III 10/31/2023**

*IP Vol 2, Section 2.13*

"Middle-Class Affordability Plans (Requirement 20):

Comment: Lumen's Quantum Fiber brand provides standardized pricing and offerings for Fiber to the Premise (FTTP) HSI throughout the company footprint. Customers in more rural grant areas will get the same competitive FTTP HSI rates and terms and conditions that Lumen customers get in competitive areas, such as in Portland, Seattle, Denver, Salt Lake City, and Phoenix, where the company competes against Google and other FTTP providers, as well as CATV providers, offering multi-gig HSI.

Lumen supports middle-class affordability through their standardized pricing and offerings. Also, as part of the scoring, the state needs to consider speeds offered with the pricing model package. For example, if one provider is offering 500/500 speed service for \$50 a month, that offering should score higher than a provider who is offering only 100/100 speeds for \$50 a month, as required by the pricing model package.

It is not possible to impose specific pricing over the life of the investment. However, a provider like Lumen that has standardized rates, ensures that customers in more rural grant areas will continue to get the benefit of competitive rates and terms and conditions. As a result, providers with standardized pricing should score higher on their grant project applications.

Over time, fiber offerings will change because of the competitive marketplace. A few years ago, through its Quantum Fiber brand, the company's minimum offered speed was 100/100. That was later changed to 200/200 and more recently it is now 500/500. (Except for its ACP offer which continues to be 200/200 at no charge for ACP qualified customers.)"

**Maureen McLaughlin Lumen Project Manager III 10/31/2023**

*IP Vol 2, Section 2.16*

"Certification of Compliance with BEAD Requirements (Requirement 19):

While we acknowledge the BEAD NOFO recommends semiannual progress reporting, Lumen recommends that Idaho follow the Rural Digital Opportunity Fund and Connect America Fund II reporting process, which is annually. Additionally, the company suggests the state consider equal monthly grant payments.

Also, states should adopt audit and compliance requirements consistent with those in the BEAD NOFO or NTIA guidance to ensure uniformity with how compliance will be measured, the potential penalties they may face, and the audit processes involved among the states."

**Maureen McLaughlin Lumen Project Manager III 10/31/2023**

*IP Vol 1, Section 1.4*

"Challenge Process (Requirement 7):

The Bead Challenge Process Policy Notice sets the minimum standard timeline for the challenge and rebuttal phases as 14 days.<sup>1</sup> The IOB has set the timeline for the challenge and rebuttal phase at 15 days. With the historic BEAD funding opportunity, it is each states' responsibility to ensure the challenge process is thorough and fair. To demonstrate fairness in their proposed challenge process submissions, Eligible Entities must detail, at a minimum, an approach that ensures that sufficient opportunity and time is given to all relevant parties to initiate, rebut, and substantiate challenges.<sup>2</sup>

By setting the rebuttal phase of the challenge process to 15 days, the IOB is placing an undue hardship on responding parties. Responses need to be well researched and documented. There is no precedence for this process, so providers are not able to accurately estimate the volume of challenges. This response hardship will become even more pronounced once the BEAD program challenge process is underway for multiple states at the same time. Providers who are not able to respond because of short time intervals are not the ones being disadvantaged. It is the unserved and underserved locations within potential project areas that are impacted the most if a provider does not have time to deliver a rebuttal. This could result in a served area being awarded BEAD funds, taking away limited and much needed funds from unserved or underserved locations.

The goal of the BEAD program is to maximize the number of unserved and underserved customer locations that will benefit from the new broadband funding. Although Idaho was awarded \$583M in BEAD funding, there is no assurance that is enough funding to reach all unserved and underserved locations. The IOB should err on the side of caution and allow 30 days for the rebuttal phase to allow for a more thorough and full review of the true classification of each challenged location. Lumen proposes

that the IOB revise the rebuttal phase of its proposed challenge process to at least 30 days. This proposal is in line with the NTIA's BEAD Challenge Process Policy Notice. In this notice the NTIA strongly recommends keeping both the challenge submission window and rebuttal window open for at least 30 days.<sup>3</sup> The NTIA BEAD Challenge Process Policy Notice allows up to 120 calendar days for the entire challenge process. If the IOB changes the rebuttal phase to 30 days, the IOB Challenge Process will still meet the NTIA's timeline guidance. "

**Lissa Phillips**

*IP Vol 1 and 2 - General Comment - Entire Plan*

We live between Rathdrum and Post Falls. Not exactly back country. We do not have access to internet except using a wireless system. We currently use Wind Wireless out of Washington. It is expensive and not very fast.

**Anthony F.**

**10/31/2023**

*OUT OF SCOPE*

"Serious questions:

Will The Affordable Connectivity Program help ensure that households can afford the gasoline, food, water, clothing, heating fuel, electricity etc.. they need for work, school, healthcare and more? Or is it just broadband? Sounds like sort of a ""you pay for this but we'll give you that"" deal. And if only broadband, why?

Questions:

1. Are you establishing 15 minute cities? (or as you may call them, human settlements) also, what about the risks associated with 5G? Are you aware of the lawsuits?
2. Does this have anything to do with the electric vehicles that are being forced on the population in the hoax known as climate change?
3. Does this have anything to do with COVID 19 or tracking people's vaccination status? Or any future hoax pandemics that will be coming in the future?
4. Why is so much of your propaganda directed to people who won't speak English? If someone is a legal citizen of the United States of America they legally must speak and read English. So if someone is not a legal citizen why do they have a say in where my tax dollars go to?

Kind of makes you think huh? I realize most of you are critical theorists in the Marxist vein but you are doing this against our will and without our consent. So now you know. And we know. No offense and with all due respect. Thanks for your time

Anthony"

**Anne Wilder 10/30/2023**

*OUT OF SCOPE*

"TO: Idaho Commerce Department

Idaho residents, more than anything, want to retain local control over the placement and operations of telecommunications facilities, particularly wireless. At this time we are flooded with the radiation from satellites that have not been tested for harm to humans or the environment. Likewise, the wireless telecommunications industry is pushing at the national level to ""streamline"" their ability to provide wireless broadband, meaning, to take away local control. I have attached an informational sheet on this.

Wired broadband is the fastest, safest, and most secure form of internet available. Currently it is available in many Idaho municipalities through DSL and fiber optics. Idahoans would like more of this. At one time, in the remote areas, we were able to obtain internet through our phone lines, but it was slow and cumbersome. Bringing fiber optics to remote areas will be a long, expensive process. However, if DSL could be provided via our landlines, that would provide faster internet than we are currently receiving from fixed satellite service, and safer internet than we are receiving from low altitude satellites such as Starlink. It also would protect us from having more wireless exposure, the current safety limits for which were developed in 1992. That is 30 years ago and the ubiquity of wireless devices around us has increased exponentially since then. 52% of children have chronic illness, and depression is rampant among youth and adults. With all the studies linking wireless exposure to neurological damage, I believe Idaho should be seeking other ways to provide internet to its residents.

The FCC was ordered in August, 2021 to update its safety standards to consider the effects of wireless radiation on children and the environment, and to take into consideration the ubiquity of wireless devices since its standards were developed, and it still has not done this. Therefore, we must protect ourselves by leading the country in rolling out better, wired broadband options.

Thank you."

**A Blessing 10/12/2023**

*OUT OF SCOPE*

"Hello,

This note is regarding the language used in volume 1 of the Link Up Idaho Plan.

Page 3 of the executive summary says the benefits of ""reliable, affordable, and high-speed internet coverage"" include ""enriching educational experiences of students, and improving overall quality of life for Idahoans."" These are opinions. There are many that live in rural settings that in-fact do not agree with these statements. We understand that not everyone wants to be connected to the web and that educational instruction is sometimes richer WITHOUT 24/7 connectivity to the web. Certainly some businesses may appreciate faster connectivity, but how will this be accomplished? Will you blanket our state buildings/schools/medical facilities/towns with more 5G towers which are not only an eyesore, but have proven to cause detrimental health effects to human health? Or will you do it wisely, and more safely using underground cable hardwiring? Have you considered that the appeal of Idaho to many residents as well as tourists is it's natural, undisturbed, and wild beauty? Please focus your ""link up Idaho"" plan on improving connectivity on main highways and in towns (which is also where the majority of commerce takes place anyway). You can take a stand and understand that many in rural Idaho do not mind in the least to be ""unserved"" or ""underserved."" This is not an ""equity"" issue... this can also be a personal preference issue.

Thank you for considering these perspectives as you work to represent ""all Idahoans.""

Thank you"

**Elizabeth Olson 10/20/2023**

*OUT OF SCOPE*

"Comments: Broadband Equity Access and Deployment (BEAD) Program

I just learned of the BEAD program through a public notice in The Idaho World (published 10/11, 10/19, 10/25). Most informed people I know have never heard of this program!

My first concern is that the public comment period is much too short (ends 10/31/23), giving no one a chance to research more than 110 pages telling us that this scheme of "Internet for All" is good for rural communities. I cannot print, read, understand, and comment upon all this material in such a short time. But does public comment even matter? Is this program going to happen regardless?

Many concerns and questions come to mind:

- Costs (huge):

Vol 1 (21 pages): [https://linkup.idaho.gov/wp-content/uploads/2023/09/ID-Vol-I-Final-Draft-Post-for-Public-Comment\\_9.29.23.pdf](https://linkup.idaho.gov/wp-content/uploads/2023/09/ID-Vol-I-Final-Draft-Post-for-Public-Comment_9.29.23.pdf)

Vol 2 (91 pages): <https://linkup.idaho.gov/wp-content/uploads/2023/09/ID-Vol-II-Final-Draft-Post-for-Public-Comment-9.29.23.pdf>

- Precisely how will the money be allocated (line-by-line spreadsheets and graphs)?
- Who is requesting this program: Rural communities or government? (I live in a rural community and no one I know is asking government to do this.)
- Who is financing this program besides taxpayers?
- Who is lobbying for this program?
- Will non-profits, corporations, lawmakers, or other special interests benefit financially from this program?
- Who will oversee the health, environmental, and fiscal impacts?
- Will independent non-beneficiary groups be invited to weigh in?
- Will third-party watchdogs ensure the money is spent for exactly the items specified?
- Will the government be monitoring the broadband communications of individuals using the installed equipment?

So-called benefits of BEAD to rural communities could harm these communities, especially if 5G cell towers are used or dependence on government largess expands. Scientific studies of wireless technology—especially 5G—have shown harmful health effects (see references below). 5G equipment is also incredibly unsightly, especially in rural areas.

Poorer rural areas and people repeatedly have been targeted in ways said to benefit those communities, but ultimately their rural way of life and their environments are destroyed, all in the name of equity. With the BEAD project, Equity is right there in the title!

Nothing in the constitution says fast internet is a right or a government responsibility. Urban dwellers are being force-fed 5G cell towers and other government programs without their consent and against their will. Now the rural areas will be targeted (typically with less money to fight back), again in the name of equity and at taxpayer expense. Our country is being destroyed by the diversity, equity, and inclusion mantra. This must stop. So should short public comment periods and huge documents.

Summary:

- NO to Digital Equity and Inclusion.

- NO to 5G. 5G has been studied by many (except not honestly by the Government) and found to be harmful.
- YES to underground fiber internet, financed privately or by local municipalities and towns.
- YES to satellite technology, financed privately or by local municipalities and towns.

Example: Starlink has proven to be the best option in rural areas without fiber internet; it's currently rather expensive but works better than any other solutions we've explored (which is all of them).

- NO to "We'll Build it Better" government or government/private partner solutions. These often cost more, work less well, and benefit special interests—everyone except taxpayers.
- NO to Federal and State government interference in local communications.
- o Every government program comes with strings (chains) attached that ultimately prove expensive, undesirable, and have unanticipated side effects. Examples: weather engineering, inadequately tested medical products, censorship, electronic surveillance, and suppression of health information."

**Carl McWilliams 10/10/2023**

*OUT OF SCOPE*

"My name is Carl L. McWilliams, I live in western Colorado and I am a subscriber to your official Governor's email notifications and to the Idaho Department of Commerce email notifications. I subscribe to these two Idaho state notifications because I intend to move to Idaho ASAP.

I am also a self-employed sociologist and political economist and I have been following Idaho's broadband internet development:

That said, I came across this Substack with a ""whistleblower content"" that needs to be debated amongst the Idaho decision makers as you move forward in your broadband development:

If you are interested, here is a Google Docs link to an unpublished-working manuscript on my research into socio-economics:"

**Anonymous Anonymous 10/3/2023**

*OUT OF SCOPE*

I'm totally against this. I feel like this is something that is getting us closer to socialism and digital currency. Once the government has the majority of Americans linked to the internet they can take over our bank accounts and big brother can track us even more than they already do.

**Cindy Giesen 10/31/2023**

*OUT OF SCOPE*

"Possibly these are concerns you are, will or can address in the 5-Year Plan as noted on BEAD Initial Proposal Volume II 2.2 Local, Tribal, and Regional Broadband Planning Processes (Requirement 2) on page 6. And you will most likely be able to use the

iii. Non-Deployment Funds noted in the BEAD Notice of Funding Opportunity – Executive Summary on pages 39,40 to support the two concerns I have mentioned.

I appreciate all efforts you make towards “Safer Internet Access For Children” (SIAFC)

To further understand my concerns and the possible protection and prevention actions that can be taken during this planning phase, please see my more detail Research, Issues and Proposed Actions that follows, to further help explain my response to your public comment request during Sept-29 – Oct 31, 2023, concerning the BEAD Initial Proposal Vols I & II .

Research, Issues and Proposed Actions

#1. In summer of 2022, I proposed a “Safer Internet Access for Children” (SIAFC) Resolution (#8) to Idaho Republican GOP delegates at the Twin Falls GOP Convention and it was adopted, active 2 years. This Resolution provides the facts and reason why our unprotected, unmonitored and unfiltered internet access, related applications (social media sites, game apps...) and tools (search engines, AI, data gathering...) are a threat to our children and to our society. In it, we ask that our Idaho leaders and residents take greater actions to help address these issues.

To view it, go to <https://idgop.org/party-resources/> and click on “2022 Summer Accepted Rules/Regulations” for the PDF to read Resolution (#8) “Safer Internet Access for Children” to better understand the facts and our concerns.

Some ‘Therefore’ action step suggested in this Resolution can be further expanded into more detailed actions that I hope that your team will consider while continuing your application efforts for BEAD and within the Idaho’s 5-Year Plan goals.

1. Form a working group that consists of child safety minded internet related experts, digital navigators, guardians, non-profits and community advocates who can help find ways to, BY DEFAULT, keep children safe BEFORE the middle mile network connection become active for a community.

Focus on Child Safety issues, not just internet security and privacy.

Involve, engage and/or include internet related representatives and members of the selected community. Some member examples might be: internet providers (Ziply Fiber), business monitoring companies (SentryPC), experts on child trafficking (Shared Hope) , filtering service providers (Clean Browser), hardware/network providers (Synology), software developers (STWF), and other entities and non-profits that are experienced in safeguarding children from internet dangers.

In a similar way as a good router works, you might be able to add or require 'DEFAULT' internet access features be setup for basic child protections (?6-16 yrs?), while still allowing adults to make a personal (password protected) modification to those settings once it arrives at their home or the COI select provider site. This allows access based on the child maturity level or the adult preferences. This ability to change settings assures no 1st Amendment rights to Adult content is violated or stricter child default settings can be made. Ideally, once in the home, Internet capable devices and their upgrades should not alter those parent protection settings, but will be a challenge.

2)

Form an Idaho Legislature Interim Committee or similar group that can drive the creation of a 'Safer Internet Access for Children' Public Awareness Campaign and that can promote safe practices when children are using the internet and social media and can provide workshops/seminars that will help adults protect them.

3)

Build a One-Stop 'Safer Internet in Idaho' Website that is sponsored and managed by the State of Idaho, to educate Idahoans on the dangers of unsafe internet access while providing them with solutions, resources and the assistance needed to enact safeguards that will help protect children while they are accessing the World Wide Web. (Note: High quality resources are already available so this team just needs to find, approve, organize and maintain this site, with the help of internet safety advocates.

#2. For the last year I have focused my attention on understanding the status of the 'free' public WiFi connections in my community and within Idaho. I have also done a lot of on-line research into the internet related issue that are currently destroying our children's lives. I am collaborating with others who are focused on education, prevention and protection before children become victims of trafficking, rather than rescuing them after they are compromised, groomed, addicted or trafficked.

To check the status of WIFI connections, I have mostly used a TEST FILTERING resource from <https://testfiltering.com/> to do this. Their tool determines if any filtering system (or parental controls) is blocking access to a) Illegal Child Sexual Abuse Material b) Unlawful Terrorist Content c) Adult Content, and tool can do more checks if you choose. I usually use the 'PUBLIC SECTOR' option to do my test.

The places I have check are the types of places that you list in the BEAD Initial Proposal Volume 1 on pages 11-13 as 1.3 Community Anchor Institutions (CAIs) (Requirement 6).

I can assure you that a majority of our current CAIs type internet locations ARE NOT PROVIDING SAFE INTERNET access for children.

One Threat Example: It is important that you know how easily/accidentally children are being compromised on the internet. (NOTE: Do not do the following if you are sensitive to --pornography exposure) Prior to finding the TestFiltering tool/APP, I was doing a simple search on my android phone to check a public WIFI's 'child safety' status, as follows: a) I used an off the shelf android phone with its default (preset) settings. Typically, they will not have any "parent protection' items preset. b) I would turn off my 'mobile data' activity (to make sure it didn't activate access) and would use my phone's WIFI feature to connect to the public hotspot. c) With my search engine set to its default setting, 'moderate' d) I would then (google) search on

3 random letters XNX. e) The Results: Within the 1st page or 2 of results, from the search algorithm's choices I'm shown website links with discussing descriptions. With a simple click on one link (often accidentally due to delayed hover over the search link), I would be taken to a website showing a full screen of pornography from a very likely illegal, open-access, internet site that containing over 9 million videos and images of non-consenting and sex-trafficked victims. This is just one site and one example of how children are compromised by a simple unsuspecting search on a word or a few characters in a website name.

It's that easy for a child to be exposed, triggered, addicted, blackmailed, trafficked and compromised for life because of the internet. It is frightening! Help our children and our parents. They cannot reduce these internet threats on their own and need our help.

This concludes my comments and I thank you for this opportunity to express my concerns and ideas to make this BEAD successful, without compromising our children. Forgive my typos/english in my haste to get these comments to you. Contact me if you have any questions, ideas or need more clarification.

Thank you,"