



Minnesota's Initial Proposal Volume 2

DRAFT

Broadband Equity, Access, and Deployment (BEAD) Program

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Requirement 1: Objectives

2.1.1 Outline the long-term objectives for deploying broadband; closing the digital divide; addressing access, affordability, equity, and adoption issues; and enhancing economic growth and job creation. Eligible Entities may directly copy objectives included in their Five-Year Action Plans.

2.2 Goals and Objectives

Minnesota first set forth a vision for broadband in legislation passed in the 2008 session that recognized that all citizens should have the necessary access to broadband service for sending and receiving data. Details were left to be developed by a broadband task force created in that same law. The November 2009 report of the Ultra High-Speed Broadband Task Force, a legislatively created body of 23 members representing a cross section of organizations that had an interest or a stake in broadband deployment, laid out a path to high-speed internet access for all Minnesotans. That path included recommendations to set initial speed goal targets; implement policies and actions necessary to achieving ubiquitous broadband access (lead, incent, measure, evaluate); create opportunities for public and private sectors to cooperate; establish a broadband advisory council; conduct ongoing evaluation of strategies, financing and incentives used in other states and countries; evaluate to ensure reliability; recognize economic development opportunities; and evaluate the benefits of broadband access to organizations.

Since that initial Task Force report submission, Minnesota has implemented several of the recommendations, either in law or by Executive Order, including the establishment of broadband speed goals, a mapping program with ongoing funding to measure progress, the creation of an Office of Broadband Development (OBD) located in the state's Department of Employment and Economic Development (DEED), a broadband infrastructure grant program reviewed annually by the legislature, and a Governor's Task Force on Broadband. The focus when implementing the recommendations has stayed true to the initial reason for creating the Task Force in 2008: how to get all residents and businesses connected.

The first policy recommendation of the Ultra High-Speed Broadband Task Force adopted into law was for the establishment of goals around the ubiquitous access to a broadband connection. The first round of goals adopted by the legislature happened in 2010. At the time, the speed goal was set for all homes and businesses to have access to 10-20 Mbps download by 5-10 Mbps upload by the year 2015. The 2015 task force reviewed the progress toward these goals and determined that, while progress had been made (91.45% state-wide and 80.16% rural), there was still a significant gap in access.

New goals were proposed and adopted in 2016 that revised the speeds and extended the timeline. The resulting 2016 law set a deadline of 2022 to achieve universal access to 25 Mbps download by 3 Mbps upload, and another deadline of 2026 to achieve universal access to 100 Mbps download by 20 Mbps upload. The statute also highlights competitive goals for being among the top states when it comes to broadband access and use. That broadband speed goal was, and remains, Minnesota's objective for broadband infrastructure deployment.

While the language creating the Office of Broadband Development included as a purpose to "improve accessibility for underserved communities and populations" and a duty to "make recommendations for increased usage, particularly in rural and other underserved areas," specific goals and objectives related

to digital equity have not been adopted in Minnesota. That will change with the drafting and subsequent adoption of a Minnesota Digital Equity Plan by November 2023.

Requirement 2: Local, Tribal and Regional Broadband Planning Processes

2.1 Identify and outline steps that the Eligible Entity will take to support local, Tribal, and regional broadband planning processes or ongoing efforts to deploy broadband or close the digital divide. In the description, include how the Eligible Entity will coordinate its own planning efforts with the broadband planning processes of local and Tribal Governments, and other local, Tribal, and regional entities. Eligible Entities may directly copy descriptions in their Five-Year Action Plans.

Minnesota has had a long history of engaging with partners and stakeholders, both at OBD, through the Governor’s Task Force on Broadband (both by its membership and the public comment period held at each meeting) and through the legislative process. Over many years, OBD has engaged in countless meetings with various partners and stakeholders to ensure the infrastructure grant program is addressing the needs of providers and communities (See Appendices 7.1 and 7.2 in the Five-Year Action Plan). Prior to the Border-to-Border Broadband Infrastructure Grant Program being initially stood up in statute, meetings were held across the state over the winter of 2013-2014 to gather input on how a grant program should look. The result was the Border-to-Border Broadband Infrastructure grant program created in statute in 2014. The Governor’s Task Force on Broadband has annually reported to the legislature on recommended policy changes for addressing broadband needs in the state. The Minnesota Legislature has annually reviewed the program and made program modifications in several years—based on input from the Governor’s Task Force on Broadband and community input to legislators-- along with approving funding. As examples, in 2016, the broadband goals were updated, funding was specified for projects in low-income areas, and a challenge process was added. In 2022, two new programs were created, the Line Extension Connection program and the Lower Population Density program; the first to fund extensions of highspeed broadband service to locations within close proximity to existing fiber and the second to allow for funding up to 75 percent of eligible project costs.

OBD would also note that tribal engagement has been ongoing since 2010. In Minnesota, that has occurred through presentations to the Minnesota Indian Affairs Council as well as tribal consultations by DEED’s tribal liaison and Commissioner. Tribal Internet Service Providers (ISPs) have also been recipients of Border-to-Border Broadband Infrastructure grant funding directly (Fond du Lac Band of Lake Superior Chippewa and Bois Forte Reservation) as well as Border-to-Border Broadband Infrastructure grant projects on tribal lands included in projects submitted by private providers with tribal support (White Earth Nation, Red Lake Reservation, Mille Lacs Band of Ojibwe, and Leech Lake Band of Ojibwe).

With the addition of a Community Engagement and Special Projects Coordinator position, OBD will continue to meet with providers and communities to explain the existing grant programs, the funding mechanisms, provide technical support, and listen to concerns. To the extent it is within OBD’s ability to improve the program as a result, it will do so. To the extent the suggestions require statutory changes, OBD will connect the provider or community to the Governor’s Task Force on Broadband for its consideration as a policy recommendation to the legislature, and/or directly to legislators for their consideration in a future session. Because the program is grounded in statute, changing the program framework does require a change in law during Minnesota’s relatively short legislative sessions. The

2024 session is the only one remaining to inform the BEAD proposal and is scheduled to start February 12, 2024, and likely conclude by mid-May.

Requirement 4: Local Coordination

2.3.1 Describe the coordination conducted, summarize the impact such impact has on the content of the Initial Proposal, and detail ongoing coordination efforts. Set forth the plan for how the Eligible Entity will fulfil the coordination associated with its Final Proposal.

The Minnesota Office of Broadband Development was created in statute in 2013 and, following a series of public listening sessions in late 2013 and early 2014, the Minnesota legislature created the Border-to-Border Broadband Development grant program. Over the years, that program has been revisited and revised through review by the Office of Broadband, recommendations of the Governor’s Task Force on Broadband, and statutory modifications by the Minnesota Legislature, all based on input from the many stakeholder groups having an interest in broadband. Two of the most recent modifications to the program occurred in 2022 with the addition of a Lower Population Density Broadband Development Program and a Line Extension Connection Program.

Information on Minnesota’s broadband programs is available on the OBD website, printable flyers, handouts, newsletters, webinars, in-person meetings, and regular attendance at annual conferences or meetings held by groups such as the League of Minnesota Cities, the Association of Minnesota Counties, the Minnesota Township Association, the Minnesota Telecom Alliance, the Minnesota Cable Communications Association, and the Minnesota Indian Affairs Council. More recently, OBD held listening sessions for its Digital Opportunity Plan and staff working on broadband infrastructure were in attendance at those meetings.

Minnesota has had a broadband infrastructure grant program since 2014. The first six grant rounds were funded with state general fund revenues, Rounds 7 and 8 in 2022 and 2023 were conducted with federal American Rescue Plan Act (ARPA) Capital Projects Fund (CPF) funding and state general revenue funding. On October 9, 2023, round 9 was launched with \$50 million in state general revenue funding. Specific to just the grant program, OBD has ongoing and continuous outreach activities with the success of that outreach evident by the fact that each round of the grant program has been oversubscribed by a factor of three to four times.

The Local Coordination Tracker Tool, included as an attachment, is provided as documentation of the outreach conducted by OBD within the past year. Minnesota’s Five-Year Action Plan contains documentation of outreach activities that have occurred dating back to 2014.

2.3.2 Describe the formal tribal consultation process conducted with federally recognized Tribes, to the extent that the Eligible Entity encompasses federally recognized Tribes. If the Eligible Entity does not encompass federally recognized Tribes, note “Not applicable.”

2.3.2.1 As a required attachment only if the Eligible Entity encompasses federally recognized Tribes, provide evidence that a formal tribal consultation process was conducted, such as meeting agendas and participation lists.

Minnesota is home to 11 federal recognized Tribes and formal tribal consultations between the Department of Employment and Economic Development occur on a regular basis, with broadband

specifically included as a topic for consultations as information regarding BEAD has been released by NTIA. Documentation of those consultations, which are still ongoing, will be included in the Initial Proposal upon submission to the NTIA.

Requirement 8: Deployment Subgrantee Selection

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

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

On October 9, 2023, Minnesota launched its ninth round of the Border-to-Border Broadband Development Grant Program and its second round of the Lower Population Density Program. Both are conducted under guidelines provided by Minnesota's Office of Grants Management to ensure a transparent, fair and successful grant process. The documents related to the grant program and responsive to the BEAD Subgrantee Selection process are provided as links here (documents provided will be modified to meet BEAD requirements once the final BEAD requirements are known):

Minnesota's ninth round of awarding broadband infrastructure grants is being done under a new grants management system. Applicant resources for participating in the grant round, which will also be used as the basis to select BEAD subgrantees is available here: <https://mn.gov/deed/programs-services/broadband/grant-program/>

The RFP that will be used to select subgrantees will be consistent with the Round 9 RFP: [Call for Border-to-Border and Low-Density Program Applications](#)

The Grant instructions and Application Guide for Round 9, which will also be used as the basis for the BEAD subgrantee selection process is available here: [2023 Grant Instructions and Application Guide](#)

While Minnesota will conduct the BEAD Challenge process to determine locations eligible for BEAD funding, the Minnesota Border-to-Border grant process also includes a challenge process conducted immediately following the submission of applications each grant round which allows OBD to further deduplicate any locations that will be receiving broadband services under public funding and planned for deployment with private capital. That process is described here: [2023 Challenge Process](#) and the form to submit a challenge is here: [2023 Challenge Form](#)

The BEAD scoring rubric that will be used to rank and score applications is available as an attachment.

Finally, the Minnesota broadband infrastructure grant programs, from the application process to selection to project completion, follow state grants management policies overseen by the Minnesota Department of Administration's Office of Grants Management and are available for review here: <https://mn.gov/admin/government/grants/policies-statutes-forms/>

2.4.3 Text Box: Describe how the proposed subgrantee selection process will prioritize Unserved Service Projects in a manner that ensures complete coverage of all unserved locations prior to prioritizing Underserved Service Projects followed by prioritization of eligible CAIs.

The Minnesota Legislature has directed OBD to use any funds received through BEAD in its Border-to-Border grant programs including the Lower Population Density Program. The Director of the Office has the ability to prioritize grants to unserved locations where unserved is defined as locations without a wired broadband service of at least 25 Mbps download and 3 Mbps upload.

Minnesota anticipates conducting three rounds to select subgrantees, with priority in Round 1 given to selecting subgrantees submitting applications containing predominantly unserved locations, consistent with BEAD and Minnesota State Law. Dependent on the number of remaining unserved locations following the Round 1 subgrantee selection process and the pricing contained in the Round 1 applications recommended for award, and data we will have available on the cost to serve the unserved locations with no application, OBD will prioritize remaining unserved locations in a Round 2. To prioritize, OBD will continue its outreach to existing providers and communities to indicate that all unserved locations must be addressed before funding can be directed to underserved locations, so applications to serve predominantly unserved areas will be funded first.

It should be noted here that Minnesota's broadband grant program is technology neutral, so to the extent that an application is submitted by a qualified applicant and demonstrates community support, it will be considered for funding. OBD responds to applications received and does not substitute its judgement for a community's judgment in determining the appropriate technology to be built in a community.

Minnesota does not believe that its BEAD funding allocation will be adequate to fund all applications submitted that would reach all unserved and underserved locations. If unserved locations remain following the submission of applications in Round 2, OBD will engage in direct negotiations with existing providers and/or applicants in nearby areas about the potential expansion to encompass these remaining unserved locations. As a tool for engaging in these negotiations, OBD will use cost per location to serve data that it will have as a result of a Request For Proposal (RFP), cost data from its most recent Border-to-Border and Lower Population Density grant rounds, and NTIA's per-location NPV and total investment data as references for assessing the reasonableness of proposed terms for expanding coverage. In addition to Minnesota's Border-to-Border Broadband Development grant program which allows the state to match up to 50% of eligible costs, and the Lower Population Density program which allows the state to match up to 75% of eligible costs, the state also has a Line Extension Connection program (currently funded with ARPA CPF funding) which allows the state to contribute up to \$25,000 per location. Assuming the Minnesota Legislature provides OBD with discretion to allocate BEAD funding between programs as necessary, OBD will negotiate with existing providers and applicants on the appropriate program to bring broadband to all unserved locations. Following negotiations related to the Round 2 applications, projects will be selected and recommended for funding for inclusion in the Final Proposal.

A third subgrantee selection process will then be held if funding remains, again with priority given to unserved locations and additional negotiations held with providers and applicants. Following negotiations, any remaining BEAD funding would then be awarded in that Round 3, which will likely include primarily underserved locations.

If negotiations and/or funding options to address all unserved locations prove unsuccessful after Round 3, OBD will seek NTIA approval in its Final Proposal to classify any remaining unserved locations as locations to default to existing fixed wireless service and/or low-earth orbiting satellite service and addressed in any future state grant funding rounds, ReConnect 6, RDOF II, Community Connect, etc.

2.4.4 Text Box: If proposing to use BEAD funds to prioritize non-deployment projects prior to, or in lieu of the deployment of services to eligible CAIs, provide a strong rationale for doing so. If not applicable to plans, note "Not applicable."

NOT APPLICABLE

2.4.5 Text Box: The proposed subgrantee selection process is expected to demonstrate to subgrantees how to comply with all applicable Environmental and Historic Preservation (EHP) and Build America, Buy America Act (BABA) requirements for their respective project or projects. Describe how the Eligible Entity will communicate EHP and BABA requirements to prospective subgrantees, and how EHP and BABA requirements will be incorporated into the subgrantee selection process.

OBD will make clear as part of its bid solicitation that each subgrantee must familiarize itself with the requirements of the National Environmental Policy Act (NEPA), NHPA and BABA and demonstrate in the proposal how they intend to comply. In addition, OBD is coordinating with the Minnesota Department of Transportation (MNDOT), Minnesota Department of Natural Resources (MNDNR), the State Historic Preservation Office (SHPO), the Office of State Archeologist (OSA), and the Minnesota Indian Affairs Council (MIAC) to develop materials that provide subgrantees information on compliance with permitting requirements and will make it clear that it is the subgrantee's obligation to ensure its proposed project appropriately coordinates their infrastructure construction activities with the relevant state agencies/offices and comply with state and federal environmental requirements. Regarding BABA, OBD intends that subgrantees comply with these requirements. Should a subgrantee demonstrate that delays are being caused by the BABA requirements, OBD, working with the subgrantee and NTIA, will seek to resolve those issues to prevent such delay.

2.4.6 Text Box: Describe how the Eligible Entity will define project areas from which they will solicit proposals from prospective subgrantees. If prospective subgrantees will be given the option to define alternative proposed project areas, describe the mechanism for de-conflicting overlapping proposals to allow for like-to-like comparisons of competing proposals.

Minnesota will allow applicants to identify their project areas on a location basis. To prevent conflict between projects, OBD will identify overlaps between applications that serve the identical locations. For the applications that have overlapping 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.

2.4.7 Text Box: If no proposals to serve a location or group of locations that are unserved, underserved, or a combination of both are received, describe how the Eligible Entity will engage with prospective subgrantees in subsequent funding rounds to find providers willing to expand their existing or proposed service areas or other actions that the Eligible Entity will take to ensure universal coverage.

Prior to or while Minnesota's Initial Proposal is under review by NTIA, OBD will check with existing broadband providers in the state to inquire whether they plan to participate in the BEAD subgrantee selection process and if so, whether they can identify any areas they are interested in serving. Based on that preliminary information, OBD will identify remaining unserved locations and attempt to solicit interest from providers in the vicinity of those unserved locations whether they would also be interested in serving those locations or what might incent them to do so.

OBD will then prioritize the selection of subgrantees for unserved locations in the first two subgrantee selection rounds. If unserved locations remain after those two rounds, OBD will then reach out to providers again, focusing on those that have participated in the first two subgrantee selection rounds, to determine the barriers to applying for the remaining unserved locations. OBD will also compare the remaining locations to the cost study results that should be available by that time to determine which, if any, of the unserved locations may fall into the extremely high-cost threshold category (see methodology below). If cost is the barrier, to the extent OBD has available funding to award up to 75 percent funding to incent providers to serve these areas, it will do so. If there are locations below the extremely high-cost threshold and which a provider is willing to serve with greater than 75 percent funding, and OBD is allowed under state law to submit a waiver request to NTIA, it will do so.

At the end of the day, the decision to serve an unserved (or underserved) location depends on a provider being willing and qualified to do so. Locations that do not receive a qualified application despite 50 percent or 75 percent grant funding, and any additional inducements allowed by state law, will be posted online to maintain transparency and to ensure that all interested parties are aware. If all options for reliable technology alternatives have been exhausted with no application resulting, OBD will default those locations as serviceable by fixed wireless if directly available or a low earth orbiting satellite, all provided at a minimum of 100Mbps download/20Mbps upload.

2.4.8 Text Box: Describe how the Eligible Entity intends to submit proof of Tribal Governments' consent to deployment if planned projects include any locations on Tribal Lands.

Minnesota has 11 federally recognized Tribes and the state, across all agencies, also has a long history of working with its Tribal Nations. DEED has been conducting Tribal consultations for many years and emphasizing broadband in those consultations this year as part of its BEAD planning process. Any BEAD application with locations on Tribal lands must include, as identified in footnote 62 of the BEAD NOFO, "a legally binding agreement, which includes a Tribal Government Resolution, between the Tribal Government of the Tribal Lands encompassing that location, or its authorized agent, and a service provider offering qualifying broadband service to that location." If a legally binding agreement is not included with the application, locations on Tribal Lands included in the application will not be considered eligible for BEAD funding.

2.4.9 Text Box: Identify or outline a detailed process for identifying an Extremely High Cost Per Location Threshold to be utilized during the subgrantee selection process. The explanation must include a description of any cost models used and the parameters of those cost models, including whether they consider only capital expenditures or include the operational costs for the lifespan of the network.

The extremely high cost per location threshold (EHCPLT) will not be set until at least the first two subgrantee selection rounds are completed, as it will be used to ensure that limited funds are used efficiently and that the State's service goals are met. Given the anticipated funding shortfall, the State

will have to strategically set its EHCPLT to achieve its dual goals of maximizing the use of fiber and optimizing available funding to reach all unserved, and as many underserved locations as possible. To set the EHCPLT, the OBD will estimate the cost to serve all unserved and underserved BSLs using data that will be provided under an RFP issued by the state, supplemented with information from the most recent Border-to-Border and Lower Population Density broadband grant rounds conducted in Minnesota, CostQuest data, and the fact that the Minnesota Legislature has established a Line Extension program that allows for the funding of service extensions up to \$25,000 per location. These estimates will be based on capital expenditures and will be adjusted based on the bids received. Finally, an optimization analysis will be conducted to ensure that the threshold can be set as high as possible but still meet the State's goals of maximizing the use of fiber and stretching BEAD funding as far as possible.

2.4.10 Text Box: Outline a plan for how the Extremely High Cost Per Location Threshold will be utilized in the subgrantee selection process to maximize the use of the best available technology while ensuring that the program can meet the prioritization and scoring requirements set forth in Section IV.B.6.b of the BEAD NOFO. The response must describe: a. The process for declining a subgrantee proposal that exceeds the threshold where an alternative technology is less expensive. b. The plan for engaging subgrantees to revise their proposals and ensure locations do not require a subsidy. c. The process for selecting a proposal that involves a less costly technology and may not meet the definition of Reliable Broadband.

Because OBD anticipates that the BEAD allocation may not enable the extension of the service desired by communities to all unserved and underserved locations, it will utilize careful budgeting and strategically set its EHCPLT to extend its BEAD allocation as far as possible. By completing at least two competitive grant rounds prior to setting the EHCPLT, the State will establish a complete view of the funds required to provide the desired service to all unserved and as many underserved locations as possible. It will take a holistic view of all bids to determine where it can accept bids that are higher than expected, and where less expensive bids may balance out the budget. If there are locations included in only a single application (as OBD anticipates) and the data available to OBD demonstrates that those applications include a higher cost per location than supported by the available data, OBD will attempt to negotiate with providers to optimize budgets while maximizing the use of fiber. Ultimately, however, if a provider is unwilling to negotiate downward, the award may need to be made to get those locations served or those locations are defaulted as serviceable by fixed wireless if directly available or a low earth orbiting satellite, all provided at a minimum of 100Mbps download/20Mbps upload.

Requirement 8: Deployment Subgrantee Qualifications

2.4.11 Text Box: Describe how the Eligible Entity will ensure prospective subgrantees deploying network facilities meet the minimum qualifications for financial capability as outlined on pages 72-73 of the BEAD NOFO. If the Eligible Entity opts to provide application materials related to the BEAD subgrantee selection process, the Eligible Entity may reference those to outline alignment with requirements for this section. The response must:

a. Detail how the Eligible Entity will require prospective subgrantees to certify that they are qualified to meet the obligations associated with a Project, that prospective subgrantees will have available funds for all project costs that exceed the amount of the grant, and that prospective subgrantees will comply with all Program requirements, including service milestones. To the extent the

Eligible Entity disburses funding to subgrantees only upon completion of the associated tasks, the Eligible Entity will require each prospective subgrantee to certify that it has and will continue to have sufficient financial resources to cover its eligible costs for the Project until such time as the Eligible Entity authorizes additional disbursements.

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

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

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

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

OBD has conducted nine broadband infrastructure grant rounds with the demonstration of financial capability improved or clarified as necessary over the grant rounds and always following the requirements of Minnesota's state grants management guidelines. The application material required to be completed to document financial capability can be found in OBD's [2023 Grant Instructions and Application Guide](#) for the current Round 9 and specifically in Section 1 starting at page 9 where the applicant must provide documentation to support the financial viability by providing its most recent audited financial statements. An applicant affidavit is also required which must include approval for and commitment to provide the applicant's required matching funding. The applicant must also provide documentation to validate the availability of its matching funds including a letter of credit, a letter confirming funds from a bank, a board resolution committing funding, or loan documentation. Any partner match must also be identified and documented. OBD also requires a five-year pro forma/return on investment analysis to demonstrate the financial viability of the project over time.

Current policies of the Minnesota Department of Administration that must be followed in the grants process can be found here: <https://mn.gov/admin/government/grants/policies-statutes-forms/>

As a last step, for applications being considered for funding, OBD runs a D&B Finance Analytic report on the entity submitting the application as an additional measure of risk assessment prior to finalizing projects to recommend for a grant award.

Minnesota's practices have worked well for multiple rounds of broadband infrastructure grant funding but can be modified if NTIA so requires in writing for receipt of BEAD funding.

2.4.12 Text Box: Describe how the Eligible Entity will ensure any prospective subgrantee deploying network facilities meets the minimum qualifications for managerial capability as outlined on pages 73 – 74 of the BEAD NOFO. If the Eligible Entity opts to provide application materials related to the BEAD subgrantee selection process, the Eligible Entity may reference those to outline alignment with requirements for this section. The response must:

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

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

OBD has conducted nine broadband infrastructure grant rounds with the demonstration of managerial capability improved as necessary over the grant rounds. The application material required to be completed to document managerial capability can be found in OBD's [2023 Grant Instructions and Application Guide](#) for the current Round 9 and specifically in Section 1 starting at page 9 where the applicant must provide documentation to support the organizational capacity, including documentation that identifies key officers and management personnel with brief resumes, organizational structure charts and a detailed description of how the organizational strength matches to the level of broadband service delivery and service maintenance necessary to meet current and proposed broadband deployment. The applicant affidavit or resolution must include official applicant support for the project submitted in the application, a commitment to offer service for at least five years, and a commitment and capacity to ensure adequate project administration and compliance with all contract terms. The executive summary included in Section 2 of the application (page 9-10) must also describe the applicant's prior involvement in broadband technology implementation and how the applicant intends to manage and sustain the proposed project.

2.4.13 Text Box: Describe how the Eligible Entity will ensure any prospective subgrantee deploying network facilities meets the minimum qualifications for technical capability as outlined on page 74 of the BEAD NOFO. If the Eligible Entity opts to provide application materials related to the BEAD subgrantee selection process, the Eligible Entity may reference those to outline alignment with requirements for this section. The response must:

a. Detail how the Eligible Entity will require prospective subgrantees to certify that they are technically qualified to complete and operate the Project and that they are capable of carrying out the funded activities in a competent manner, including that they will use an appropriately skilled and credentialed workforce.

b. Detail how the Eligible Entity will require prospective subgrantees to submit a network design, diagram, project costs, build-out timeline and milestones for project implementation, and a capital investment schedule evidencing complete build-out and the initiation of service within four years of the date on which the entity receives the subgrant, all certified by a professional engineer, stating that the proposed network can deliver broadband service that meets the requisite performance requirements to all locations served by the Project.

OBD has conducted nine broadband infrastructure grant rounds with the demonstration of technical capability improved as necessary over the grant rounds. The application material required to be completed to document technical capability can be found in OBD's [2023 Grant Instructions and Application Guide](#) for the current Round 9 and specifically in Section 1 starting at page 8 where the applicant must provide documentation to support its technical expertise and specific prior experience in providing broadband services in Minnesota (and other states, if applicable). In Section 4 (page 14), the applicant must confirm that upon completion the project will be capable of delivering service of at least 100Mbps download and 20Mbps upload (or 100Mbps symmetrical for federally funded projects

awarded through the state Border to Border or Lower Population Density grant programs) or the project is not eligible for funding. In Section 6, the applicant must include all engineering designs, diagrams and maps that demonstrate the viability of the proposed project. The information must be certified by a registered Professional Engineer. Documentation to support that the technology to be deployed is scalable to 100Mbps symmetrical must be certified by either the manufacturer of the equipment or by a registered Professional Engineer.

Section 6 (page 14) is also where the applicant must provide a project schedule which reflects all key planning, procurement, construction, installation, testing, and service activation milestones, with an anticipated start date and completion date for each milestone. The contract executed with the subgrantee will include a completion date that meets BEAD requirements.

Section 10 (page 17) includes budget tables to be completed by the applicant which include tables for the requested budget, a budget summary and cost share (match) and information on any funding partners. Project costs deemed eligible are listed. The start date for incurring expenses eligible for reimbursement (under state grant guidelines) is the date the contract is fully executed. If federal guidelines provide for an earlier start date for incurring reimbursable expenditures, the state process can be modified to accommodate a directive allowing for that earlier date, otherwise the state process will be followed.

The budget details narrative and procurement/bidding policies and procedure, which is also part of Section 10, provide the opportunity for the applicant to define the elements and activities that make up each budget category and how the budget figures were determined.

In addition to the above, because the applicant is responsible for a match amount of at least 50 percent for a Border-to-Border application (and at least 25 percent for a Lower Population Density application), and because the applicant will be responsible for all ongoing maintenance and operational costs, the applicant is incented to ensure that the work to be completed is done right.

And again, for all applications being considered for funding, OBD runs a D&B Finance Analytic report on the entity submitting the application as an additional measure of risk assessment prior to finalizing projects to recommend for a grant award.

2.4.14 Text Box: Describe how the Eligible Entity will ensure any prospective subgrantee deploying network facilities meets the minimum qualifications for compliance with applicable laws as outlined on page 74 of the BEAD NOFO. If the Eligible Entity opts to provide application materials related to the BEAD subgrantee selection process, the Eligible Entity may reference those to outline alignment with requirements for this section. The response must:

a. Detail how the Eligible Entity will require prospective subgrantees to demonstrate that they are capable of carrying out funded activities in a competent manner in compliance with all applicable federal, state, territorial, and local laws.

b. Detail how the Eligible Entity will require prospective subgrantees to permit workers to create worker-led health and safety committees that management will meet with upon reasonable request.

The D&B Finance Analytic report will identify any risk related to noncompliance with state, federal and local laws. The contract signed with the subgrantee requires compliance with the grant contract

agreement and all applicable state and federal laws. OBD requires reporting on steps for safety and healthy workplaces in grantee's semi-annual progress reports for projects that exceed thresholds identified for that federal funding and a similar reporting requirement can be established if required for BEAD funding.

2.4.15 Text Box: Describe how the Eligible Entity will ensure any prospective subgrantee deploying network facilities meets the minimum qualifications for operational capability as outlined on pages 74 – 75 of the BEAD NOFO. If the Eligible Entity opts to provide application materials related to the BEAD subgrantee selection process, the Eligible Entity may reference those to outline alignment with requirements for this section. The response must:

- a. Detail how the Eligible Entity will require prospective subgrantees to certify that they possess the operational capability to qualify to complete and operate the Project.*
- b. Detail how the Eligible Entity will require prospective subgrantees to submit a certification that have provided a voice, broadband, and/or electric transmission or distribution service for at least two (2) consecutive years prior to the date of its application submission or that it is a wholly owned subsidiary of such an entity, attests to and specify the number of years the prospective subgrantee or its parent company has been operating.*
- c. Detail how the Eligible Entity will require prospective subgrantees that have provided a voice and/or broadband service, to certify that it has timely filed Commission Form 477s and the Broadband DATA Act submission, if applicable, as required during this time period, and otherwise has complied with the Commission's rules and regulations.*
- d. Detail how the Eligible Entity will require prospective subgrantees that have operated only an electric transmission or distribution service, to submit qualified operating or financial reports, that it has filed with the relevant financial institution for the relevant time period along with a certification that the submission is a true and accurate copy of the reports that were provided to the relevant financial institution.*
- e. In reference to new entrants to the broadband market, detail how the Eligible Entity will require prospective subgrantees to provide evidence sufficient to demonstrate that the newly formed entity has obtained, through internal or external resources, sufficient operational capabilities.*

The technical, managerial and financial capacity documentation required above, which includes a signed affidavit/resolution, will together demonstrate the operational capacity of the applicant. The D&B Analytics report will uncover any risks concerning the ongoing operational capacity of an applicant being considered for a grant award. And the contract will require the subgrantee comply with all contract requirements including abiding by all applicable state and federal laws.

If the FCC or NTIA have any concerns with particular applicants for BEAD funding, the FCC and NTIA through their regular check-ins, can share such information and relay to the Eligible Entities as appropriate. And, ultimately, the NTIA has the final approval over the Eligible Entities' Final Proposals and can deny BEAD funding being awarded to any subgrantee included in a Final Proposal.

2.4.16 Text Box: Describe how the Eligible Entity will ensure that any prospective subgrantee deploying network facilities meets the minimum qualifications for providing information on ownership as outlined

on page 75 of the BEAD NOFO. If the Eligible Entity opts to provide application materials related to the BEAD subgrantee selection process, the Eligible Entity may reference those to outline alignment with requirements for this section. The response must:

a. Detail how the Eligible Entity will require prospective subgrantees to provide ownership information consistent with the requirements set forth in 47 C.F.R. § 1.2112(a)(1)-(7).

The Office of Broadband Development is committed to ensuring that applicants seeking to deploy network facilities are thoroughly vetted and meet the minimum qualifications for providing information on ownership as outlined in the BEAD NOFO.

The Office of Broadband Development will require each applicant to provide ownership information consistent with the requirements set forth in 47 C.F.R. § 1.2112(a)(1)-(7).

The Code of Federal Regulations regarding ownership information requires the following:

- (1) List the real party or parties in interest in the applicant or application, including a complete disclosure of the identity and relationship of those persons or entities directly or indirectly owning or controlling (or both) the applicant;
- (2) List the name, address, and citizenship of any party holding 10 percent or more of stock in the applicant, whether voting or nonvoting, common or preferred, including the specific amount of the interest or percentage held;
- (3) List, in the case of a limited partnership, the name, address and citizenship of each limited partner whose interest in the applicant is 10 percent or greater (as calculated according to the percentage of equity paid in or the percentage of distribution of profits and losses);
- (4) List, in the case of a general partnership, the name, address and citizenship of each partner, and the share or interest participation in the partnership;
- (5) List, in the case of a limited liability company, the name, address, and citizenship of each of its members whose interest in the applicant is 10 percent or greater;
- (6) List all parties holding indirect ownership interests in the applicant as determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain, that equals 10 percent or more of the applicant, except that if the ownership percentage for an interest in any link in the chain exceeds 50 percent or represents actual control, it shall be treated and reported as if it were a 100 percent interest; and
- (7) List any FCC-regulated entity or applicant for an FCC license, in which the applicant or any of the parties identified in paragraphs (a)(1) through (a)(5) of this section, owns 10 percent or more of stock, whether voting or nonvoting, common or preferred. This list must include a description of each such entity's principal business and a description of each such entity's relationship to the applicant (e.g., Company A owns 10 percent of Company B (the applicant) and 10 percent of Company C, then Companies A and C must be listed on Company B's application, where C is an FCC licensee and/or license applicant). (b) Designated entity status. In addition to the information required under paragraph (a) of this section, each applicant claiming eligibility for small business provisions, or a rural service provider

bidding credit shall disclose the following: (1) On its application to participate in competitive bidding (i.e., shortform application (see 47 CFR 1.2105)):

(i) List the names, addresses, and citizenship of all officers, directors, affiliates, and other controlling interests of the applicant, as described in § 1.2110, and, if a consortium of small businesses or consortium of very small businesses, the members of the conglomerate organization;

(ii) List any FCC-regulated entity or applicant for an FCC license, in which any controlling interest of the applicant owns a 10 percent or greater interest or a total of 10 percent or more of any class of stock, warrants, options or debt securities. This list must include a description of each such entity's principal business and a description of each such entity's relationship to the applicant;

(iii) List all parties with which the applicant has entered into agreements or arrangements for the use of any of the spectrum capacity of any of the applicant's spectrum;

(iv) List separately and in the aggregate the gross revenues, computed in accordance with § 1.2110, for each of the following: The applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests; and if a consortium of small businesses, the members comprising the consortium;

(v) If claiming eligibility for a rural service provider bidding credit, provide all information to demonstrate that the applicant meets the criteria for such credit as set forth in § 1.2110(f)(4); and

(vi) If applying as a consortium of designated entities, provide the information in paragraphs (b)(1)(i) through (v) of this section separately for each member of the consortium. Applications that fail to meet the minimum qualifications for providing ownership information as outlined on page 75 of the BEAD NOFO will not be considered to receive BEAD funding through OBD.

2.4.17 Text Box: Describe how the Eligible Entity will ensure any prospective subgrantee deploying network facilities meets the minimum qualifications for providing information on other public funding as outlined on pages 75 – 76 of the BEAD NOFO. If the Eligible Entity opts to provide application materials related to the BEAD subgrantee selection process, the Eligible Entity may reference those to outline alignment with requirements for this section. The response must:

a. Detail how it will require prospective subgrantees to disclose for itself and for its affiliates, any application the subgrantee or its affiliates have submitted or plan to submit, and every broadband deployment project that the subgrantee or its affiliates are undertaking or have committed to undertake at the time of the application using public funds.

Throughout its eight completed and ninth round in progress, the Office of Broadband Development has been mindful of its role in safeguarding the use of public dollars and ensuring the funding is used to bring broadband service to locations not otherwise scheduled to receive such services. Under Section 6 of the current application, information is required to be provided on whether an applicant has submitted or intends to submit the same project, or any overlapping portion, to any other federal or state broadband funding program. If yes, the applicant is required to attach a map and list of addresses identifying the overlapped area and the type of funding applied for.

OBD also maintains its own mapping effort which includes layers identifying areas already served, areas scheduled to be served (with previously awarded state grant funding, USDA ReConnect and Community Connect, RDOF, NTIA Tribal funding, etc.) and provides shapefiles so locations in those areas are pre-

identified as ineligible for the Border-to-Border or Lower Population Density grant programs. Further, the state legislature has built into state law for the grant program a post-application challenge period during which existing providers can identify areas that they plan to build and if OBD finds the challenge credible, an application will either not be funded in its entirety or the locations that will receive service from another provider are removed prior to the application being considered further for funding. Information on the state post-application challenge process can be found here: [2023 Challenge Process](#) and the form that a challenging provider must complete is here: [2023 Challenge Form](#)

b. At a minimum, the Eligible Entity shall require the disclosure, for each broadband deployment project, of: (a) the speed and latency of the broadband service to be provided (as measured and/or reported under the applicable rules), (b) the geographic area to be covered, (c) the number of unserved and underserved locations committed to serve (or, if the commitment is to serve a percentage of locations within the specified geographic area, the relevant percentage), (d) the amount of public funding to be used, (e) the cost of service to the consumer, and (f) the matching commitment, if any, provided by the subgrantee or its affiliates.

Information responsive to this section is already a part of Minnesota’s Border-to-Border and Lower Population Density grant application process, see [2023 Grant Instructions and Application Guide](#). Project area information is required under Section 3 (pages 10-11) and includes a description of the project area, a pdf and digital geospatial map, evidence that the area is not served, and location data. Section 4 (page 12) requires information related to the number of households, farms, businesses and community anchor institutions (CAIs) that will be served and the number of those passings by type that are currently unserved and underserved and the speeds that will be available upon project completion. The location data sheet will provide a list of all locations to be served by the project so that will identify 100 percent of the locations to be served. The location data sheet will be the precise list of locations to be served under the project whereas the map will show the general project area (an address search could divulge locations not on the location data sheet and not part of the project due to ineligibility for BEAD funding).

Section 5 (page 13) of the Round 9 application material requires the applicant to indicate the type of broadband infrastructure that will be deployed in the project area. (The type of infrastructure will determine the latency.) Section 7 (page 15) requires the applicant to provide information on the pricing that will be available for speeds that meet or exceed state and federal speed requirements, as well as any additional equipment or separately charged service installation elements. Section 10 (page 17) requires the applicant to provide the budget for the project, including the amount of the grant and the match by the applicant and any funding partners.

Requirement 9: Non-Deployment Subgrantee Selection

2.5.1 Text Box: Describe a fair, open, and competitive subgrantee selection process for eligible non-deployment activities. Responses must include the objective means, or process by which objective means will be developed, for selecting subgrantees for eligible non-deployment activities. If the Eligible Entity does not intend to subgrant for non-deployment activities, indicate such.

N/A Minnesota does not anticipate using BEAD funding for non-deployment activities.

2.5.2 Text Box: Describe the Eligible Entity’s plan for the following: a. How the Eligible Entity will employ preferences in selecting the type of non-deployment initiatives it intends to support using BEAD Program funds; b. How the non-deployment initiatives will address the needs of residents within the jurisdiction; c. The ways in which engagement with localities and stakeholders will inform the selection of eligible non-deployment activities; d. How the Eligible Entity will determine whether other uses of the funds might be more effective in achieving the BEAD Program’s equity, access, and deployment goals.

N/A Minnesota does not anticipate using BEAD funding for non-deployment activities.

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

N/A Minnesota does not anticipate using BEAD funding for non-deployment activities.

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

N/A Minnesota does not anticipate using BEAD funding for non-deployment activities.

Requirement 10: Eligible Entity Implementation Activities

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

In this section, the Eligible Entity must describe any initiatives it proposes to implement as the recipient. Examples of initiatives the Eligible Entity may propose include administrative activities to manage the grant, implementation of the Challenge Process, implementation of the subgrantee selection process, workforce development related to the deployment of broadband, digital equity, or broadband adoption activities (as long as the Eligible Entity has sufficient funding for unserved and underserved areas), and mapping or data collection. An Eligible Entity may not propose broadband deployment projects without conducting a competitive subgranting process.

OBD will use a portion of its BEAD funding beyond the \$5 million initial planning grants to administer the subgrantee selection process for broadband deployment grants; to administer the grants awarded with BEAD funding; implementation of the BEAD Challenge process; mapping, data collection and field validation related to BEAD grant administration, awards and compliance. OBD will not be using a subgrantee selection process for the non-broadband deployment activities as these activities will be conducted by OBD staff or through our existing mapping contractor.

Requirement 11: Labor Standards and Protection

2.7.1 Text Box: Describe the specific information that prospective subgrantees will be required to provide in their applications and how the Eligible Entity will weigh that information in its competitive subgrantee selection processes. Information from prospective subgrantees must demonstrate the following and must include information about contractors and subcontractors:

a. Prospective subgrantees’ record of past compliance with federal labor and employment laws, which:

i. Must address information on these entities' compliance with federal labor and employment laws on broadband deployment projects in the last three years;

For the BEAD subgrantee selection process, the applicant will be required to indicate via checkbox certification that it has complied with federal labor and employment laws on broadband deployment projects over the last three years.

ii. Should include a certification from an Officer/Director-level employee (or equivalent) of the prospective subgrantee evidencing consistent past compliance with federal labor and employment laws by the subgrantee, as well as all contractors and subcontractors; and

During the BEAD subgrantee selection process, an officer- or director-level employee or equivalent thereof will be required to indicate via checkbox certification that the applicant, its contractors, and its subcontractors have consistently complied with federal labor and employment laws.

iii. Should include written confirmation that the prospective subgrantee discloses any instances in which it or its contractors or subcontractors have been found to have violated laws such as the Occupational Safety and Health Act, the Fair Labor Standards Act, or any other applicable labor and employment laws for the preceding three years.

During the BEAD subgrantee selection process, the applicant will be required to indicate via checkbox certification that neither it, nor its contractors or subcontracts, have been found to have violated laws such as the Occupational Safety and Health Act, the Fair Labor Standards Act, or any other applicable labor and employment laws for the preceding three years. If the applicant indicates that it, its contractors and/or its subcontractors have violated any such laws, it must provide a detailed account in narrative form, accompanied by any relevant documentation. If the applicant indicates the latter, OBD will review the details and potentially disqualify the applicant from further consideration.

b. Prospective subgrantees' plans for ensuring compliance with federal labor and employment laws, which must address the following:

i. How the prospective subgrantee will ensure compliance in its own labor and employment practices, as well as that of its contractors and subcontractors, including:

1. Information on applicable wage scales and wage and overtime payment practices for each class of employees expected to be involved directly in the physical construction of the broadband network; and

2. How the subgrantee will ensure the implementation of workplace safety committees that are authorized to raise health and safety concerns in connection with the delivery of deployment projects.

OBD requires the reporting of the following information in grantee's semi-annual progress reports for projects that exceed thresholds identified for that federal funding: wages/benefits by worker classification; and wages and benefits information, process to ensure supply of skilled labor, how labor disputes are minimized, steps for safety and healthy workplace. Similar reporting requirements can be established if required for BEAD funding.

Additionally, the Exhibit A to the grant contract agreement contains all required provisions and certifications that are mandated by the use of federal funds. OBD will include any such provisions required by NTIA for BEAD funding to be included in Exhibit A to the grant contract agreement. Ideally those requirements will be identified by NTIA sooner, rather than later, so that potential applicants can determine whether they wish to participate in the BEAD grant funded application rounds. If the federally required provisions are not known or provided to OBD in advance of the subgrantee selection process such that the applicant knows all that will be required in advance of participating in the process (and able to include any associated costs for complying with the provisions in the application budget), there is the risk that a selected subgrantee will withdraw after the Final Proposal is submitted to NTIA or upon presentation of the contract language, and locations thought to be receiving service via BEAD funding will be left out.

2.7.2 Text Box: Describe in detail whether the Eligible Entity will make mandatory for all subgrantees (including contractors and subcontractors) any of the following and, if required, how it will incorporate them into binding legal commitments in the subgrants it makes:

- a. Using a directly employed workforce, as opposed to a subcontracted workforce;*
- b. Paying prevailing wages and benefits to workers, including compliance with Davis-Bacon and Service Contract Act requirements, where applicable, and collecting the required certified payrolls;*
- c. Using project labor agreements (i.e., pre-hire collective bargaining agreements between unions and contractors that govern terms and conditions of employment for all workers on a construction project);*
- d. Use of local hire provisions;*
- e. Commitments to union neutrality;*
- f. Use of labor peace agreements;*
- g. Use of an appropriately skilled workforce (e.g., through Registered Apprenticeships or other joint labor-management training programs that serve all workers, particularly those underrepresented or historically excluded);*
- h. Use of an appropriately credentialed workforce (i.e., satisfying requirements for appropriate and relevant pre-existing occupational training, certification, and licensure); and*
- i. Taking steps to prevent the misclassification of workers.*

OBD requires the reporting of the following information in semi-annual progress reports for federally funded projects that exceed established federal funding thresholds: compliance of project with applicable Federal/State labor laws, number of employees and contractors, number of employees and contractors; number of direct or third party hires; wages/benefits by worker classification; wages and benefits information, process to ensure supply of skilled labor, how labor disputes are minimized, steps for safe and healthy workplace. Similar reporting requirements can be established if required for BEAD funding. Prevailing wage requirements apply per Minnesota statutes.

Requirement 12: Workforce Readiness

2.8.1 Text Box: Describe how the Eligible Entity and their subgrantees will advance equitable workforce development and job quality objectives to develop a skilled, diverse workforce. At a minimum, this response should clearly provide each of the following, as outlined on page 59 of the BEAD NOFO:

a. A description of how the Eligible Entity will ensure that subgrantees support the development and use of a highly skilled workforce capable of carrying out work in a manner that is safe and effective;

b. A description of how the Eligible Entity will develop and promote sector-based partnerships among employers, education and training providers, the public workforce system, unions and worker organizations, and community-based organizations that provide relevant training and wrap-around services to support workers to access and complete training (e.g., child care, transportation, mentorship), to attract, train, retain, or transition to meet local workforce needs and increase high-quality job opportunities;

c. A description of how the Eligible Entity will plan to create equitable on-ramps into broadband-related jobs, maintain job quality for new and incumbent workers engaged in the sector; and continually engage with labor organizations and community-based organizations to maintain worker voice throughout the planning and implementation process; and

d. A description of how the Eligible Entity will ensure that the job opportunities created by the BEAD Program and other broadband funding programs are available to a diverse pool of workers.

The Office of Broadband Development is located within the Minnesota Department of Employment and Economic Development (DEED), which also houses Workforce Development, the Governor's Workforce Development Board, Workforce Services and Transformation, Immigrant & Refugee Affairs, CareerForce, Employment and Training, and Vocational Rehabilitation Services. DEED is coordinating the state level approach to ensuring workforce needs are met for all jobs being created under the Infrastructure Investment and Jobs Act and that all state tools are being considered in that coordination.

Additionally, over the past two years, knowing that workforce needs would likely have to be addressed for broadband deployment, OBD has been in close and constant communication with the associations to monitor any issues in terms of worker shortages and to share available DEED resources on training programs should companies wish to avail themselves of such opportunities. More recently, OBD has connected unions that have reached out to our office to the personnel leading the coordinated state approach for addressing workforce in the broadband space.

2.8.2 Text Box: Describe the information that will be required of prospective subgrantees to demonstrate a plan for ensuring that the project workforce will be an appropriately skilled and credentialed workforce. These plans should include the following:

a. The ways in which the prospective subgrantee will ensure the use of an appropriately skilled workforce, e.g., through Registered Apprenticeships or other joint labor-management training programs that serve all workers;

b. The steps that will be taken to ensure that all members of the project workforce will have appropriate credentials, e.g., appropriate and relevant pre-existing occupational training, certification, and licensure;

c. Whether the workforce is unionized;

d. Whether the workforce will be directly employed or whether work will be performed by a subcontracted workforce; and

e. The entities that the proposed subgrantee plans to contract and subcontract with in carrying out the proposed work.

If the project workforce or any subgrantee's, contractor's, or subcontractor's workforce is not unionized, the subgrantee must also provide with respect to the non-union workforce:

a. The job titles and size of the workforce (FTE positions, including for contractors and subcontractors) required to carry out the proposed work over the course of the project and the entity that will employ each portion of the workforce;

b. For each job title required to carry out the proposed work (including contractors and subcontractors), a description of:

i. Safety training, certification, and/or licensure requirements (e.g., OSHA 10, OSHA 30, confined space, traffic control, or other training as relevant depending on title and work), including whether there is a robust in-house training program with established requirements tied to certifications, titles; and

ii. Information on the professional certifications and/or in-house training in place to ensure that deployment is done at a high standard.

OBD requires the reporting of the following information in semi-annual progress reports for federally funded projects that exceed established federal funding thresholds: compliance of project with applicable Federal/State labor laws, number of employees and contractors, number of employees and contractors; number of direct or third party hires; wages/benefits by worker classification; wages and benefits information, process to ensure supply of skilled labor, how labor disputes are minimized, steps for safe and healthy workplace. Similar reporting requirements can be established if required for BEAD funding. Prevailing wage requirements apply per Minnesota statutes.

Additionally, the Exhibit A to the grant contract agreement contains all required provisions and certifications that are mandated by the use of federal funds. OBD will include any such provisions required by NTIA for BEAD funding to be included in Exhibit A to the grant contract agreement. Ideally those requirements will be identified by NTIA sooner, rather than later, so that potential applicants can determine whether they wish to participate in the BEAD grant funded application rounds. If the federally required provisions are not known or provided to OBD in advance of the subgrantee selection process such that the applicant knows all that will be required in advance of participating in the process (and able to include any associated costs for complying with the provisions in the budget included in their application), there is the risk that a selected subgrantee will withdraw after the Final Proposal is submitted to NTIA or upon presentation of the contract language, and locations thought to be receiving service via BEAD funding will be left out.

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

2.9.1 Text Box: Describe the process, strategy, and the data tracking method(s) the Eligible Entity will implement to ensure that minority businesses, women-owned business enterprises (WBEs), and labor surplus area firms are recruited, used, and retained when possible.

2.9.2 Check Box: Certify that the Eligible Entity will take all necessary affirmative steps to ensure minority businesses, women’s business enterprises, and labor surplus area firms are used when possible, including the following outlined on pages 88 – 89 of the BEAD NOFO:

- a. Placing qualified small and minority businesses and women’s business enterprises on solicitation lists;*
- b. Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources;*
- c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises;*
- d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women’s business enterprises;*
- e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and*
- f. Requiring subgrantees to take the affirmative steps listed above as it relates to subcontractors.*

The grant contract template language that is used by OBD with grantees includes the following language:

- (a)** The grantee must take all necessary affirmative steps to assure that targeted vendors from businesses with active certifications through these entities are used when possible:
 - a. [State Department of Administration's Certified Targeted Group, Economically Disadvantaged and Veteran-Owned Vendor List](#)
 - b. Metropolitan Council Underutilized Business Program: [MCUB: Metropolitan Council Underutilized Business Program](#)
 - c. Small Business Certification Program through Hennepin County, Ramsey County, and City of St. Paul: [Central Certification Program](#)

Additionally, Exhibit A—Federal Funding Required Provisions and Certifications includes the following provision as part of the contract:

10. Required Certifications. Each of the following required certifications set forth below is a material representation of fact upon which reliance is placed by the State prior to distributing federal funds. By signing the Grant Contract Agreement, Grantee’s authorized representative who must be expressly authorized to make the below certifications on behalf of Grantee, under penalty of perjury pursuant to the laws of the State, certifies and attests to Grantee’s compliance with the following certifications in Section 10 of Exhibit A. The following certifications shall apply to Grantee and Grantee’s contractors, subgrantees and subrecipients. Grantee shall require and cause any Grantee’s contractors, subgrantees

and subrecipients used by Grantee in the performance of the Grant Contract Agreement to certify, agree to, and be subject to and bound by each of the following certifications. The Grantee shall include each of the following certifications in its agreements with its contractors, subgrantees and subrecipients. Grantee may be required to provide any information identified or required in connection with the below certifications as a precondition to receiving funds under the Grant Contract Agreement.

10.4 Nondiscrimination in Federally Assisted Programs & Equal Opportunity. This certification requires Grantee and Grantee's contractors, subgrantees and subrecipients to comply with any applicable federal nondiscrimination requirements or laws providing for or requiring equal opportunity in employment. Except as otherwise provided under 41 C.F.R. part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 C.F.R. part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 C.F.R. part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." To the extent required by these Applicable Laws, Grantee and Grantee's contractors, subgrantees and subrecipients certifies during the performance of this Grant Contract Agreement that it complies with 41 C.F.R. 60-1.4.:

If NTIA has additional language regarding requirements that need to be included in the subgrantee selection process or included in contract language, OBD should be advised of such as soon as possible. Again, because inclusion of any requirements may impact budgets, timetables, and participation in the BEAD program by some providers, such requirements are best included as part of the RFP process that will be used to solicit and select subgrantees.

Requirement 14: Cost and Barrier Reduction

2.10.1 Text Box: Identify steps that the Eligible Entity will take to reduce costs and barriers to deployment. Responses may include but not be limited to the following:

- a. Promoting the use of existing infrastructure;*
- b. Promoting and adopting dig-once policies;*
- c. Streamlining permitting processes;*
- d. Streamlining cost-effective access to poles, conduits, easements; and*
- e. Streamlining rights of way, including the imposition of reasonable access requirements.*

OBD includes an opportunity for an applicant to identify whether its proposed project leverages existing broadband networks or will be built in conjunction with other broadband infrastructure projects to expand service areas to include unserved or underserved regions of the state and to identify the other project and associated leveraged funds (such as ACAM, ReConnect, E-Rate or other federal, state or local funding sources) See Section 6 (bottom of page 14) of the Border to Border/Lower Population Density application here: [2023 Grant Instructions and Application Guide](#)

Minnesota also has a Dig Once policy under Minnesota Statutes [116J.391](#) and the Minnesota Department of Transportation works with broadband providers to give them advance notice of road projects to plan and coordinate on installation. See <http://www.dot.state.mn.us/broadband/>

Finally, Minnesota has a Minnesota Business First Stop broadband working group that includes state agencies with permitting responsibilities (MNDOT, MNDNR) to prioritize permitting for broadband projects funded with state or federal funding, to identify training opportunities, and to develop relationships to respond to permitting delays identified by broadband providers. The working group has become more critical in purpose with the greater funding being made available for broadband deployment at both the state and federal levels and the permitting requirements that vary by funding source.

Requirement 15: Climate Assessment

2.11.1 Text Box: Describe the Eligible Entity's assessment of climate threats and proposed mitigation methods. If an Eligible Entity chooses to reference reports conducted within the past five years to meet this requirement, it may attach this report and must provide a crosswalk narrative, with reference to page numbers, to demonstrate that the report meets the five requirements below. If the report does not specifically address broadband infrastructure, provide additional narrative to address how the report relates to broadband infrastructure. At a minimum, this response must clearly do each of the following, as outlined on pages 62 – 63 of the BEAD NOFO:

a. Identify the geographic areas that should be subject to an initial hazard screening for current and projected future weather and climate-related risks and the time scales for performing such screenings;

b. Characterize which projected weather and climate hazards may be most important to account for and respond to in these areas and over the relevant time horizons;

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

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

e. Describe plans for periodically repeating this process over the life of the Program to ensure that evolving risks are understood, characterized, and addressed, and that the most up-to-date tools and information resources are utilized. 2.11.1.1 Optional Attachment: As an optional attachment, submit any relevant reports conducted within the past five years that may be relevant for this requirement and will be referenced in the text narrative above.

Severe weather events pose a significant threat to the environment, human health, and the economy, and are projected to increase in occurrence and severity in the future. The BEAD Program is aimed at supporting Eligible Entities in addressing these risks and minimizing their impacts. This proposal outlines a plan for addressing climate threats within the Eligible Entity and proposed mitigation methods while performing BEAD-funded activities.

OBD has reviewed the resources provided by NTIA. Temperatures in Minnesota have risen more than 2.5 degrees Fahrenheit since the beginning of the twentieth century. While warmer temperatures will reduce energy demand for heating and lengthen the growing season, it will also increase the magnitude of naturally occurring droughts although spring precipitation is projected to increase by about 15 to 20 percent by midcentury. Extreme precipitation events are projected to increase in frequency and intensity, resulting in increased flooding and associated impacts, such as increased erosion, infrastructure damage, and agricultural losses. Given its location in the interior of North America and lack of mountains, Minnesota is exposed to bitterly cold air masses in the winter and warm, humid air masses from the Gulf of Mexico in the summer, resulting in large temperature variations.

Minnesota has had 57-billion-dollar disaster events between 1980 and October 2023. While the U.S. billion-dollar disaster events are dominated by tropical cyclone losses, there have been none of those in Minnesota. Minnesota's billion-dollar events are predominantly from severe weather and to a lesser extent, drought. There does not appear to be any region of the state or group of counties at significantly greater risk for disaster than another region or county group.

Under legislation passed in the 2023 session, Minnesota has just stood up an Infrastructure Resilience Advisory Task Force. See <https://www.lcc.mn.gov/irtf/> Bree Maki, OBD's Executive Director, is a member of that Task Force. Rather than prejudge the work or outcome of this new task force, Director Maki will participate on the Task Force and convey the issues related to broadband infrastructure and requirements for the BEAD program in her work on the Task Force, keeping in mind the BEAD program requirements to continually review and assess for climate resiliency over the life of the Program to ensure that evolving risks are understood, characterized, and addressed, and that the most up-to-date tools and information resources are utilized.

Requirement 16: Low-Cost Broadband Service Option

2.12.1 Text Box: Describe the low-cost broadband service option(s) that must be offered by subgrantees as selected by the Eligible Entity, including why the outlined option(s) best services the needs of residents within the Eligible Entity's jurisdiction. At a minimum, this response must include a definition of low-cost broadband service option that clearly addresses the following, as outlined on page 67 of the BEAD NOFO:

a. All recurring charges to the subscriber, as well as any non-recurring costs or fees to the subscriber (e.g., service initiation costs);

b. The plan's basic service characteristics (download and upload speeds, latency, any limits on usage or availability, and any material network management practices);

c. Whether a subscriber may use any Affordable Connectivity Benefit subsidy toward the plan's rate; and

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

Broadband service is not available if it is not affordable. As part of the application process, the proposed pricing for broadband services must be provided, including the pricing for service that meets or exceeds Minnesota's 2026 speed goal of at least 100Mbps download and 20Mbps upload and for federally funded grant rounds, pricing for service that meets or exceeds 100Mbps symmetrical speeds. The

application also includes the requirement that providers identify any additional equipment charges and/or any separately chargeable installation elements. Applicants must also identify their marketing efforts to prospective broadband customers. An applicant must also provide information on how the broadband service that will be offered is affordable to the target markets in the proposed project area. See Section 7 of the grant application: [2023 Grant Instructions and Application Guide](#)

For the BEAD application, OBD will add questions regarding the plan's basic service characteristics (download and upload speeds, latency, any limits on usage or availability, and any material network management practices).

At a minimum, the subgrantee's low-cost broadband option must:

- a. Provide typical download speeds of at least 100 Mbps and typical upload speeds of at least 20 Mbps, or the fastest speeds the infrastructure is capable of if less than 100 Mbps/20 Mbps;
- b. Provide typical latency measurements of no more than 100 milliseconds;
- c. Not be subject to data caps, non-governmental imposed surcharges, or usage-based throttling, and be subject only to the same (or better) acceptable use policies to which subscribers to all other broadband internet access service plans offered to home subscribers by the participating subgrantee must adhere; and
- d. In the event the provider later increases the speeds of one of its low-cost plans it will permit Eligible Subscribers that are subscribed to that plan to upgrade to those new speeds at little or no cost.

Subgrantee applicants must include in their application a commitment to charge a price for their low-cost broadband option to low-income households that meet the eligibility requirements for ACP. The price submitted by the applicant will meet the OBD's definition of the low-cost service option if it is consistent with the low-cost offerings the subgrantee applicant currently (at the time of the application) makes available in unsubsidized areas within the State. Additionally, the low-cost broadband option must be priced below the FCC's Urban Rate Comparability benchmark, which is the federal gauge as to whether rates in rural areas (which lack competition and which are where the vast majority of unserved and underserved BSLs are located) are reasonable and hence affordable. If a provider's rates for the 100Mbps download and 20Mbps upload and/or the 100Mbps symmetrical services are above the benchmarks for the corresponding speed, a selected subgrantee will be asked to lower their rates in order to be awarded a Border-to-Border or Lower Population Density grant. Add to that the low-income household benefit of the ACP (or its successor program), which all subgrantees are required to participate in, and the result is the low-cost broadband option.

Minnesota believes this approach best effectuates the purposes of the BEAD Program first and foremost by ensuring that the low-cost service option, combined with ACP participation – the two statutorily prescribed affordability measures in the IJA – will enable affordable broadband service to be offered to eligible subscribers. Secondly, the speed, service, and upgradability elements will ensure that eligible subscribers receive high-quality low-cost broadband service over the funded network.

OBD recognizes that there may very well exist a monthly rate to be paid by a low-income household when one compares a provider's resulting rates at the various speeds to the amount of the ACP benefit. However, that difference also existed when the FCC established the Urban Rate Comparability standard for determining a benchmark to gauge rates for universal service. OBD is also attempting to balance the needs of small, rural providers and their ability to participate in the BEAD subgrantee selection process.

Small, rural providers generally do not have the urban customers nor the business customer base necessary to cross-subsidize low-income households (nor did these and similar providers when they only offered telephone service—hence the longstanding history of universal service in this country). If the provider does not have the revenue stream from the more profitable business or urban customers, it cannot on its own subsidize rates to low-income households that result in a \$0 or nominal monthly rate and still make the business case to participate in the BEAD program. The alternative is to recognize that the BEAD subgrantee selection process will only include large, national providers as participants, which we are not willing to do. Smaller providers often have unique expertise in serving some of the hardest-to-reach communities.

To the extent that additional affordability measures are believed to be necessary by NTIA, those measures should be addressed and funded at the national level. If broadband service is considered a basic necessity in this country, then the requirement to ensure it is available and affordable to all households should not be placed only on the provider serving each of those households. Rather, the solution needs to be a shared responsibility, as it is for telephone service (Lifeline and Minnesota’s Telephone Assistance Plan), heating assistance (LIHEAP--the federal Low Income Energy Assistance Program, the Salvation Army’s HeatShare and Utility Assistance Programs), water (Low Income Household Water Assistance Program) and food (food shelves, free school lunches and breakfasts, Meals on Wheels, SNAP). Additional solutions may also be addressed in state Digital Opportunity Plans where identified by the state as a significant barrier to broadband adoption and use.

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

Subgrantees will be required to participate in the FCC’s Affordable Connectivity Plan (ACP) or any successor program. Eligible subscribers to the ACP can have the subsidy applied to their selected service option.

The Eligible Entity certifies that all subgrantees will be required to participate in the Affordable Connectivity Program or any successor program:

Yes

No

Requirement 20: Middle Class Affordability Plans

2.13.1 Text Box: Describe a middle-class affordability plan that details how high-quality broadband services will be made available to all middle-class families in the BEAD-funded network’s service area at reasonable prices. This response must clearly provide a reasonable explanation of how high-quality broadband services will be made available to all middle-class families in the BEAD-funded network’s service area at reasonable prices.

The Minnesota Border-to-Border and Lower Population Density broadband grant programs both emphasize a public-private partnership, or at a minimum, a strong demonstration of community support for a project (See Section 8, page 14 of the application). That partnership and/or demonstration of community support indicates 1.) that the community finds the service to be provided under that grant application is of high-quality and desired by the residents and businesses located in that area, and 2.) at

the rates offered by their provider partner. That showing provides OBD with information that the rates are reasonable in that service area, given the community support for the project, and that the project will have a high take rate, ensuring the success of the project.

Additionally, similar to the low-income broadband offering, OBD compares the rate information provided in the application to the FCC's Urban Rate Comparability benchmarks, the measure that the FCC uses to determine the reasonable comparability for universal service purposes. If a provider's rates for the 100Mbps download and 20Mbps upload and/or the 100Mbps symmetrical services are above the benchmarks for the corresponding speed, a selected subgrantee will be asked to lower their rates in order to be awarded a Border-to-Border or Lower Population Density grant. This federally developed gauge is another measure used to ensure middle class affordability.

Requirement 17: Use of 20 Percent of Funding

2.14.1 Text Box: Describe the Eligible Entity's planned use of any funds being requested, which must address the following:

a. If the Eligible Entity does not wish to request funds during the Initial Proposal round, it must indicate no funding requested and provide the rationale for not requesting funds.

b. If the Eligible Entity is requesting less than or equal to 20 percent of funding allocation during the Initial Proposal round, it must detail the amount of funding requested for use upon approval of the Initial Proposal, the intended use of funds, and how the proposed use of funds achieves the statutory objective of serving all unserved and underserved locations.

c. If the Eligible Entity is requesting more than 20 percent (up to 100 percent) of funding allocation during the Initial Proposal round, it must detail the amount of funding requested for use upon approval of the Initial Proposal, the intended use of funds, how the proposed use of funds achieves the statutory objective of serving all unserved and underserved locations, and provide rationale for requesting funds greater than 20 percent of the funding allocation.

2.14.2 Financial Data Entry: Enter the amount of the Initial Proposal Funding Request. If not requesting initial funds, enter '\$0.00.' \$651,839,368

2.14.3 Check Box: Certify that the Eligible Entity will adhere to BEAD Program requirements regarding Initial Proposal funds usage. If the Eligible Entity is not requesting funds in the Initial Proposal round and will not submit the Initial Funding Request, note "Not applicable." Yes No

Requirement 18: Eligible Entity Regulatory Approach

2.15.1 Text Box

a. Disclose whether the Eligible Entity will waive all laws of the Eligible Entity concerning broadband, utility services, or similar subjects, whether they predate or postdate enactment of the Infrastructure Act that either (a) preclude certain public sector providers from participation in the subgrant competition or (b) impose specific requirements on public sector entities, such as limitations on the sources of financing, the required imputation of costs not actually incurred by the public sector entity, or restrictions on the service a public sector entity can offer.

b. If the Eligible Entity will not waive all such laws for BEAD Program project selection purposes, identify those that it will not waive (using the Excel attachment) and their date of enactment and describe how they will be applied in connection with the competition for subgrants. If there are no applicable laws, note such.

Under Minnesota law, political subdivisions are eligible applicants for the Border-to-Border and Lower Population Density programs. Minnesota law contains no restrictions such as on limitations on the sources of financing or the required imputation of costs not actually incurred by the public sector entity.

Minnesota Statute 429.021 provides that a municipality has the power:

(19) To improve, construct, extend, and maintain facilities for Internet access and other communications purposes, if the council finds that:

(i) the facilities are necessary to make available Internet access or other communications services that are not and will not be available through other providers or the private market in the reasonably foreseeable future; and

(ii) the service to be provided by the facilities will not compete with service provided by private entities.

If a location is eligible for BEAD Funding through the Border-to-Border grant program, then under existing statutory language, a municipality would have the ability to apply for grant funding under current law as the facilities are not available and will not be available in the foreseeable future and would not compete with service provided by private entities.

OBD would note that Minn. Stat. 237.19 is also often cited as a barrier to municipal broadband ownership. However, that statute is in the chapter related to telephone regulation in Minnesota and is in regard to the offering of telecommunications exchange service and is not applicable to broadband service.

Requirement 19: Certification of Compliance with BEAD Requirements

2.16.1 Check Box: Certify the Eligible Entity's intent to comply with all applicable requirements of the BEAD Program, including the reporting requirements. Yes No

2.16.2 Text Box: Describe subgrantee accountability procedures, including how the Eligible Entity will, at a minimum, employ the following practices outlined on page 51 of the BEAD NOFO:

a. Distribution of funding to subgrantees for, at a minimum, all deployment projects on a reimbursable basis (which would allow the Eligible Entity to withhold funds if the subgrantee fails to take the actions the funds are meant to subsidize);

b. The inclusion of clawback provisions (i.e., provisions allowing recoupment of funds previously disbursed) in agreements between the Eligible Entity and any subgrantee;

c. Timely subgrantee reporting mandates; and

d. Robust subgrantee monitoring practices.

Minnesota's Border to Border and Lower Population Density Program are conducted on a reimbursement basis and that will continue under federal BEAD funding. Per NTIA's recommendation, and assuming allowed by state law, Minnesota would like to retain the ability to do fixed amount subawards only to the extent it might be necessary to incent a provider to deploy broadband infrastructure to locations that otherwise are not included in an application on a reimbursement basis.

Contract provisions for the Border-to-Border and Lower Population Density broadband grant program do currently include the following clawback language which will also be used for BEAD funded projects:

Recovery of Funds. If a State or federal audit takes exception to the Project(s) provided under the Grant Contract Agreement for which federal funds have been paid or reimbursed, or if federal funds are deferred and/or disallowed as a result of any audits (or expended in violation of the laws applicable to the expenditure of such funds, including ARPA CPF Requirements), Grantee will be liable to the State (or any other applicable governmental entity, including the United States Department of Treasury) for the full amount of any such payment, reimbursement, or any claim disallowed (or the amount of funds expended in violation of applicable laws or requirements) and for all related penalties incurred. If the State or any federal governmental entity concludes that Grantee has been paid for any cost that is unallowable, unallocable, or unreasonable under the Grant Contract Agreement, Grantee will be liable to the State (or any other applicable governmental entity, including the United States Department of Treasury) for such cost. Grantee shall pay to the State (or any other applicable governmental entity, including the United States Department of Treasury) all amounts for which the Grantee is liable under this section within ten (10) business days of receiving a written demand or written notice. The State may withhold any payment under the Grant Contract Agreement if Grantee fails to timely make any payment required by this Section. The requirements of this Section shall apply to Grantee and Grantee's contractors, subgrantees and subrecipients. Grantee shall require and cause any Grantee Contractor or subgrantee or subrecipient used by Grantee in connection with the Grant Contract Agreement to agree to and be subject to and bound by such terms and provisions.

OBD follows Minnesota state grants management practices and requires bi-annual progress reports (due January 15 and July 15 each year) as well as a close-out report. If a grantee is not current on its progress report, it will not be reimbursed.

Subgrantee monitoring also follows state grant management practices. Those practices include an annual site visit for projects at or above a grant amount of \$250,000 and a once during the life of the project for those projects receiving \$50,000 to \$250,000 in grant funding. Additionally, prior to close-out, our mapping vendor does a field validation visit to each project to document that all locations have been constructed and conducts on-site speed testing to verify the speeds indicated in the application are being delivered.

2.16.3 Check Box: Certify that the Eligible Entity will account for and satisfy authorities relating to civil rights and nondiscrimination in the selection of subgrantees. X Yes No

2.16.4 Check Box: Certify that the Eligible Entity will ensure subgrantee compliance with the cybersecurity and supply chain risk management requirements on pages 70 - 71 of the BEAD NOFO to require prospective subgrantees to attest that:

Cybersecurity

1) *The prospective subgrantee has a cybersecurity risk management plan (the plan) in place that is either: (a) operational, if the prospective subgrantee is providing service prior to the award of the grant; or (b) ready to be operationalized upon providing service, if the prospective subgrantee is not yet providing service prior to the grant award;*

2) *The plan reflects the latest version of the National Institute of Standards and Technology (NIST) Framework for Improving Critical Infrastructure Cybersecurity (currently Version 1.1) and the standards and controls set forth in Executive Order 14028 and specifies the security and privacy controls being implemented;*

3) *The plan will be reevaluated and updated on a periodic basis and as events warrant; and*

4) *The plan will be submitted to the Eligible Entity prior to the allocation of funds. If the subgrantee makes any substantive changes to the plan, a new version will be submitted to the Eligible Entity within 30 days.*

Supply Chain Risk Management (SCRM)

1) *The prospective subgrantee has a SCRM plan in place that is either: (a) operational, if the prospective subgrantee is already providing service at the time of the grant; or (b) ready to be operationalized, if the prospective subgrantee is not yet providing service at the time of grant award;*

2) *The plan is based upon the key practices discussed in the NIST publication NISTIR 8276, Key Practices in Cyber Supply Chain Risk Management: Observations from Industry and related SCRM guidance from NIST, including NIST 800-161, Cybersecurity Supply Chain Risk Management Practices for Systems and Organizations and specifies the supply chain risk management controls being implemented;*

3) *The plan will be reevaluated and updated on a periodic basis and as events warrant; and*

4) *The plan will be submitted to the Eligible Entity prior to the allocation of funds. If the subgrantee makes any substantive changes to the plan, a new version will be submitted to the Eligible Entity within 30 days. The Eligible Entity must provide a subgrantee's plan to NTIA upon NTIA's request.*

Yes

N