



**TEXAS BROADBAND
DEVELOPMENT OFFICE**

Texas Broadband

Draft: Initial Proposal Volume II

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Broadband Equity, Access, and Deployment Program



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Volume II Initial Proposal Requirements

2.1 Objectives (Requirement 1)

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

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

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

The increasingly digital world is bringing about significant improvements to quality of life and economic growth, but individuals and businesses affected by the digital divide are being left behind. This program is positioned to enable the closing of that divide by channeling public investment for efficient and effective expansion of broadband service. Broadband service must be fast, with speeds sufficient to handle multi-device households, businesses and community anchor institutions (CAIs), including schools, libraries and health care centers. Broadband service must support live video streaming both to and from the location. Given the ever-increasing dependence on constant connection for work, education, health, emergency services and economic development, broadband service must be reliable. Finally, broadband service must be affordable, so all Texans, regardless of their economic standing, have the opportunity to participate and benefit from the digital world.

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

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

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

Key Activities for Universal Access:

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

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

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

Key Activities for Funding Optimization:

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

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

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

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

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

Offering means-tested, low-cost internet service plans is currently a minimal practice in the industry and broad industry participation in the BEAD Program is likely to make it more widespread, at least

temporarily. The BEAD Program will only directly impact a small fraction of Texas locations and it is not expected to have a large, lasting impact on the broadband industry's pricing practices.

Key Activities for Cost Affordability:

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

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

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

Key Activities for Subscribership:

1. Identify CAIs that can support digital literacy and skills programs and assess their needs, barriers and opportunities.
2. Empower communities to improve digital literacy of residents and encourage participation in the digital economy.
3. Facilitate inventory and coordination of existing digital opportunity data, programs and assets to optimize new public investment among existing capacity or development of new capabilities that can be leveraged across the state.
4. Activate CBOs as advocates for the importance of "internet for all" and as ongoing conduits for local coordination of broadband initiatives.

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

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

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

Key Activities for Stakeholder Engagement:

1. Provide robust public engagement and data collection as part of the planning process.

2. Continue engagement and local coordination to ensure smooth project development and implementation.
3. Keep public officials and the public updated and informed on program status.

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

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

Key Activities for Program Effectiveness:

1. Ensure awarded projects are aligned with the requirements and objectives of funding sources.
2. Create a streamlined application and evaluation process to encourage participation and optimize speed to deployment.
3. Establish transparent and efficient challenge and subgrantee selection processes.
4. Develop a BEAD Program Initial Proposal to clarify to industry members how they will participate and succeed, as well as communicate to NTIA and the public how Texas will achieve universal access.
5. Develop a BEAD Program Final Proposal to identify subgrantee selection outcomes, project areas and timelines and plans for implementation, monitoring and revision.

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

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

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

The BDO developed the stakeholder engagement process, termed the Public Engagement Plan (PEP), including processes and strategies to provide opportunities for residents, rural and urban communities, industry and other stakeholders to contribute to Texas' broadband planning efforts. The PEP was used

as a roadmap and drove strategy to ensure a collaborative, integrated community engagement process that provided a robust understanding of broadband challenges and opportunities across the state.

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

- Individuals who live in covered households (household in which the income for the most recently completed year is not more than 150 percent of an amount equal to the poverty level).
- Aging individuals (60 and older).
- Incarcerated individuals, other than individuals who are incarcerated in a federal correctional facility.
- Veterans.
- Individuals with disabilities.
- Individuals with a language barrier, including individuals who are English learners and have low levels of literacy.
- Individuals who are members of a racial or ethnic minority group.
- Individuals who primarily reside in a rural area.

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

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

Further engagement was initiated with the Tribes through "Dear Tribal Leader" letters, which requested a formal tribal consultation. The Kickapoo Traditional Tribe of Texas and the Alabama-Coushatta Tribe of Texas accepted the consultation, which has established a formal working relationship and dialog between governments. Tribal consultations created a space to share broadband plans, priorities and timelines; gain insight into digital inclusion, adoption and use; and understand how best to engage and assist the Tribal Governments. From the Tribal Broadband Connectivity Program, the Kickapoo Traditional Tribe of Texas received install fiber directly connecting 354 unserved Native American

households and the Alabama-Coushatta Tribe of Texas received \$500,000 in funding to replace end of life and/or damaged fiber strands within an existing broadband network fiber ring.¹

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

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

2.3 Local Coordination (Requirement 4)

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

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

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

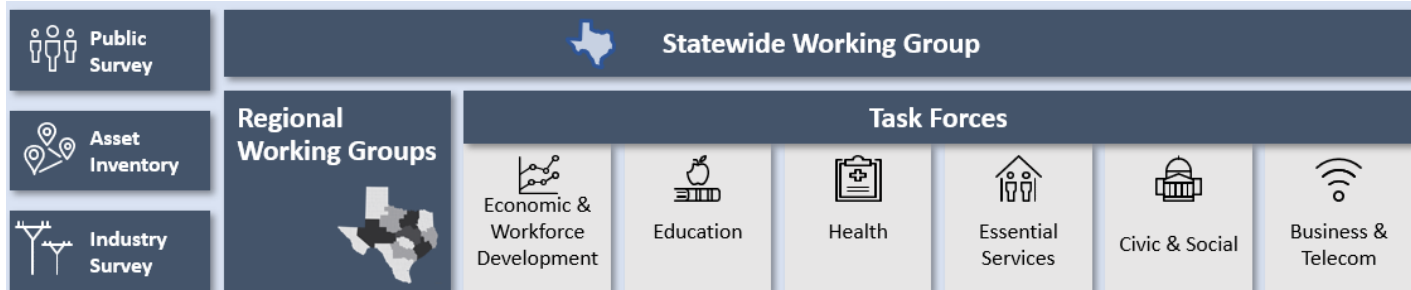
Public Engagement

The BDO's comprehensive public engagement model sought stakeholder engagement and input throughout the planning process, using a variety of stakeholders and methods. The public engagement model, which allowed for extensive local coordination, is illustrated below and described in further

¹ Tribal Broadband Connectivity Program. Round One Recipients. <https://broadbandusa.ntia.doc.gov/funding-programs/tribal-broadband-connectivity/award-recipients#K>

detail in the sections that follow. The BDO utilized input and feedback from across the qualitative and quantitative data collection activities and stakeholder meetings to inform the Initial Proposal.

Public Engagement Model



Comprehensive local coordination efforts, aligned across the BEAD Program and SDEPG program planning activities, allowed for deep understanding of local, regional and statewide broadband needs, assets and priorities. This effort allowed for coordination between communities, local governments, nonprofit organizations, education institutions, health care, public safety, other entities and the BDO to ensure alignment with the BEAD Program and SDEPG program planning efforts and other planning and implementation programs throughout the state working to increase broadband access.

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

- **Geographic Coverage** – As recently expressed by Kevin Gallagherⁱ, Senior advisor to the Secretary of Commerce, Texas is a vast and geographically diverse state with unique challenges. Ensuring geographic coverage is important to understanding regional broadband challenges and how those challenges and the solutions needed vary according to geography. To ensure BDO understood regional challenges and heard from all parts of the state, the BDO convened 12 regional task forces, representing the Comptroller of Public Accounts’ 12 economic regions. These groups met to discuss regional barriers, assets and solutions. This allowed for geographic coverage and regionalized data collection and feedback to understand how broadband challenges differ from East to Central to South Texas. These regions were also used in the BDO’s 2022 broadband plan to analyze data and provide regional insights across the state. Two in-person public meetings were hosted in each of these regions. Having this broad geographic coverage illuminated how access needs vary across topography.
- **Diverse Stakeholder Groups** – The BDO engaged with diverse stakeholder groups throughout the public engagement process to ensure representation from covered and underrepresented populations in each of the outreach and data collection activities. This diversity was considered when convening the Statewide Working Group, Regional Working Groups and Task Forces. Organizations serving on these groups and involved in outreach activities include community- and faith-based organizations serving covered populations, local and regional governments,

higher education institutions, K-12 institutions, the agriculture sector, businesses and chambers of commerce, public housing authorities, unions, state agencies, philanthropic organizations, public safety entities and others. The BDO conducted targeted outreach for the public survey and in-person regional meetings to organizations representing covered populations (defined in Section 2.2) and provided materials to allow these organizations to conduct additional outreach.

- Awareness, Outreach and Participatory Mechanisms – The BDO developed multiple mechanisms for participation in the BEAD Program and SDEPG program planning processes and developed outreach and participation materials in multiple languages. In-person meetings were held in every region of the state, along with two virtual meetings. The BDO partnered with members of the Regional Working Groups to distribute and collect paper surveys at food banks, local events, workforce offices, libraries and other community-based locations. A full list of organizations that participated in outreach efforts and the planning process can be found in the Local Coordination Tracker.

The BDO used multiple awareness and outreach channels to share information and receive feedback. Regional and statewide press releases and media coverage of the feedback opportunities provided multiple channels to share information. The BDO redesigned the outreach page on its website to ensure easy access to all the public engagement activities for members of the public. This website includes links to surveys and toolkits, registration for the public meetings, information about the monthly roundtables and information about the BEAD program and SDEPG program planning processes. The BDO created and deployed a contact form at the start of the planning process to collect information from Texans interested in being involved.

- Transparency – The BDO shared key information about the planning process and participatory mechanisms across multiple platforms to ensure transparency. The BDO leveraged the website and regular electronic updates as a critical source of information. The outreach page on the website provides information and links to all the engagement opportunities and provides member lists for all the stakeholder engagement groups. The BDO provided regular updates, including results from the three surveys and insights from public meetings and answered questions on its regular Board of Advisors meetings, monthly Governor’s Broadband Development Council meetings, monthly Industry Roundtables and Local Government Roundtables. Public meetings, in person and virtual, were open to the media, as well as all Texas residents. The BDO will post drafts of the Initial Proposal, Final Proposal and TDOP for public review and comment, as well as engage in outreach efforts to collect feedback and integrate and publish comments, as required, into the planning documents.
- Underrepresented Engagement – To ensure robust engagement with underrepresented populations, the BDO invited organizations and members of covered populations (defined in Section 2.2) and other underrepresented communities to participate in each part of the

engagement model. Organizations representing each of the covered populations served on the Statewide Working Group, Task Forces and Regional Working Groups (described below) and provided insight into the specific barriers to connectivity these stakeholder groups experience. This representation was made possible thanks to outreach for each of the data collection and engagement activities, ensuring underrepresented communities knew about and were able to participate in the BEAD and SDEPG planning processes. The BDO provided Spanish-language materials at all in-person public meetings and had Spanish interpretation available at two meetings. The online survey was available in English, Spanish, Vietnamese and Chinese, the four most widely spoken languages of Texas and the paper survey and outreach flyer were available in both English and Spanish.

Stakeholder Groups

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

- Statewide Working Group (SWG) - The SWG acts as a focal point for coordinating and channeling the efforts of other working groups, along with providing feedback on the strategy for program engagement. Additionally, it provides advisory support to the BDO in determining how to integrate policy recommendations into program planning and design. Chaired by the BDO, the SWG includes task force chairs, leaders of regional working groups, representatives from relevant state agencies, Tribal Governments and organizations. This group also includes statewide broadband advocates and organizations focused on expanding digital opportunities, such as:
 - Texas Rural Funders.
 - Texas Digital Equity Network.
 - Digital Texas.
 - Texas 2036.
 - Texas Association of Regional Councils.
 - Texas Association of Counties.
 - Disability Rights Texas.
- Regional Working Group (RWG) - The 12 RWGs function as the primary conduit between the BDO and local communities across the state. These groups, chaired by regional Councils of Governments and Regional Planning Commission, represent the 12 economic regions of the state as defined by the Comptroller of Public Accounts. Providing key local insight, RWG members serve as trusted partners to coordinate events, meetings, listening sessions and roundtables with local communities and the BDO. At these working group meetings, RWGs identified barriers to broadband adoption, access and use for organizations and households in their respective regions. Additionally, the BDO tasked RWGs with promoting the survey

instruments, utilizing the toolkit and communications materials developed by the BDO to drive participation and collect data in a uniform manner. Each group consists of roughly 20 representatives from local organizations with a varying mix of local priorities, such as:

- Area Agencies on Aging.
 - County judges.
 - Local Texas A&M AgriLife Extension Agent.
 - School superintendents.
 - Library directors.
 - Minority-serving community organizations.
 - Digital inclusion providers.
 - Chambers of commerce.
 - Faith-based organizations.
 - Nonprofits.
 - Local and regional broadband coalitions.
- Task Forces (TFs) - Six outcome-area TFs comprise subject matter experts on topics including economic and workforce development, education, health, essential services, civic and social engagement, as well as business and telecom. TF members shared insights on topic-specific broadband priorities and aligned those priorities to BEAD Program and SDEPG program. The TFs collect and produce critical input to address deliverable requirements and inform certain policy decisions for program planning and design. TF inputs informed meeting agendas and other engagement activities for summer 2023 and in turn, member feedback has served as data and recommendations to the SWG and the BDO. TF members represented a mix of entities, including state agencies, CBOs, workforce development organizations, K-12 and higher education institutions, industry and internet service providers (ISPs), health care organizations and others.

Public Meetings

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

Public Meeting Map



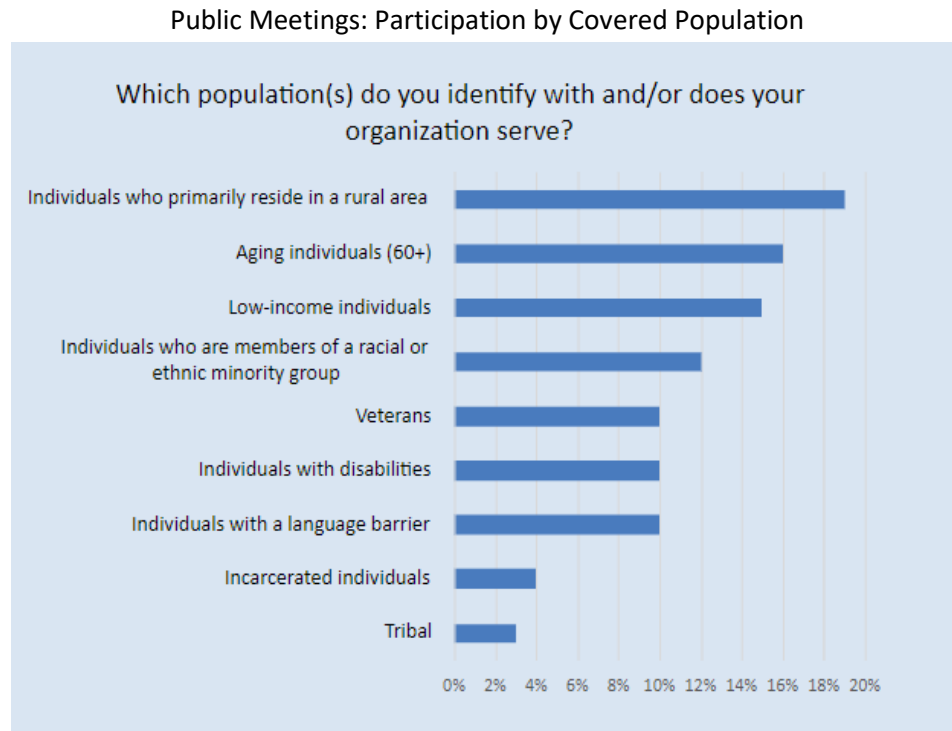
Meeting locations and times were coordinated in partnership with RWGs. Meeting locations were selected to ensure ease of attendance for local communities, especially covered populations. Meetings were held in local event spaces, including a library, senior center, community center, American Legion post,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

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

Public meetings were structured to allow for participation and feedback from all attendees. The meetings began with a short presentation from the BDO about the office’s work and the IJA planning and funding opportunities. The presentation also included data about the state of broadband in Texas and the region, including insights from the last public meeting held in the region. Attendees participated in facilitated small-group discussions, answering questions about broadband barriers, assets and priorities, with a facilitator taking notes. Participants had time to provide additional feedback on the participant worksheet before coming back together as a whole group to hear key themes from each group and to ask questions of the BDO (see Appendix A for public meeting agenda). Spanish-language materials, including paper copies of the presentation and participant worksheet, were available for use at every meeting. Spanish interpretation services were available at the Weslaco and El Paso locations for

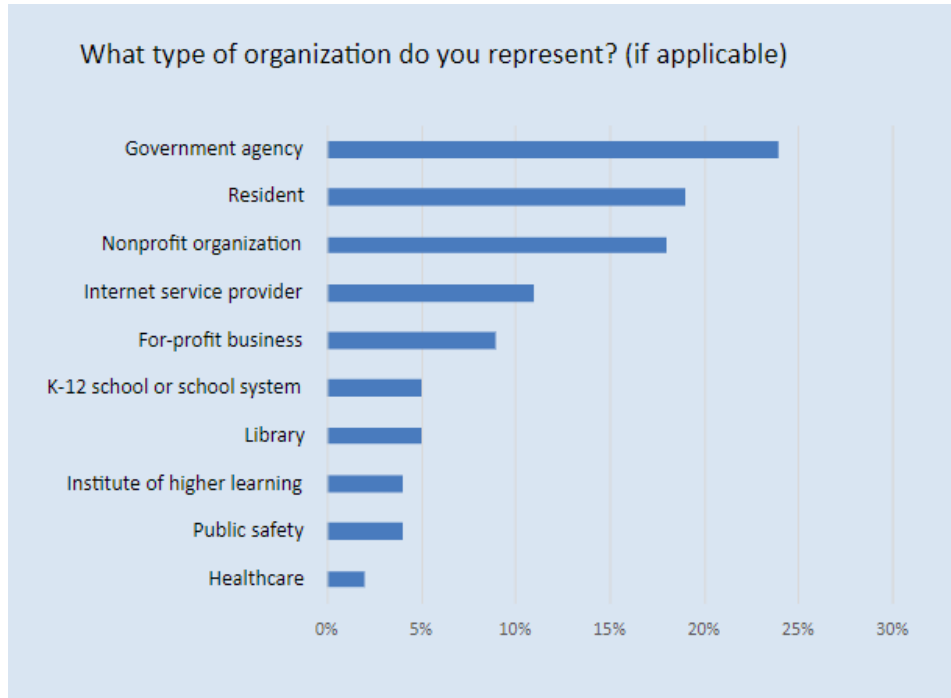
any participant who needed these services. Input from public meetings has been systematized and collected through worksheets completed by attendees and facilitator notes from small-group discussions.

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



Additionally, CAIs, local governments and other organizations attended these meetings to represent the needs of their communities and organizations. Residents, nonprofit organizations and local governments were the highest represented stakeholder groups.

Public Meetings: Participation by Stakeholder Group



Surveys

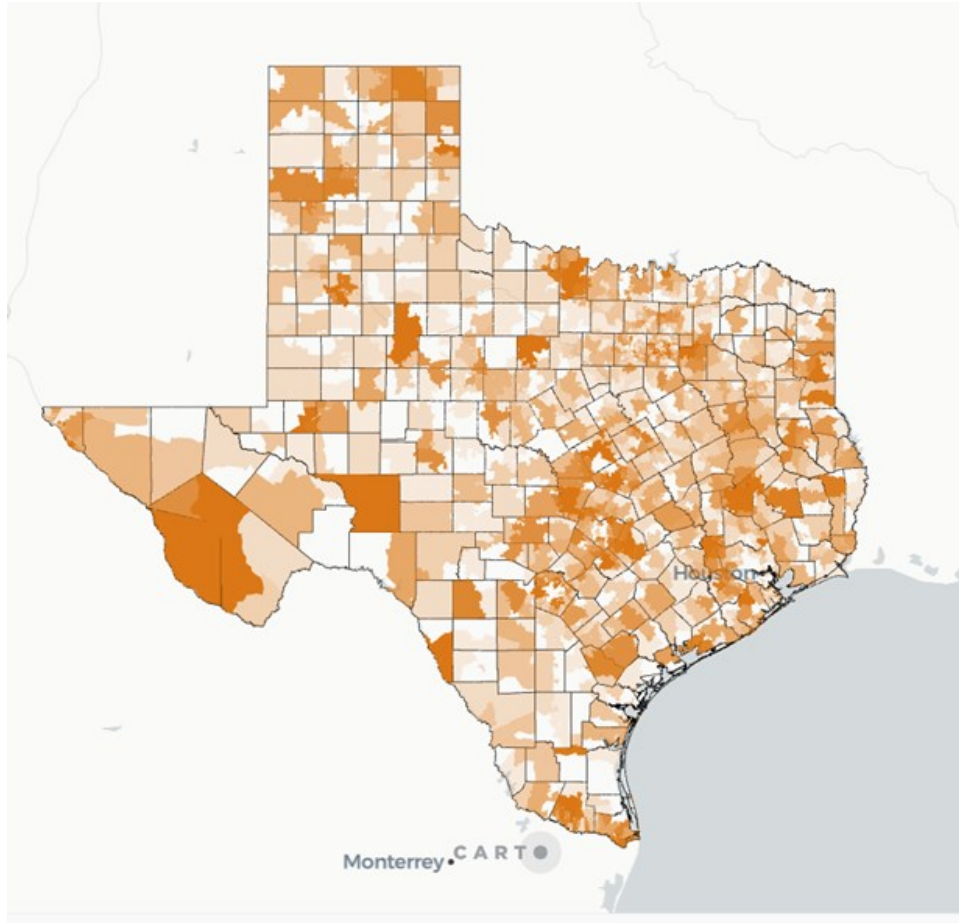
The BDO deployed three survey instruments to collect quantitative feedback throughout the BEAD Program and SDEPG program planning processes. These survey tools provided insight into connectivity challenges, opportunities and resources available through local communities and organizations. The BDO led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

Public Survey

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

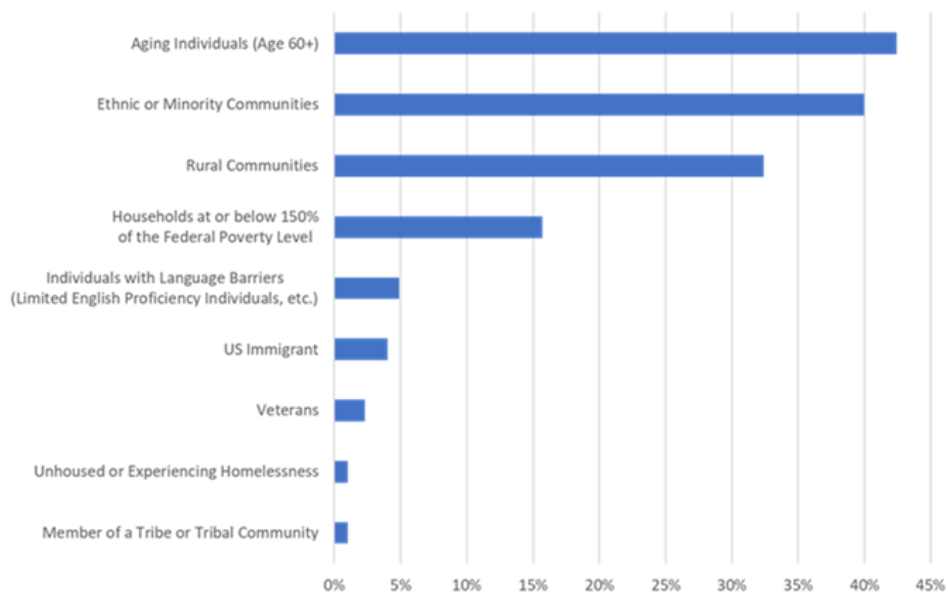
The Public Survey had 11,385 total valid responses (9,440 online responses and 1,945 paper responses). Most respondents who completed the survey were reached via email, social media, local community-based organizations and local government agencies. The BDO received responses from one or more residents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

Public Survey: Participation by County



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

Public Survey: Participation by Covered Population



Source: BDO Public Survey, administered April-August 2023.

Digital Resources Mapping Tool Survey (DRMT Survey)

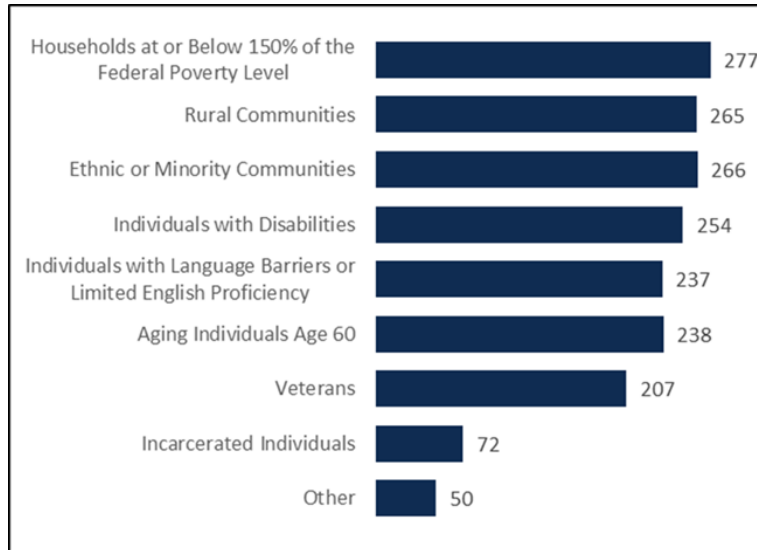
The DRMT Survey collected data from April to August 2023 from organizations that provide programs, services and tools enhancing access to the internet, devices and digital skills training. The goal of this survey was to capture and depict where resource gaps may exist within Texas and to identify the digital opportunity programs and services currently available in the state. It helped generate a snapshot of where Texas is today in addressing digital opportunity, cataloguing available digital equity programs and services and highlighting model programs that may be replicated throughout the state.

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

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

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

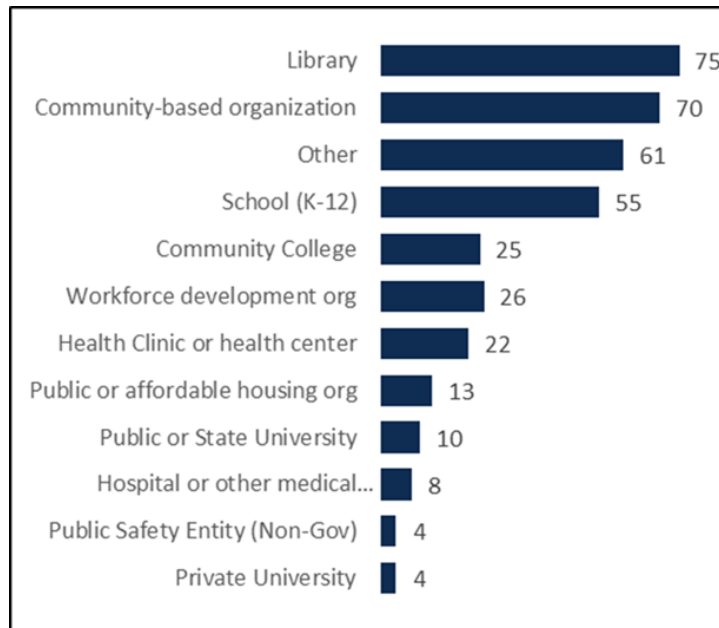
Public Survey: Participation by Covered Population



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

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

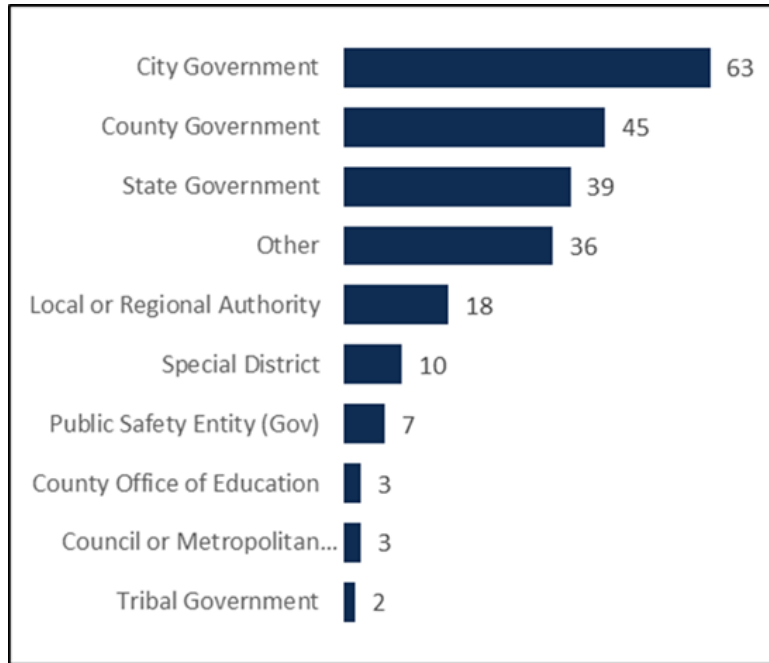
DRMT Survey: Organization Types Identified as CAI



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

City and county governments represent most government or public organization respondents.

DRMT Survey: Organization Types by Public Organization Respondents



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

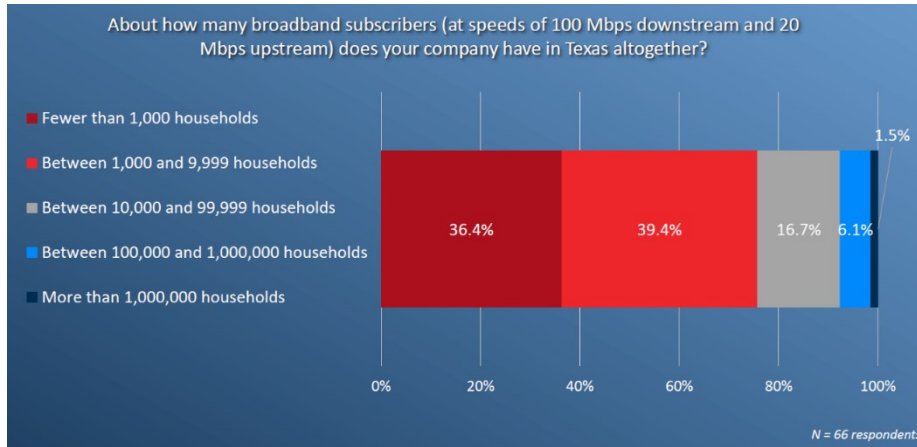
Industry Survey

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

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

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

ISP Survey: Respondent Distribution by Number of Broadband Subscribers



Source: BDO Industry Survey, administered April-June 2023.

Impact of Coordination

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

Ongoing Coordination Efforts

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

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

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

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

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

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

2.3.2.1 Optional Attachment: 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.

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

2.4 Deployment Subgrantee Selection (Requirement 8)

Deployment Projects Subgrantee Selection Process and Scoring Approach

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

Overview

The BDO will implement a subgrantee process that emphasizes open, fair competition, in compliance with the [Texas Grant Management Standards](#). The process below demonstrates how the BDO will ensure that the process is accessible to all qualified applicants and how it ensures fair treatment and competition among applicants based on merit. By state law, an application from a commercial provider may take precedence over an application from a noncommercial provider. Texas Government Code Sec. 4901.0106 (d)(2) states:

(d) The office may not:

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

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

This process will result in awards that accomplish the goals and priorities of the BDO and the BEAD Program namely, universal coverage. The process will employ a fair, transparent and efficient process to evaluate and select subgrantees while containing safeguards against collusion, bias, conflicts of interest and arbitrary decisions. The evaluation rubric used to score subgrantee applications will aid in incentivizing proposals with priorities that align with BEAD and the BDO requirements throughout the subgrantee selection process while also ensuring a fair and equitable review of all applications.

The completion of the subgrantee selection process is expected to take a minimum of one year. Made up of nine tasks, the BDO is including time for public engagement to prepare potential applicants for the Notice of Funding Availability and the completion of the Final Proposal. The following timeline is the BDO's best choice to complete the Subgrantee Selection Process within one year. The BDO foresees a significant possibility that it will need to request an extension to reach the ambitious BEAD Program goal of securing deployment commitments sufficient to achieve universal broadband access while also meeting guidelines described in state statute, which the BDO does not have the authority to waive.

Task 1: Public Engagement (10 days)

To ensure the best quality of applications, the BDO will work with communities, industry leaders and established partnerships to share information about the Application and the Subgrantee Selection Processes. The BDO will provide application guidance materials and educational events to prepare potential applicants.

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

Upon completion of the BEAD Challenge Process and NTIA's subsequent approval of eligible locations, the BDO will release a Notice of Funding Availability (NOFA) for all eligible locations in Texas. While the BDO intends to issue a single NOFA for all eligible locations throughout the state, the state will be divided into 12 Economic Regions to allow the office to better manage the application process and ensure applications and proposed projects are compared to similarly situated applications and projects. Applications for the initial funding round will be accepted for 60 days. The deadline to apply is 4:59 p.m. on the 60th day after the NOFA is issued.

After the NOFA is issued, the BDO will accept questions from potential applicants regarding the NOFA for 14 days and will publish answers within seven days of closing the question period.

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

After the initial application period closes, the BDO will review applications using the Gating Criteria. If gating criteria are not met or an application fails to provide all required documentation, the application will be removed from consideration. Gating review will last 21 days and end with the BDO publishing information regarding accepted applications on its website and sending notices to unsuccessful applicants that their applications were removed

from consideration. Contemporaneously with the Gating Criteria Review, the BDO will perform an analysis of accepted applications to identify areas for which no proposals were received. The BDO will release a second NOFA to solicit applications for only those locations to ensure the broadest possible participation in the grant program. Like the initial funding round, the BDO will permit potential applicants to submit questions regarding the second NOFA and will publish responses within seven days of closing the question portal. The second round of funding will have a 60-day application window that will run concurrently with Task 4.

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

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

During this 30-day period, the BDO will accept application challenges from any interested party. Application challenges will be limited to challenges made on the following bases: (i) The applicant is ineligible to receive an award; (ii) The application contains broadband serviceable locations that are not eligible to receive funding because of an existing federal, state or local commitments to deploy qualifying broadband service to the location (BSLs); or (iii) The project is ineligible to receive an award based on the criteria prescribed by the office. For the purpose of subgrantee selection, Texas has adopted the BEAD Program criteria related to the number of unserved and underserved locations that must be included in a proposed project. Therefore, the BDO will also accept challenges based on the percentage of unserved and underserved locations in a proposed project.

Challenged applications will be reviewed by the office to determine whether any application challenges should be upheld. If a challenge is upheld on the basis that the application contains locations that are ineligible to receive funding, the applicant may be given the opportunity to amend its application without the ineligible locations if certain criteria are met. If a challenge is upheld for any other reason, the application will be removed from further funding consideration.

The BDO will provide notice of its determination to each affected applicant, including the right, if any, to submit an amended application. Applicants who are permitted to amend their application will have a 30-day period to submit their amended application to the BDO. The Application Challenge Process for the Initial Round of Funding is expected to end on the same day that the application period for the Second Round of Funding closes.

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

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

The second round of applications will close while the initial round of applications is being reviewed and scored. Upon closing of the application period, the BDO will review the additional

applications using the same gating criteria used for the initial round of funding. If gating criteria are not met or an application fails to provide all required documentation, the application will be removed from consideration. Gating review for the second round will last for a shorter period of 14 days, due to the expected lower volume of applications. The BDO will publish information regarding accepted applications on its website and send notices to unsuccessful applicants that their applications were removed from consideration. Any locations that have not been included in applications will be noted by the BDO and prioritized for future funding opportunities.

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

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

Task 7: Geospatial Deconfliction (35 days)

Upon completion of application scoring, the BDO will begin the Geospatial Deconfliction process. The BDO plans on using an automated process to evaluate overlap of projects. This automated process will identify and prioritize Unique Project Areas (UPAs), a location or locations that are only served by one project. The BDO will set a rubric score threshold based on the results of the Review and Scoring Process and projects that meet the threshold will go through Geospatial Deconfliction. After the automated process is complete, the BDO will identify projects that need to be amended. After the first round of automated Geospatial Deconfliction, the BDO will communicate with applicants to identify any amendments that will be required as a result of project deconfliction. The BDO anticipates the automated deconfliction and notice process will be completed within approximately 21 days. Thereafter, affected applicants will have an opportunity to amend their applications to remove duplicate BSLs and provide updated cost estimates for their proposed projects. Amendments, if any, will be due no later than 14 days after receiving notice from the BDO of the need to amend. If an amendment is not received by the deadline, the application will be removed from further funding consideration.

Considering the BEAD Program's goal of universal coverage, the BDO may be unable to make awards to applicants who do not accept proposed revisions. The need to achieve a comprehensive statewide solution with no project overlaps will likely require some level of revision to applications. In some cases, applications may be reconsidered if other applicants object to proposed revisions.

The BDO will perform a second automated review of projects areas to confirm the results of the geospatial deconfliction process to ensure final awards create a universal service solution.

More details regarding the automated Geospatial Deconfliction process follow.

The BDO will apply a stepwise decision algorithm to assess the proposed locations to be served for qualified, scored applications and repeatedly present applicants with proposed revisions. The process will take as its starting point a candidate pool of projects, with their footprints and rubric scores. It will be executed for each of four candidate pools into which projects will be classified to reflect the built-in BEAD Program prioritizations.

1. A candidate pool consisting of fiber projects, with costs per location below the EHCPLT, targeting unserved project areas.
2. A candidate pool consisting of other reliable broadband technology projects targeting unserved project areas, including licensed (or hybrid) fixed wireless, digital subscriber line (DSL) and cable, as well as any fiber projects targeting unserved project areas that have not yet been awarded.
3. A candidate pool consisting of any remaining fiber projects with costs per location below the Threshold and any remaining reliable broadband technology projects targeting unserved project areas.
4. A candidate pool consisting of any remaining reliable broadband technology projects.

For each candidate pool, the BDO will execute an automated analysis of the project footprints to identify the overlapping areas. The analysis will also, as mentioned above, distinguish (a) “unique area” projects that represent the only solution in the candidate pool for one or more locations, and from (b) “competitive areas” projects that represent one of two or more options for every location that they propose to serve. Each overlap area will then be tentatively assigned to one of the candidate projects, based partly on the rubric, but with an advantage given to unique area projects, such that a unique area project can score up to 20 points below a competitive areas project that proposes to serve the same overlap area and still win the area. As an additional parameter on this process, the BDO will comply with Texas law by selecting a commercial provider if available, although noncommercial providers may be selected for locations that no noncommercial providers in the candidate pool are offering to serve.

Based on this automated process, a decision output will select a project for each overlap area and either Accept, Take No Action, or Amend each project. In the case of a revision, the BDO will propose to the applicant a new project footprint consisting of areas for which the applicant was selected. Applicants will then be able to choose whether to accept or reject the proposed footprint. They can also propose a new budget, with the constraint that in the first and third candidate pools, having a subsidy request per location less than the Threshold is necessary to qualify for inclusion in the candidate pool, so budgets proposed in connection with revisions must have subsidy costs per locations that are under the Threshold to qualify the applicant for continued consideration. Revised projects will then be added to the candidate pool, while tentatively awarded projects are removed, after which rubric scores will be revised to reflect the new subsidy request per location and the same automated decision process will take place again. The process will occur in increasingly rapid cycles until there are no further revisions and all projects in the candidate pool have either been tentatively awarded, have withdrawn by declining to accept revisions or have been determined to be redundant through the award of all their proposed locations to other projects.

While this process is neutral in that decisions are guided by prescribed rules, thereby protecting the process against collusion, bias, conflicts of interest and arbitrary decisions, it will favor applicants who are responsive and willing to work with the state to find a solution through rapid response to revision requests. A key safeguard designed to keep the process neutral is that the BDO declines to predefine project areas. Any predefinition of project areas will inevitably favor broadband providers whose expansion opportunities are consistent with the predefined project areas and/or who have a high degree of geographic flexibility in where they can expand.

Special Process for Non-Proposed Locations

Throughout the BEAD Program's subgrantee selection process, the master list of proposed locations served is expected to be updated as additional Round 2 applications are submitted and as applications are refined. After the second candidate pool has been reviewed, deconflicted and tentatively awarded, the BDO will determine which locations are still not covered by any tentatively awarded project and begin a process of considering non-reliable broadband technology projects and/or negotiating with specific BEAD Program applicants to explore solutions for those locations. At this stage, subsidy cost-per-location offers may exceed the Threshold. Coordination will occur between the review, deconflicting and award of underserved area projects (if applicable) and the pursuit of solutions for remaining unserved coverage gaps, to ensure underserved area projects remain contingent and do not overcommit BEAD Program funds in ways that would deprive the BDO of funds needed to negotiate solutions for non-proposed unserved locations.

Task 8: Award Analysis (24 days)

The BDO will conduct an Award Analysis to ensure awards are made to areas in most need of funding. Texas law requires the BDO to prioritize awards by designated area based on the percentage of unserved locations. For purposes of the BEAD Program, designated areas will be defined by county lines. To support this stage and identify the order of county priority, the BDO will leverage data associated with the state's Broadband Development Map, CostQuest's NTIA Fabric License and NTIA's National Broadband Availability Map (NBAM). The list will be submitted to NTIA for final approval in the Final Proposal.

Task 9: Final Proposal Public Comment (40 days)

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

Risk Management and Prioritization

The BDO foresees BEAD funds may potentially be insufficient to meet all the BEAD Program's goals. In particular, it is highly likely that Texas will be unable to deploy to all underserved locations using available BEAD funds and possible that even projects for unserved locations will exhaust the BEAD budget by needed subsidy requests before the goal of universal broadband access even at 25/3 speeds is achieved. If this scenario emerges, the BDO will proceed with a view to realizing the following NOFO guidance:

To the extent that an Eligible Entity demonstrates that there are insufficient funds available to fund deployment to all unserved, underserved, or eligible CAI locations, the Eligible Entity must prioritize projects within each of those categories based on a strong preference for projects in high poverty areas or persistent poverty counties.

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

State Match Aid and Proposition 8

At the time of release for public comment, an election will be held on Nov. 7, 2023, and Texan voters will either have passed, or declined to pass, Proposition 8. If Proposition 8 passes, the following or similar text will be included in the Initial Proposal submitted to the NTIA. If not, it will be removed. The text is therefore written as if Proposition 8 has passed, although this may not occur. If Proposition 8 passes on November 7, 2023, it will provide additional funding for broadband expansion through the Broadband Infrastructure Fund. The BDO will consider using allocated funds for a State Match program that will be developed during the NTIA review.

(For Public Comment)

If Proposition 8 passes on November 7, 2023, it will provide additional funding for broadband expansion through the Broadband Infrastructure Fund. The BDO will consider using allocated funds for a State Match program that will be developed during the NTIA review in early 2024.

(For NTIA Submission)

On November 7, 2023, Texas voters passed the following amendment to section 49 of Article 3 of the Texas Constitution creating the Broadband Infrastructure Fund. Funds will be distributed by the Comptroller for the expansion of access to and adoption of broadband and telecommunications services, including: (I)the development, construction, reconstruction and expansion of broadband and telecommunications infrastructure or services, (ii) the operation of broadband and telecommunications infrastructure, (iii) the provision of broadband and telecommunications services, and (iv) the reasonable expenses of administering and managing the investments of the fund.’

This new broadband infrastructure fund is further defined and governed by HB9 of 2023, which further defines the amount of funding available. The interplay between the BEAD Program and the Broadband Infrastructure Fund is complex. Further details for how the new funding can and will be used to supplement BEAD Program funding and close the digital divide in Texas will be determined. Close coordination will be required because the programs will pursue the same goal at the same time. The BDO will study the best allowable way to use Broadband Infrastructure Fund money to enhance and accelerate BEAD-funded broadband deployment activities and announce the full details in the NOFA that will be released early in 2024, so that applicants who want to expand their coverage with BEAD funding can anticipate funding availability and make sound strategic decisions.

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

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

For those sets of locations for which multiple proposals are received, the application will go through a competitive process to choose between or among those proposals. The competitive process involves two components: (a) the overlap and deconflicting process, discussed elsewhere and (b) the rubric, which is the focus of this section. To score the rubric, technical reviewers will be recruited with expertise in broadband deployment who reside outside the locations and who have no financial, corporate, or familial relationships with the entities submitting proposals. As implied by the above discussion of deconflicting, where two applications share some, but not all, locations, the rubric will be a crucial,

though not the only, factor, in determining which applicant the state selects to serve the areas of overlap. However, the state may select a project with a lower rubric score in the interests of serving unique areas and the project with a lower rubric score in an area may also win by default when a higher-scoring project exits the program due to losing other areas.

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

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

The BDO will prioritize proposals with the highest average scores for serving the multiple sets of locations after taking into account the state mandated prioritization of expanding broadband to designated areas with the highest percentage of unserved and underserved locations. If all unserved or underserved areas are not covered, the BDO may undergo negotiations with the applicants with highest-scoring proposals to extend coverage. Applicants will have an opportunity to adjust the scopes and budgets of their proposals to meet the needs of the BDO. Based on revisions, if any, of the highest-scoring proposals, the BDO will submit a proposed slate of awards to the deciding official for funding.

Grant Disbursement and Federal Cost Principles

The BDO discerns that the scale and scope of the BEAD Program is different than the typical federal grant programs that operate under 2 CFR 200, making the application of some federal government cost principles inapt and detrimental to effective program administration. If a strict application of 2 CFR 200 were to flow down to BEAD subgrantees, BEAD Program participation would be severely impaired, resulting in less competitiveness and less likelihood of achieving the program's universal coverage goals. Accordingly, Texas would like to avail subrecipients of the Part 200 exceptions and adjustments NTIA applies in the BEAD Program. Should any revisions to this Initial Proposal be needed to accomplish this, Texas would like an opportunity to make those revisions.

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

The BDO developed a scoring rubric that rewards minimum BEAD Program outlay per location, best-of-class affordability plans and long-term financial viability of proposed projects. The BDO's goal in developing the grant application and scoring rubric is to not only award the most qualified subgrantee for each proposed project, but also to collect sufficient data from each applicant to fairly judge each

proposed project on established metrics such as cost per location, cost per route mile of deployed network and density of locations per route mile.

Below is the draft scoring rubric that will be utilized to score subgrantee applicants on their proposed projects.

Table 1: Subgrantee Selection Scoring Rubric Draft

Primary Criteria	Criteria	Max Points Available	Weight
	Minimum BEAD Outlay per Location	49	34.0%
	Affordability	35	24.3%
	Fair Labor Practices	24	16.7%
Primary Criteria Total		108	75.0%
Secondary Criteria			
	Project Readiness – Technical Demonstration	3	2.1%
	Project Readiness – Engineering, Designs, Diagrams and Maps	3	2.1%
	Speed to Deployment	3	2.1%
	Sustainability	10	6.9%
	Speeds and Latency	8	5.6%
	Useful Life	4	2.8%
Additional Factors			
	Local and Tribal Coordination	5	3.5%
Secondary and Other Criteria		36	25.0%
Grand Total		144	100%

1. Primary Criteria

a. Minimum BEAD Program Outlay per Location

- i. Description: Eligible applicants should identify eligible costs and in-kind contributions (which must, absent a waiver, cover no less than 25 percent of the project cost) by category. Applicants should provide a thorough narrative describing their budget including leveraging existing broadband, a financial plan, additional costs, etc.
- ii. Scoring: Determined by formula: $50 * (\$10,000 - \text{BEAD Program Outlay per Passing}) / \$10,000$. Note that in some cases the EHCPLT may limit the costs per location for inclusion in a candidate pool, so that all applicants in a candidate pool will get substantially positive scores here, reducing the range of variation, while in other cases high-cost projects may get negative scores. (Note that the number \$10,000 is an arbitrary scaling factor but ensures similar treatment

across candidate pools in the way that cost-effectiveness affects selection decisions.)

b. Affordability

i. Description: The eligible applicant's commitment to provide the most affordable total price to the customer for 100 /20 Mbps service in the project area. All eligible applicants will be required to participate in the Federal Communications Commission's (FCC) Affordability Connectivity Plan (ACP), any successor program and/or any other household broadband subsidy programs.

ii. Scoring:

- Participates in ACP and offers low-cost option for 100 Mbps/20 Mbps service, as described in section 2.12. = 0 Points.
- Participates in ACP and offers low-cost option for 100/20 Mbps service, as described in section 2.12, to ALL subscribers in the project areas. = 35 Points.

c. Fair Labor Practices

i. Description: As explained in Section IV.C.1.e of the BEAD NOFO, "eligible applicants must give priority to projects based on an applicant's demonstrated record of and plans to be in compliance with federal labor and employment laws. New entrants without a record of labor and employment law compliance must be permitted to mitigate this fact by making specific, forward-looking commitments to strong labor and employment standards and protections with respect to BEAD-funded projects." Accordingly, the BDO will request documentation from subgrantee and all contractors and subcontractors to demonstrate a record of compliance with federal labor and employment laws and score it as shown below as part of the application process.

ii. Scoring:

- Did not provide documentation of demonstrated record of compliance or forward-looking commitments = 0 Points.
- Provided compelling documentation on demonstrated record of compliance, or documentation of forward-looking commitments to comply in the case of new entrants = 24 Points.

2. Secondary Criteria (Required for All Subgrantee Selection)

a. Project Readiness - Technical Demonstration

i. Description: Examples of an eligible applicant's technical demonstration include a clear and concise project description, commitment to offering service for a minimum of five years, a realistic project schedule that syncs with broadband infrastructure to be provided and the project budget, clear documentation of areas to be served. Eligible applicants should also provide evidence of experience with similar infrastructure deployments and service offerings.

ii. Scoring:

- Average demonstration: Required maps and addresses provided; poor explanation of project and description of broadband service proposed = 0 Points.
- Strong demonstration: Required maps and addresses provided; strong explanation of project and description of broadband service proposed = 3 Points.

b. Project Readiness - Engineering Designs, Diagrams and Maps

- Description: Demonstration of an eligible applicant's project readiness include a solid engineering and design plan signed and stamped by a licensed engineer, financing secured, all rights-of-way, railroad, water crossing and other permits identified and secured, other approvals secured or in process (e.g., environmental, historic, etc.), quarterly project schedule showing all activities (engineering, permitting, franchising, procurement, deployment and installation as minimum information) from receipt of grant through project completion. A thorough and complete project schedule should provide evidence of readiness to build, manage and operate the project.
- Scoring:
 - Engineering plan not certified; poor demonstration of project readiness; questionable project schedule = 0 Points.
 - Engineering plan certified; poor demonstration of project readiness or questionable project schedule = 1 Point.
 - Engineering plan certified; good demonstration of project readiness, realistic project schedule = 3 Points.

c. Speed to Deployment

- Description: All eligible applicants that receive BEAD Program funds for network deployment must deploy the planned broadband network and begin providing services to each customer that desires broadband services within the project area no later than four years after the date on which the subgrantee receives the subgrant from the BDO. The BDO must give secondary criterion prioritization weight to the prospective subgrantee's binding commitment to provide service by an earlier date certain, subject to contractual penalties to the BDO, with greater benefits awarded to applicants promising an earlier service provision date.
- Scoring:
 - Subgrantee does not provide binding commitment to provide service by an earlier date certain = 0 Points.
 - Applicant provides binding commitment to provide service by a date earlier than three years from the date on which the subgrantee receives the subgrant from the Eligible Entity = 3 Points.

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

- a. Speeds and Latency
 - i. Description: Eligible applicants must weigh the speeds, latency and other technical capabilities of the technologies proposed by prospective subgrantees seeking to deploy projects that are not Priority Broadband Projects. Applications proposing to use technologies that exhibit greater ease of scalability with lower future investment (as defined by the BDO) and whose capital assets have longer useable lives should be afforded additional weight over those proposing technologies with higher costs to upgrade and shorter capital asset cycles.
 - ii. Scoring:
 - Applicant able to provide 100/20 Mbps and/or latency below 100 milliseconds, but unable to provide 250/50 Mbps = 0 Points.
 - Applicant able to provide 250/50 Mbps and latency below 100 milliseconds, but unable to provide 1 Gbps symmetrical = 3 Point.
 - Applicant able to provide 1 Gbps symmetrical and latency below 100 milliseconds = 10 Points.
- b. Useful Life of Subgrantee Technology
 - i. Description: Applications proposing to use technologies whose capital assets have longer usable lives should be afforded additional weight over those proposing technologies with higher costs to upgrade and shorter capital asset cycles.
 - ii. Scoring:
 - Applicant does not provide any supporting documentation on proposed equipment useable life = 0 Points.
 - Applicant provides limited documentation on proposed equipment useable life, or vendor statement that equipment may have useable life of up to 5 years = 1 Point.
 - Applicant provides strong engineering documentation on proposed equipment useable life of 10 years or more = 4 Points.

4. Additional Prioritization Factors

- a. Local and Tribal Coordination
 - i. Description: NTIA encourages Eligible Entities to adopt selection criteria reflecting a prospective subgrantee's support from the local and/or Tribal Government with oversight over the location or locations to be served.
 - ii. Scoring:
 - Applicant does not provide any letters of support from local or Tribal Government = 0 Points. (Note: Tribal resolution of consent is still required for Tribal areas, but the letter of support can represent a higher level of endorsement.)
 - Applicant provides letter of support for proposed project from local or Tribal government. Letters of support must mention the prospective subgrantee by name and a description of the project = 5 Points.

Each eligible applicant must complete an application that will require company information, relevant history, project narrative, a table of proposed passings by category and serviceability and they must also address multiple gating factors either by narrative or by attachments such as audited financial statements, letter of credit and financial certification, among others. Applicants must also certify that all information is true, complete and accurate.

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

The BEAD NOFO requires that state broadband offices prioritize (a) unserved locations over underserved locations, as well as (b) “Priority Broadband Projects” that use end-to-end fiber technology and have costs per location below the Extremely High Cost Per Location Threshold over more expensive fiber projects and other reliable broadband technology projects (“Non-Priority Broadband Projects”). Use of the rubric for selection of projects would not, by itself, serve to institute this prioritization scheme. Instead, the BDO will realize the BEAD Program’s built-in priorities by dividing incoming BEAD projects into four candidate pools, to be reviewed, deconflicted and awarded in order. The candidate pools are:

First candidate pool: unserved project areas, end-to-end fiber with costs per location under the EHCPLT.

Second candidate pool: unserved project areas, any reliable broadband technology.

Third candidate pool: underserved project areas, end-to-end fiber with costs per location under the EHCPLT.

Fourth candidate pool: underserved project areas, any reliable broadband technology.

The first two candidate pools will both consist of projects whose proposed footprints consist of 80 percent or more unserved locations. In Task 6 of the subgrantee selection process as described in Section 2.4.1, the deconflicting and selection among these candidate pools will be carried out before the BDO begins to consider projects whose footprints consist primarily of underserved locations. In this way, the BDO will ensure Unserved Project Areas are favored over Underserved Project Areas.

After the first two candidate pools have undergone selection and deconflicting, leading to a set of tentative and pre-decisional awards, the BDO will then assess the extent to which the statewide broadband coverage gap in unserved locations can be solved by the projects that are on track to be selected. It is likely that some unserved locations may remain without a broadband solution.

Therefore, in Task 6 of the subgrantee selection process, as described in Section 2.4.1, a Special Process will be launched, by which the BDO will seek to work collaboratively with eligible applicants to extend or modify their applications to ensure all gaps are met. At this stage, the BDO will be proactive in encouraging preliminary awardees to accept additional locations and subsidy offers will be less constrained by considerations of cost-effectiveness and competitive dynamics. Moreover, the BDO reserves the right to revoke a preliminary award made during Stage 6 in favor of another applicant that is more willing to extend its footprint. The BDO therefore anticipates being able to induce maximal willingness on the part of broadband providers to extend and propose solutions on some of the hardest-

to-serve locations. Where these are not forthcoming, however, a resort to solutions involving non-reliable technologies such as satellite technology and unlicensed fixed wireless will also be considered. All awards for underserved project areas will be contingent on the achievement of a universal statewide solution for unserved locations.

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

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

Not applicable.

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

As with all BEAD Program requirements, the BDO will employ a two-step approach to ensure compliance of subgrantees with all federal provisions, including obligations related to the Federal Emergency Management Agency’s Environmental and Historic Preservation (EHP) and the Build America, Buy America (BABA) Act.

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

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

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

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

- Requirement that all iron, steel, manufactured products (including fiber-optic communications facilities) and construction materials used in the project or other eligible activities are produced in the U.S. unless a waiver is granted.

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

Last-Mile Broadband Deployment Project Areas

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

The BDO does not intend to predefine project areas because it has not seen any method by which this could be done without arbitrariness leading to inefficiency and/or bias. Inefficiency would occur if a state-defined project area was not technically or commercially well-suited to being served by a single provider, resulting in undue increases in costs to serve the whole project area when less-costly solutions could be developed if the area could be split. Bias would occur if a state-defined project area was well-suited to complement the footprint of one potential bidder, but poorly suited for other potential bidders. Ultimately, eligible applicants themselves have the best knowledge of how far and where they have the most ability and willingness to expand and the task of defining and proposing expansion plans can be left, at least initially, to eligible applicants themselves.

In the past, Texas has used census blocks as the minimum geographic unit of broadband grant project footprints. This reflected the structure of the Form 477 maps, which in turn shaped Texas legislation such as House Bill (HB) 5, 87th Texas Legislature. But census blocks do not inherently have anything to do with telecommunications and are not designed with the technical efficiency of broadband deployment in mind. In many cases, some locations in a given census block are easy to serve with fiber, while others are difficult, such that mandating that project footprints comprising census blocks would lead to the easy-to-serve locations failing to get fiber service because program rules tie them to hard-to-serve locations in

the same census blocks. It's not clear what the policy rationale would be for imposing such a rule and creating such outcomes. Accordingly, the BDO will implement the BEAD Program without regard to census block boundaries, taking advantage of the new geographic granularity of the FCC National Broadband Map.

Section 2.4.1 describes the process by which the BDO will work with eligible applicants to revise their footprints as needed so that they fit together into a comprehensive statewide solution that meets the multi-dimensional objective of more fiber, affordability, good working conditions and so forth. To reiterate, the iterative deconflicting process involves the state repeatedly selecting projects for overlap areas, proposing revisions to applicants and adapting the candidate pool to reflect awards, exits and revisions, until all areas have been assigned. This will be conducted for each of the four candidate pools. In selecting projects for areas, the BDO will rely both on the rubric and on a unique area prioritization rule that favors projects that extend the overall program reach by serving unique areas.

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

In general, the BDO's cost-effective strategy for securing deployment commitments from applicants will leverage several factors.

First, applicants will often face competition from other applicants. While they may have some ability to make high demands in response to revision requests during deconflicting, the deconflicting process is designed so that by doing so, applicants may cause the state to make an offer to another applicant to serve the affected locations, rather than agreeing to an unreasonable request. The BDO seeks to maximize participation by its industry-friendly stance, which includes taking as accommodating an attitude as possible to the network expansion territories that applicants feel able to propose, given their costs and other constraints. High participation will drive a selection process that achieves a high impact for the money spent.

Second, for applicants proposing end-to-end fiber projects and relying on the BEAD Program's fiber prioritization to select them over less costly fixed wireless or other reliable technology projects, it will be necessary during deconflicting to scale down their grant requests in connection with accepted revisions so that their subsidy costs per location are below the Extremely High Cost Per Location Threshold. If, in responding to revision requests, fiber applicants request more funding per location than the Threshold, they fail to reduce their grant requests sufficiently to keep under the Threshold, they will drop out of the candidate pools that are defined on fiber prioritization and the BDO will postpone consideration and compare them against less costly technologies, if available.

Third, in cases of budget insufficiency to meet a major program objective, the BDO can negotiate funding requests down, with the threat of turning to less costly technologies, to include satellite technology and unlicensed fixed wireless solutions if applicants are not accommodating of the BDO's

budgetary needs. All these options will help the BDO curtail excessive requests, although in some cases the need to achieve universal statewide coverage may warrant higher-than-usual subsidies per location.

Crucially, projects will be chosen not only based on their rubric score but also on the area they propose to serve and, consequently, eligible applicants will face an incentive to find solutions for non-proposed locations to achieve an advantage in competing for areas that are more commercially attractive. The bundling of the highest cost with relatively low-cost areas will thus emerge in a more decentralized way.

The BDO's iterative deconflicting process, combined with unique area prioritization, represents an effective solution to the joint problem of inducing competition and pursuing geographic reach. While applicants will not know in advance which specific areas they will be competing for, they will know that many other applicants are pursuing BEAD Program funds and that there are likely to be substantial areas of overlap between their projects and those of other applicants. To be competitive, they will need to restrain their requests through planning cost-effective network designs and/or raising private matching capital. They will also need to compete on other dimensions of project quality as expressed in the rubric. If they are not sufficiently competitive, they can expect to face requests for revision of their project footprints. The state will still seek to leverage any portion of their project footprint that lacks other deployment options to work toward its statewide goal of universal broadband access and in some cases, applicants may need to increase their request per location in response to proposed revisions, knowing that those locations are relatively uncompetitive or may have no other options at all. But that is also constrained by the EHCPLT and by competition, which the BDO's openness to applicant-chosen service areas will foster and promote. Ultimately, the pattern of project service areas for which the BDO awards funding will be informed by the local knowledge of the broadband industry and reflect the underlying technical, legal and commercial opportunities and preferences of broadband providers, thereby enhancing the cost-effectiveness and commercial sustainability of the solution.

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

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

First, after the closing of the first application window, the BDO will open a second application window in which applicants are invited to submit new or revised applications only if those applications propose to serve additional eligible locations for which no proposals were received during the first application window. Second, after the first two candidate pools, priority broadband projects for unserved areas and other reliable technology broadband projects for unserved areas have been scored, selected and deconflicted, the BDO will, as described in the full process narrative in Section 2.4.1, launch a special process of negotiations and invited applications targeting any residual unserved eligible locations for which no grant project has been awarded. The details will be developed as needed to reflect emerging best practices and respond to the specific character of the remaining, limited gaps in planned coverage.

Again, while applicants who are willing to serve these initially non-proposed locations could have proposed them in the earlier round, the BDO anticipates that in some cases they will not have done so

because they did not know that the locations would lack a solution and/or because they felt a need to be cost-effective and competitive. In the special process described in Section 2.4.1, the BDO should be able to afford to be more proactive as it seeks solutions for the expected small number of unserved locations that still lack proposals. Also, applicants who already have preliminary awards will run a risk of these being revoked if they do not accommodate the BDO's needs as it pursues universal statewide coverage solutions.

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

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

In that regard, the BDO will require written support or consent from the Tribal government with oversight of the locations to be served. The BDO developed a scoring rubric that rewards subgrantees for securing the appropriate consent.

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

Extremely High Cost Per Location Threshold

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 operational costs for the lifespan of the network.

The BDO will attempt to set the Threshold in a way that prioritizes the BEAD Program's objectives and the state of Texas priorities. Of the goals and objectives, universal 100/20 Mbps access is prioritized in the planning below.

Cost Per Location Estimation Data

The BDO will determine the Threshold based on a data-driven process. CostQuest Associates (CQA) has a proprietary dataset with location-based cost estimates for fiber and fixed wireless broadband deployment. The CQA data and use of the Eligible Entity Planning Tool will be an invaluable starting point for determining the Threshold. In addition to the CQA cost data, the BDO will utilize other sources of information about the costs of broadband deployment, which, though they are not as comprehensive as CQA's, will be helpful in estimating the cost per location data across Texas. With the BDO administering the BOOT program and beginning to receive BEAD Program applications, the BDO's data for Texas broadband project costs may help indicate the cost structures that BEAD Program applicants are likely to face and will help the BDO to continue to enrich its understanding of broadband

deployment costs in Texas. BOOT program applicants are likely to target relatively “low-hanging fruit” areas, while the BEAD Program will need to also deal with the hardest-to-serve locations, so the BDO will need to be careful in extrapolating from the BOOT program’s experience to predict BEAD Program costs and should bear in mind the upside cost risk that comes with the pursuit of *universal* broadband access.

A Data-Driven Method for Determining the Threshold

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

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

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

This method could be applied either statewide, or regionally, resulting in different values of the Threshold per region. These alternative approaches continue to be evaluated.

It should be kept in mind that while the CQA data, which in some form, though potentially with substantial adjustment, are expected to drive the determination of the Threshold and are structured as a dataset of cost per location for fiber and fixed wireless, this data format masks large complexities. These complexities are related to the sharing of fixed costs inherent in network buildout, so that the projections that will be developed of how much fiber the state can afford and where, are artificial and

should not expect to be realized in detail as program outcomes. Ultimately, locations are not being bid on individually and bids are unlikely to conform to the estimates. But to build cost estimates based on a fully elaborated network design for the state would also make little sense, as no such network will be designed and built by the BDO. Coverage gaps will be closed by private ISP projects, which would be infeasible and improper for the BDO to attempt to anticipate in detail.

The approach to Threshold determination described here has the advantages that (a) it will estimate how much fiber the state can afford and how the Threshold should be set to secure that outcome and (b) it is a data-driven process that will ensure neutrality and prevent arbitrariness. In particular, it will help the BDO to position itself to determine the Threshold *after* BEAD project proposals have been received, while allaying suspicions that the Threshold determination reflected a bias for or against specific projects whose costs per location are near the Threshold and whose award or non-award will therefore be highly dependent on the exact value of the Threshold. The data-driven process can be executed in a manner that is blind to the merits of specific projects and thereby contributes to the fairness and neutrality of the subgrantee selection process as a whole.

Uncertainty and the Balance of Risks

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

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

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

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

Non-"Reliable" Broadband Technologies for the Highest-Cost Areas

The BDO recognizes that a small minority of locations, due to their extreme remoteness or other special circumstances, face exceptionally high costs of deployment using end-to-end fiber, licensed fixed wireless or any other broadband technology classified as "reliable" by the NTIA in the BEAD NOFO. Because of this, a strict application of the data-driven method shown above might lead to the absorption of an unreasonable proportion of the BEAD Program's budget by a small fraction of eligible BSLs, unduly crowding out end-to-end fiber deployment in lower-cost areas, or even jeopardizing the achievement of statewide 100/20 Mbps universal broadband access. Given Texas' vast, remote landmass in some parts of the state and average population density of 105.2 people per square mile, the BDO reserves the right to determine that up to 2 percent of BSLs constitute an exceptionally high-cost group and to evaluate alternative broadband service options that could be beyond the scope of "reliable" as defined in the BEAD NOFO with a view to setting expectations other than universal access to reliable broadband technologies and thereby focusing the impact of BEAD Program funds on more cost-effective areas. This rough 2 percent benchmark reflects a variety of considerations related to understanding of the social contracts and cost-effective use of public funds.

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

- Non-"reliable" broadband technology projects proposing to deploy to unserved project areas will get consideration and may be awarded after the first and second candidate pools if (a) there are any unserved locations still lacking solutions, (b) their proposed project footprints include any of the remaining unserved coverage gaps and (c) BEAD Program funds are still available after the first and second candidate pools have been resolved into preliminary awards.
- Non-"reliable" broadband technology projects proposing to deploy to underserved project areas will get consideration and may be awarded if (a) there are any underserved locations still lacking solutions, (b) their proposed project footprints include any of the remaining underserved coverage gaps and (c) BEAD Program funds are still available after a complete statewide solution for unserved locations has been achieved and the third and fourth candidate pools have been resolved into awards.

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

Other Sources and Threshold Input

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

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

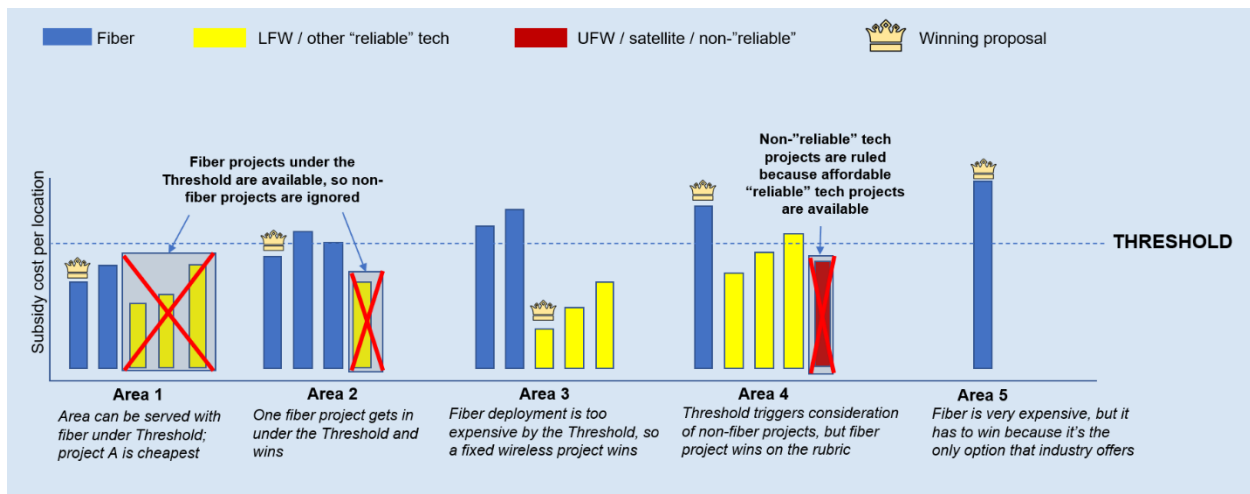
2.4.10 Text Box: Outline a plan for how the Extremely High Cost Per Location Threshold will be utilized in the subgrantee selection process to maximize the use of the best available technology while ensuring the program can meet the prioritization and scoring requirements set forth in Section IV.B.6.b 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 exceeding the Threshold.
- c) The process for selecting a proposal involves a less costly technology and may not meet the definition of Reliable Broadband.

The Threshold will play a key role in the process of selecting and deconflicting projects. Early in the process, before it begins to negotiate and make awards, the BDO will categorize incoming projects into four categories: (a) end-to-end fiber projects with cost per location below the Threshold and 80 percent or more unserved project areas; (b) other reliable technology projects with 80 percent or more unserved project areas; (c) other end-to-end fiber projects with cost per location below the Threshold; and (d) all other projects. To perform this categorization, cost per location will be calculated for every project. The Threshold will either have been determined already or will be determined at this time.

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

During the stakeholder engagement, the BDO used the following chart to explain to the broadband industry the role the Threshold will play in the administration of the BEAD Program and it seems to have been well received and widely discussed. The example shown focuses on five “areas,” the assumption being that overlaps did not occur or have been deconflicted and the state straightforwardly faces multiple options for a set of well-defined areas.



In this example:

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

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

Note that although fiber projects tentatively win Area 4 and Area 5, the awards would remain pre-decisional until a statewide solution was achieved and the BDO's recourse in the event of statewide budget shortfalls might be to reopen negotiations with these eligible applicants and seek to persuade them to reduce their subsidy request to a level that would bring the per location cost down to the Threshold or below. If the eligible applicants were unwilling or unable to do this and if any other broadband deployment options for the areas could be secured from proposed projects or through direct solicitations, the BDO might revoke and re-award the areas, including if necessary to providers offering non-reliable broadband technologies, to curtail the statewide subsidy cost. On the other hand, the BDO might ultimately make these above-Threshold awards if budget sufficiency is not an issue, or if no alternatives are available. While the chart is conceptually valid, it should also be kept in mind that the BDO will typically not be considering end-to-end fiber projects with costs per location under the Threshold directly side-by-side with other reliable technology projects. The implementation of the BEAD Program's fiber prioritization as regulated by the Threshold will occur through the classification of projects into four candidate pools, which will be considered, deconflicted and tentatively awarded sequentially. End-to-end fiber projects with costs per location below the Threshold will comprise the first candidate pool and these projects will be considered deconflicted and tentatively awarded before any non-fiber projects for unserved areas are considered. The Threshold will govern which candidate pools projects are classified into and therefore, where in the sequence they are considered.

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

Declining Fiber Projects Above the Threshold

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

End-to-end fiber projects with costs per location above the Threshold can still win as part of the second and fourth candidate pools, either because no projects using alternative technology have been proposed for certain locations, or because other components of the rubric give the expensive fiber project enough of an advantage to win. At this stage, inter-technology competition will be critical for incentivizing both fiber and other reliable technology projects to excel on a multidimensional vector of project needs, including minimizing subsidy requests, offering strong speed and network performance and extending project reach to pick up otherwise non-proposed locations to get the benefits of unique area project prioritization.

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

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

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

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

Resort to Non-"Reliable" Broadband Technologies

The NOFO makes clear that, although the BEAD Program strongly prioritizes fiber, cable, licensed fixed wireless and DSL (defined as "reliable" broadband technologies), it does allow for scenarios in which broadband offices will fund "non-reliable" broadband technologies, principally unlicensed fixed wireless and satellite, when the search for a reliable broadband technology solution is unsuccessful. In addition to its other functions, the Threshold can play a role in determining when reliable broadband technology solutions can be deemed unavailable or out of reach and a resort to "non-reliable" technologies can be triggered. Of course, eligible applicants of unlicensed fixed wireless and satellite internet service tend to argue that these services are reliable and if a resort to these technologies is needed, it is to be hoped that these eligible applicants can prove reliable in practice. But the BDO is optimistic that no resort to "non-reliable" technologies will be needed.

The two main triggers for a resort to non-"reliable" broadband technology projects will be (a) the lack of any proposals to serve one or more locations, either in the regular application windows or in response to special solicitations by the BDO, which may be accompanied by threats to potentially revoke other awards if agreement to deploy to additional locations is not forthcoming and (b) problems of budget sufficiency at the statewide level that impede the achievement of a universal broadband access solution. In general, projects with subsidy costs per location that are below the Threshold are expected to be immune to renegotiation under threat of preferring non-"reliable" broadband technology projects, but projects with subsidy costs per location that are above the Threshold should anticipate a likelihood of seeing their awards revoked in favor of non-"reliable" technology projects if statewide budget sufficiency is a problem and they are not agreeable to budget revisions that bring them under the Threshold.

Deployment Subgrantee Qualifications

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

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

prospective subgrantee to certify that it has and will continue to have sufficient financial resources to cover its eligible costs for the Project until such time as the Eligible Entity authorizes additional disbursements.

The BDO anticipates significant response from the eligible applicant community in the way of proposals, from which it will need to develop a statewide solution to address connectivity to all unserved locations. Given the rural, low-density nature of the prospective projects, long-term viability, along with eligible applicant financial capability will be important to flesh out during the applications and selection process. Eligible applicants will be obligated to provide multiple certifications and compliance statements to demonstrate financial, operational and managerial qualifications and resources to meet all obligations associated with a proposed project. Audited financial statements, an irrevocable letter of credit of at least 25 percent of the subaward amount and pro forma business plans showing project sustainability together should provide clear evidence of financial capability long after construction completion.

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

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

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

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

The BDO will work with the Texas Comptroller's office to train reviewers on pertinent financial data to score applicant financial statements.

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

The financial viability of many proposed projects will depend on an eligible applicant's ability to contain engineering, equipment, construction and ongoing operational costs. The BDO will require quarterly cash flow and balance sheet proformas including subscriber adoption rates, supported by narrative and analysis extending at least 7-10 years beyond network deployment, depending on useful life of equipment utilize throughout the project area. With all financial information submitted by eligible applicants, the BDO will work with the Texas Comptroller's office to train reviewers on pertinent financial data to score applicant financial capabilities. The BDO will provide the required form to all applicants to ensure consistent data is provided.

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

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

The subgrantee selection process must ensure only capable entities are awarded funding for the deployment and long-term operation of proposed projects. The BDO has designed a rigorous application, scoring, deduplication and review process that will vet and reinforce the best awardee for each project area.

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

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

The BDO has designed the application process that requires key personnel résumés, professional certifications and company organization charts. Each eligible applicant must also provide narrative on experience in similar projects, project readiness and any upcoming organizational changes, including mergers and acquisitions. Further, the BDO requires applicants to disclose the number of network infrastructure projects they have completed both within and outside of Texas, total number of addresses served and number of years in business.

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

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

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

different a year out and subgrantees will need to adjust accordingly. As such, the BDO's scoring rubric incentivizes applicants that demonstrate the highest level of readiness in their application submittals.

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

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

As discussed in Section 2.4.12.b, the BDO will require all eligible applicants to submit resumes of key personnel to include professional certifications. The BDO will also require submission of current and past broadband deployment activities within the state of Texas, as well as all activities outside of Texas.

The application process will require each eligible applicant to demonstrate a record of, or plans to be, in compliance with federal labor and employment laws. Eligible applicants without a record of labor and employment law compliance can mitigate this fact by making specific, forward-looking commitments to strong labor and employment standards with respect to projects funded by the BEAD Program. Further, all eligible applicants will define safety and training standards and enforceable commitments to fair workforce development and/or job quality objectives. Additionally, each eligible applicant will disclose and certify any violations of labor or employment laws for the previous 10 years as well as any litigation and penalties history.

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

As previously discussed in Section 2.4.11b, the BDO's subgrantee application process requires all eligible applicants to submit professional engineer certified network designs, a quarterly project schedule that extends 7-10 years beyond construction completion and financial proformas that demonstrate financial viability and project sustainability. Each of these subcategories are reviewed and graded within the scoring rubric, with the highest awards going to those applicants that present the most compelling business models for project deployment.

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

Eligible Entity response may reference those to outline alignment with requirements for this section. The response must:

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

The BDO will require each eligible applicant to disclose and certify compliance with all applicable federal, state, territorial and local laws as listed within the subgrantee application.

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.

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

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

Detail how the Eligible Entity will require prospective subgrantees to certify that they possess the operational capability to qualify to complete and operate the Project.

The subgrantee selection process must ensure only capable entities are awarded funding for the deployment and long-term operation of proposed projects. The BDO has designed a rigorous application, scoring, deduplication and review process that will vet and reinforce the best awardee for each project area. The BDO has designed the application process and scoring rubric that requires key personnel resumes, professional certifications and company organization charts. Each eligible applicant must also provide narrative on experience in similar projects, project readiness and any upcoming organizational changes, including mergers and acquisitions. Further, the BDO will require eligible applicants to disclose the number of network infrastructure projects the applicant has completed both within and outside of Texas, total number of addresses served and number of years in business.

Detail how the Eligible Entity will require prospective subgrantees to submit a certification that they have provided a voice, broadband and/or electric transmission or distribution service for at least two consecutive years prior to the date of their application submission or that they are a wholly owned subsidiary of such an entity and attest to and specify the number of years the prospective subgrantee or its parent company has been operating.

The BDO will require submission of current and past broadband deployment activities within the state of Texas, as well as all activities outside of Texas to demonstrate at least two consecutive years of relevant experience. Further, each eligible applicant is required to certify timely submission of Form 477 data, the Broadband DATA Act and serviceability data submission to Lightbox. With respect to ownership, the BDO will follow the Code of Federal Regulations to obtain prospective subgrantee ownership information as set forth in 47 C.F.R. § 1.2112(a)(1)-(7). Each eligible applicant will be required to certify all information submitted to be true, complete and accurate.

Detail how the Eligible Entity will require prospective subgrantees that have provided a voice and/or broadband service, to certify that it has timely filed Commission Form 477s and the Broadband DATA Act submission, if applicable, as required during this time period and otherwise has complied with the Commission's rules and regulations.

Within the grant application, each eligible applicant is required to certify timely submission of Form 477 data, the Broadband DATA Act and serviceability data submission to the BDO in accordance with Texas Government Code Section 4901.0105(g). When making awards, as authorized by state statute, the BDO shall give preference to an applicant that provides its most recent serviceability data to the office.

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.

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

In reference to new entrants to the broadband market, detail how the Eligible Entity will require prospective subgrantees to provide evidence sufficient to demonstrate that the newly formed entity has obtained, through internal or external resources, sufficient operational capabilities.

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

2.4.16 Text Box: Describe how the Eligible Entity will ensure 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 response may reference those to outline alignment with requirements for this section. The response must:

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

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

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

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

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

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

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

2.5 Non-Deployment Subgrantee Selection (Requirement 9)

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

The BDO does not anticipate engaging in non-deployment subgrantee activities.

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

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

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

- How the Eligible Entity will employ preferences in selecting the type of non-deployment initiatives it intends to support using BEAD Program funds.
- How the non-deployment initiatives will address the needs of residents within the jurisdiction.
- The ways in which engagement with localities and stakeholders will inform the selection of eligible non-deployment activities.
- How the Eligible Entity will determine whether other uses of the funds might be more effective in achieving the BEAD Program's equity, access and deployment goals.

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

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

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

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

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

2.6 Eligible Entity Implementation Activities (Requirement 10)

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

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

- Create an accurate broadband map of eligible vs. ineligible locations for financial assistance. The map will have a challenge process to dispute any perceived inaccuracies.
- Establish a long-term, statewide plan that addresses strategies and goals for expanding access to and further adoption of broadband service.
- Award grants or other financial instruments to meet the goals of the plan.
- Set the effective threshold speed for broadband service. Engage in outreach to communities regarding the expansion.
- Address barriers for future expansion efforts.

The BDO will carry these existing activities forward in response to the implementation needs of the \$3.3 billion BEAD Program, as well as future broadband programs and initiatives. The BDO anticipates funding in support of activities to include:

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

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

2.7 Labor Standards and Protection (Requirement 11)

2.7.1 Text Box: Describe the specific information that prospective subgrantees will be required to provide in their applications and how the Eligible Entity will weigh that information in its

competitive subgrantee selection processes. Information from prospective subgrantees must demonstrate the following and must include information about contractors and subcontractors:

- a. Prospective subgrantees' record of past compliance with federal labor and employment laws, which:
 - i. Must address information on these entities' compliance with federal labor and employment laws on broadband deployment projects in the last three years;
 - ii. Should include a certification from an Officer/Director-level employee (or equivalent) of the prospective subgrantee evidencing consistent past compliance with federal labor and employment laws by the subgrantee, as well as all contractors and subcontractors; and
 - iii. Should include written confirmation that the prospective subgrantee discloses any instances in which it or its contractors or subcontractors have been found to have violated laws such as the Occupational Safety and Health Act, the Fair Labor Standards Act, or any other applicable labor and employment laws for the preceding three years.
- b. Prospective subgrantees' plans for ensuring compliance with federal labor and employment laws, which must address the following:
 - i. How the prospective subgrantee will ensure compliance in its own labor and employment practices, as well as that of its contractors and subcontractors, including:
 1. Information on applicable wage scales and wage and overtime payment practices for each class of employees expected to be involved directly in the physical construction of the broadband network; 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.

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

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

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

- Subgrantee’s organizational compliance with federal labor and employment laws on broadband deployment projects in the last three years.
- Certification from an Officer/Director-level employee (or equivalent) of the eligible subgrantee evidencing consistent past compliance with federal labor and employment laws by the subgrantee, as well as all contractors and subcontractors.
- Written confirmation the eligible subgrantee discloses any instances in which it or its contractors or subcontractors have been found to have violated laws such as the Occupational Safety and Health Act, the Fair Labor Standards Act or any other applicable labor and employment laws for the preceding three years.

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

- How the prospective subgrantee will ensure compliance in its own labor and employment practices, as well as that of its contractors and subcontractors, including:
 - Information on applicable wage scales and wage and overtime payment practices for each class of employees expected to be involved directly in the physical construction of the broadband network.
 - How the subgrantee will ensure the implementation of workplace safety committees that are authorized to raise health and safety concerns in connection with the delivery of deployment projects.

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

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

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

- a. Using a directly employed workforce, as opposed to a subcontracted workforce;
- b. Paying prevailing wages and benefits to workers, including compliance with Davis-Bacon

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.

Because it operates in a right-to-work state, the BDO will require strong labor standards and protections, but will not require the eligible subgrantees to follow federal labor practices except where consistent with Texas state law or required by the BEAD NOFO. These practices include the following:

- Using a directly employed workforce, as opposed to a subcontracted workforce.
- 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.
- 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).
- Using of local hire provisions.
- Committing to union neutrality.
- Using labor peace agreements.
- Using an appropriately skilled workforce (e.g., through registered apprenticeships or other joint labor-management training programs that serve all workers, particularly those underrepresented or historically excluded).
- Using an appropriately credentialed workforce (i.e., satisfying requirements for appropriate and relevant pre-existing occupational training, certification and licensure).
- Taking steps to prevent the misclassification of workers.

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

2.8 Workforce Readiness (Requirement 12)

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

- a) A description of how the Eligible Entity will ensure that subgrantees support the development and use of a highly skilled workforce capable of carrying out work in a manner that is safe and effective;
- b) A description of how the Eligible Entity will develop and promote sector-based partnerships among employers, education and training providers, the public workforce system, unions and worker organizations and CBOs that provide relevant training and wrap-around services to support workers to access and complete training (such as child care, transportation, mentorship, etc.), to attract, train, retain, or transition to meet local workforce needs and increase high-quality job opportunities;
- c) A description of how the Eligible Entity will plan to create equitable on-ramps into broadband-related jobs, maintain job quality for new and incumbent workers engaged in the sector; and continually engage with labor organizations and CBOs to maintain worker voice throughout the planning and implementation process; 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 BDO will ensure the state of Texas and subgrantees will advance workforce development efforts so all Texans can have an opportunity. The focus of workforce-related efforts by the BDO is to identify and work with relevant partners to ensure four primary components are implemented across Texas.

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

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

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

Texas Workforce Commission (TWC) Planning

The BDO is partnering with the TWC to support digital opportunity and workforce development planning. While this work is in the early stages, the partnership examines the workforce gaps necessary to carry out the BEAD broadband expansion and digital opportunity plan in Texas. All aspects of workforce support are being considered in its analysis, including partnerships among employers, education and training providers, the public workforce system, worker organizations and CBOs that provide relevant training and wrap-around services to support workers' access and complete training (e.g., child care, transportation and mentorship), to attract, train, retain or transition to meet local workforce needs and increase high-quality jobs.

The partnership's task is to ensure an adequate understanding of the gaps and what will be necessary to address those gaps. This analysis is being done as part of the digital opportunity planning and will result in a completed Labor Market Assessment and Report in the first quarter of 2024. The components of the planning are below:

1. Focus groups and one-on-one interviews with job seekers, employers and individuals from covered populations.

Key Activities include:

- Development of qualitative research strategy.
- Conduct qualitative research.
- Develop qualitative research report to inform the Texas Digital Opportunity Plan.

2. Develop Broadband Labor Market Assessment and Report.

Key Activities include:

- Develop quantitative research strategy.
- Conduct qualitative/quantitative/desktop research.
- Develop a draft Broadband Labor Market Assessment and Report.

3. Drive participation in the public comment period.

Key Activities include:

- Utilize the TWC networks, including earned media and public engagement strategies, to drive participation in the TDOP public comment period, particularly among individuals from covered populations.

Once completed and based on the critical steps highlighted above and described in more detail in the Texas Five-Year Action Plan, additional workforce development initiatives will be identified, developed and/or supported by the BDO and the TWC to support subgrantees in creating and using a highly skilled workforce capable of carrying out required work in a safe and effective manner.

2. Develop and promote sector-based partnerships among employers, education and training providers, the public workforce system, worker organizations and community-based organizations that provide relevant training and wrap-around services to support workers to

access and complete training, to attract, train, retrain, or transition to meet local workforce needs and increase high-quality job opportunities.

While the Economic and Workforce Development Task Force and TWC continue to provide guidance and strategic direction, several workforce partnerships have been created to advance equitable workforce development and job quality objectives to develop a skilled, diverse workforce. The BDO will encourage subgrantees to participate in the programs highlighted below, expand existing programs or create comparable programs around the state. Additionally, the BDO will utilize TWC and the Texas Association of Community Colleges to encourage other schools to implement similar partnerships across Texas.

Current Texas technology workforce development programs include:

Texas State Technical College (TSTC)²

TSTC offers a "Fiber Optic – Broadband Technician Course" intending to prepare and certify the trainee as an entry-level technical in fiber optics and Category 5 and 6 network cabling technologies. The comprehensive course comprises 105 hours of instruction delivered over a three-week daytime schedule and/or six-week evening schedule. The course consists of both lectures and extensive hands-on training. Upon successful completion, the trainee will be certified to install fiber optics, data cabling, will be Draka-certified and awarded a Certified Fiber Optic Technician certification from The Fiber Optic Association (FOA).

Intercultural Development Research Association (IDRA)³

IRDA received a \$125,000 grant in April 2023 from Rural Local Initiative Support Corporation to work with local governments, ISPs, educational and workforce organizations and nonprofits to create a regional plan for a comprehensive, culturally competent digital workforce development program. The grant award will support local planning and program design for "LevelUp RGV: A Digital Workforce Program" for high school and college students in the Texas Rio Grande Valley, starting with Hidalgo, Cameron and Starr counties. The program will include structured coursework and paid internships in information technology, broadband network design and build, community digital navigators and cybersecurity. In addition, all learning paths will include mentorship, professional development skills, internet safety and security, bilingual customer service training and digital inclusion policy and advocacy.

Pathways to Work⁴

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

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

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

⁴ <https://unitedwaydallas.org/programs/pathways-to-work/#:~:text=Pathwayspercent20to percentpercent0Work percent2percentprovides percent20percentcomprehensive,industrial percent20ppercenoduction percent20anpercent percent20skippercentled percent20tradpercent>

skills and devices, work-based learning experiences and supportive services such as transportation and child care.

Victoria College⁵

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

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

National Communications Training Centers (NCTC)⁶

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

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

Windham School District (WSD) – High Tech Skill Training Program⁷

Partnering with C-Tech, WSD is providing technology-based training to state jail residents, enabling the participants to have job opportunities and a reduction in recidivism. WSD is offering studies in Telecommunications Technology, Network Cabling/Copper, Network Cabling/Fiber Optics, Telephone Systems and Voice Over Internet Protocol (VOIP), Audio/Video Entertainment and Energy Management. The programs run for six to eight weeks, do not require retrofitting of facilities and have a wait list of about 400 students.

Through partnership with the above programs, the BDO will ensure that eligible subgrantees support the development and use of a highly skilled workforce capable of carrying out work safely and effectively. Furthermore, utilizing partners, TWC and the BDO will encourage subgrantees to utilize existing programs, including:

- Jobs and Education for Texans⁸: Provides grants to buy and install equipment for career and technical education (CTE) courses.

⁵ <https://www.victoriacollege.edu/news/2023/03/10/victoria-college-announces-new-course-leading-to-fiber-optics-certifications>

⁶ <https://nctcfiber.com/about/>

⁷ <https://www.wsdtx.org/en/about-us/media/news/16773-c-tech-connects-windham-students-with-high-tech-skills-increases-residents-opportunities-for-freeworld-jobs>

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

- Apprenticeship Program⁹: The TWC Office of Apprenticeship helps workers who want better-paying jobs and helps employers that want a skilled and diverse workforce.
- Skills Development Fund¹⁰: For businesses that want to train new workers or upgrade the skills of existing workers.

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

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

As introduced in Section 2.3.1, the PEP was used and continues to serve as a roadmap to ensure a collaborative, integrated community engagement process. This public engagement effort has revealed a robust understanding of broadband challenges and opportunities across the state. The PEP is a key driver in ensuring that Texas accomplishes its long-term objectives for enhancing economic growth and job creation.

Part of the PEP, the Economic and Workforce Development Task Force is responsible for considering how broadband expansion and digital opportunity programs can best impact the Texas economy, the upskilling of Texans through online resources and the enhancement of job creation and job search through better access to and use of the internet. Furthermore, this Task Force will advance equitable workforce development and job quality objectives to develop a skilled, diverse workforce to provide equitable on-ramps into broadband-related jobs, maintain job quality for new and incumbent workers engaged in the sector and continually engage with labor organizations and CBOs to maintain a voice throughout the planning and implementation process.

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

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

⁹ <https://www.twc.texas.gov/programs/apprenticeship>

¹⁰ <https://www.twc.texas.gov/programs/skills-development-fund>

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

- Subgrantee Selection Criteria definition and weighting (e.g., fair labor practices, equitable workforce development and job quality and other relevant factors).
- Ensuring a broad cross-section of subgrantees can compete for projects funded by the BEAD Program, including minority-owned businesses and other socially and economically disadvantaged businesses, including through incorporating standards for utilization plans for these businesses.
- Identifying and addressing workforce constraints to broadband expansion.
- Speed and other network characteristics needed to support job search, telework, small business and agriculture.
- Prioritization of fiber over other broadband technologies.
- Navigating trade-off between (a) fiber to unserved areas vs. (b) having funds left over for bringing 100/20 Mbps broadband to underserved areas.
- Assessing which programs are effective in leveraging broadband to improve the economy and helping people find better jobs.

The Economic and Workforce Development Task Force is one of six task forces. The others include Education, Health, Essential Services, Civic and Social Engagement, and Business and Telecom. The work of each task force will be integrated with the work of the other task forces to create comprehensive broadband and technology across Texas. Membership in the Economic and Workforce Development Task Force includes the following organizations:

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

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

To further support local communities with workforce development strategies, the BDO included workforce development strategies as part of the Request for Proposal (RFP) that was recently sent out to communities. The RFP asks communities to identify opportunities for workforce development, while including relevant stakeholders (e.g., community colleges, CAIs, trade schools, local nonprofits and community organizations, etc.) to enhance the economic impact on the community and their workforce. The RFP further indicates that strategies should prioritize the hiring and training of residents living in the community and prioritize the creation of jobs that provide opportunities and pay a fair wage.

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

The BDO will work with partners to ensure job opportunities are available to a diverse job pool. A sampling of partners supporting the workforce efforts is included below. Each partner also has representation on one or more planning task forces. Texas' Five-Year Action Plan and TDOP offer a more comprehensive listing.

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

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

The BDO will ensure equitable on-ramps into broadband-related jobs, maintain job quality for new and incumbent workers engaged in the sector and continually engage with worker organizations and CBOs to ensure workers' voices are represented throughout the planning and implementation process. Furthermore, the BDO will ensure the job opportunities created by the BEAD Program and other broadband funding programs are available to a diverse pool of workers through the ongoing monitoring and controlling of all related grant programs, including regular reporting by subgrantees.

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

- a. The ways in which the prospective subgrantee will ensure the use of an appropriately skilled workforce, e.g., through Registered Apprenticeships or other joint labor-management training programs that serve all workers.
- b. The steps that will be taken to ensure that all members of the project workforce will have appropriate credentials, e.g., appropriate and relevant pre-existing occupational training, certification and licensure.
- c. Whether the workforce is unionized.
- d. Whether the workforce will be directly employed or whether work will be performed by a subcontracted workforce; and
- e. The entities that the eligible subgrantee plan to contract and subcontract with in carrying out the proposed work.

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

- a. The job titles and size of the workforce (full-time equivalent positions, including for contractors and subcontractors) required to carry out the proposed work over the course of the project and the entity that will employ each portion of the workforce.
- b. For each job title required to carry out the proposed work (including contractors and subcontractors), a description of:
 - i. Safety training, certification and/or licensure requirements (e.g., OSHA 10, OSHA 30, confined space, traffic control, or other training as relevant depending on title and work), including whether there is a robust in-house training program with established requirements tied to certifications, titles; and
 - ii. Information on the professional certifications and/or in-house training in place to ensure that deployment is done at a high standard.

The BDO will ensure the project workforce is appropriately skilled and credentialed. While Texas is a right-to-work state, state law prevents the BDO from requiring eligible subgrantees to use exclusively unionized labor. Regardless, all eligible subgrantees will be required to maintain workforce and safety standards. The BEAD Program application process will require eligible subgrantees to describe their

workforce standards, resulting in a needed metric in the selection process. For more details on how workforce standards are scored in the metric, refer to Section 2.4. Those applicants that do not demonstrate a minimum safety standard, explained below, will not be considered for BEAD Program funding.

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

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

Irrespective of the union status of the eligible subgrantees, their contractors and subcontractors, subgrantees will be required to submit workforce details in their application. Eligible subgrantees that fail to provide the appropriate information or meet the minimum requirements for ensuring a skilled, credentialed and qualified workforce will not be considered for BEAD Program funding.

Details required from eligible subgrantees are below:

- Whether the eligible subgrantee intends to use a workforce directly employed by the subgrantee or a workforce employed by a subcontractor.
- The job titles and size of the workforce (FTE positions, including contractors and subcontractors) required to carry out the proposed work throughout the project and the entity that will employ each portion of the workforce.
- For each job title required to carry out the proposed work (including contractors and subcontractors), a description of:
 - Safety training, certification and/or licensure requirements (e.g., OSHA 10, OSHA 30, confined space, traffic control, or other training as relevant depending on title and work), including whether there is a robust in-house training program with established requirements tied to certifications, titles.
 - Information on the professional certifications and/or in-house training in place to ensure deployment is implemented at a high standard.

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

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

According to the Office of Economic Development and Tourism, “Texas is home to some of the top cities for Hispanic and minority entrepreneurs and [has] frequently been named one of the best states for black entrepreneurship. In addition, Texas is number one for jobs created by African American, Hispanic and veteran women business owners.”¹¹ Recognizing their major contributions to business and economic development in the state, the BDO is committed to ensuring MBEs, WBEs and labor surplus area firms are recruited, used and retained when possible as part of the procurement and contracting process.

State Procurement Process

Pursuant to 2 C.F.R. § 200.321¹², the BDO will utilize the following measures to ensure MBEs, WBEs and labor surplus area firms are used, when possible, in the contracting process:

- Placing qualified small businesses, MBEs, WBEs on solicitation lists.
- Assuring small businesses, MBEs, WBEs are solicited whenever they are potential sources.
- Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small businesses, MBEs, WBEs.
- Establishing delivery schedules, where the requirement permits, which encourage participation by small businesses, MBEs, WBEs.
- 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.
- Requiring eligible subgrantees to abide by the same affirmative steps listed above.

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

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

¹¹ Texas Economic Development: <https://gov.texas.gov/business/page/veteran-minority-women-resources#:~:text=Texaspercent20is percentpercent0home percent2percentto percent20percentome,and percent20Vpercenttteran percent20wopercenten percent20buspercentness percent20ownepersents>.

¹² Code of Federal Regulations: <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.321>

The Comptroller's office also manages the Historically Underutilized Business (HUB) program, which aims to provide fair and equal business opportunities for small, minority and women-owned businesses by providing a fair chance to compete for all contracts, including subcontract opportunities.¹³

There are six Procurement Technical Assistance Centers (PTAC) in Texas that provide free, individualized assistance to business owners, including small, minority-owned businesses, on federal, state and local procurement regulations. PTACs help business owners determine if public procurement is right for them and identify next steps, including applying for necessary certifications. PTACs offer expertise to entrepreneurs who need assistance navigating the procurement process.

Business Development Resources

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

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

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

- 2.9.2 Check Box:** Certify that the Eligible Entity will take all necessary affirmative steps to ensure minority businesses, women's business enterprises and labor surplus area firms are used when possible, including the following outlined on pages 88 – 89 of the BEAD NOFO:
- a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - b. Assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;

¹³ Historically Underutilized Business Program: <https://comptroller.texas.gov/purchasing/vendor/hub/>

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

2.10 Cost and Barrier Reduction (Requirement 14)

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

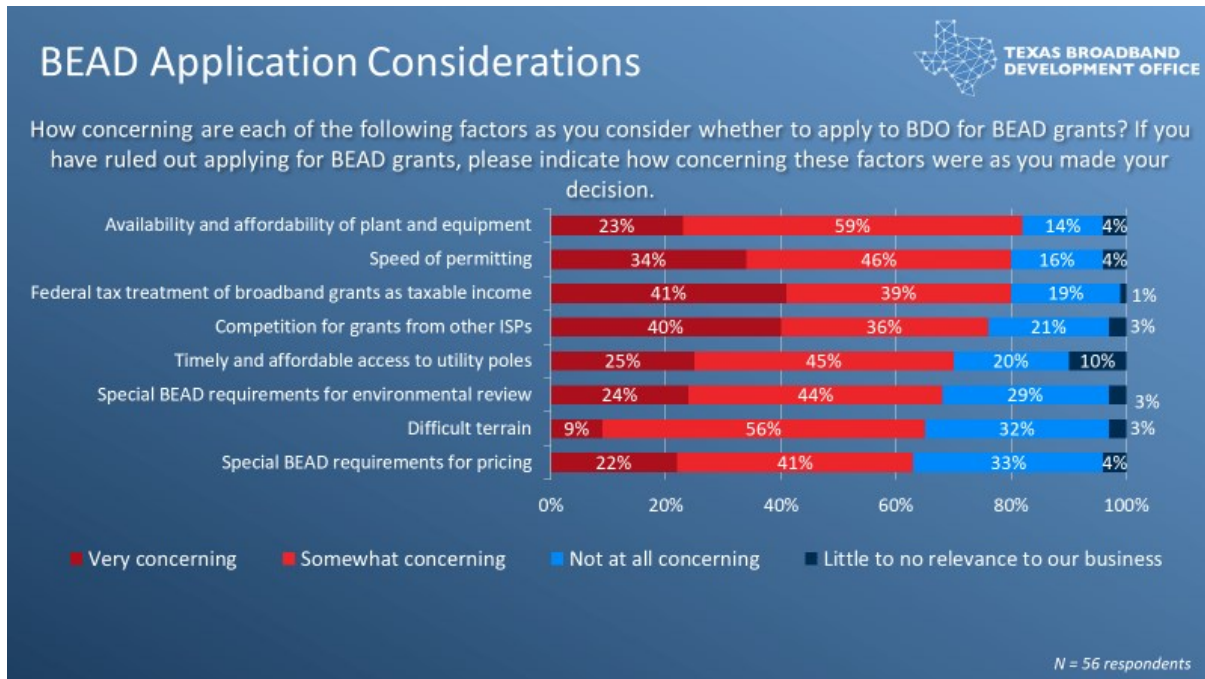
- a. Promoting the use of existing infrastructure;
- b. Promoting and adopting dig-once policies;
- c. Streamlining permitting processes;
- d. Streamlining cost-effective access to poles, conduits, easements; and
- e. Streamlining rights of way, including the imposition of reasonable access requirements.

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

The BDO's efforts to reduce barriers to deployment have largely been through the collaborative work of the Statewide Working Group. This Working Group consists of 27 representatives from various statewide broadband interests. Group members have participated in monthly group discussions, provided written input, continually promoted data collection tools and provided feedback on program planning and design, including ways that Texas can support eligible subgrantees in reducing costs and barriers to deployment.

Industry Stakeholder Input

The BDO conducted extensive consultations with the broadband industry in preparation for the launch of the BEAD Program to better understand stakeholders’ concerns. As part of that outreach, the BDO queried potentially eligible subgrantees concerning the principal barriers they foresaw in building broadband networks as a part of the BEAD Program specifically. As shown elsewhere in this proposal, the chart below shows the top barriers identified by potential eligible subgrantees as “very” or “somewhat” concerning:

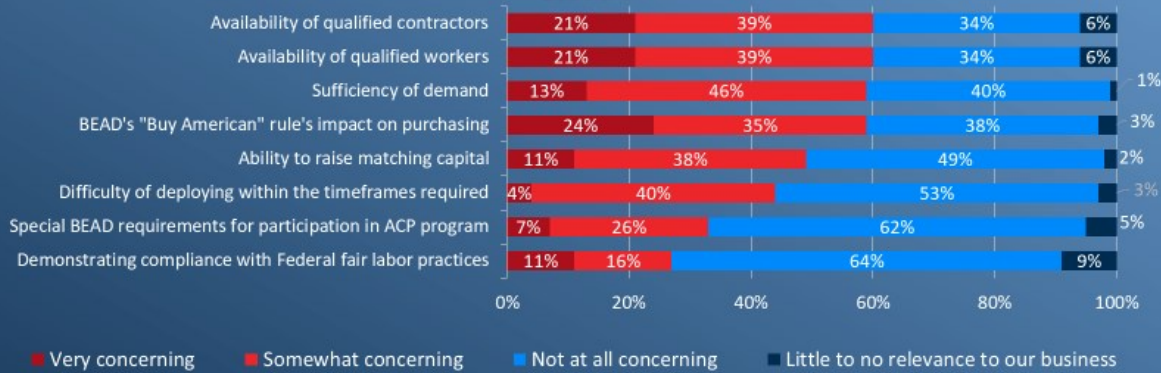


The chart below lists other issues that were identified as “concerning” by some potential eligible subgrantees, although not as many:

BEAD Application Considerations (Continued)



How concerning are each of the following factors as you consider whether to apply to BDO for BEAD grants? If you have ruled out applying for BEAD grants, please indicate how concerning these factors were as you made your decision.



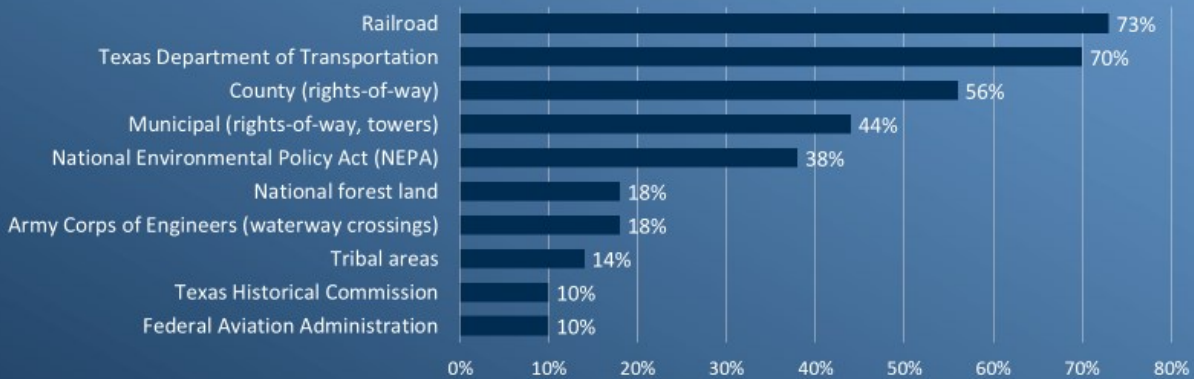
N = 56 respondents

Permitting is one of the top concerns of eligible subgrantees as they prepare to apply for the BEAD Program. When further asked about the kinds of permitting that are particularly concerning, potential eligible subgrantees answers are shown below.

Permitting Concerns



With respect to permitting, what types of permits are particularly concerning to you? Select all that apply:



N = 50 respondents

Railroad permitting was identified as a top concern in this survey. Rail permits frequently present a barrier to utility companies seeking to encroach on rail rights of way. This happens in part due to the dual layer of regulation – federal and state – plus the dependencies of private rail companies that have little incentive to aid or expedite these permit requests. The BDO will encourage and where possible

facilitate rail permitting as a part of broader regulatory and access streamlining efforts. As noted in Texas' Five-Year Action Plan, to address these and other identified concerns, the BDO and the state of Texas have taken several steps to support and encourage network deployment through the reduction of regulatory and other barriers where the state can best exert influence.

Dig-Once (Joint Trench) Opportunities

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

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

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

Joint Duct Bank Accommodation Program

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

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

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

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

collaboration with TxDOT is anticipated to result in further outreach and education to eligible subgrantees regarding this new system and how it should address this substantial concern in gaining right-of-way access.

Build and They Will Come

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

Trade and Share Conduit and Fiber Optics

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

Pole Replacement Program¹⁴

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

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

2.11 Climate Assessment (Requirement 15)

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

¹⁴ Chapter 253 of the Utilities Code: <https://statutes.capitol.texas.gov/Docs/UT/htm/UT.253.htm>

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.

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

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

Research published in 2020 (updated 2021) by Texas' State Climatologist¹⁵ reveals that Texas is at risk of enhanced weather and climate events over the next 15 years. The report "analyzes historic observations of temperature, precipitation and extreme weather in Texas and identifies ongoing and likely future trends out to 2036."

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

- The number of 100-degree days has more than doubled over the past 40 years and could nearly double again by 2036.
- The expected average temperature in 2036 will be about three degrees warmer than the average over the last half of the previous century and Texans should expect extreme monthly summertime temperature trends to increase.

¹⁵ Office of the Texas State Climatologist, ASSESSMENT of HISTORIC and FUTURE TRENDS of EXTREME WEATHER IN TEXAS, 1900-2036 (Texas A&M University College of Geosciences, 2020, Updated 2021)

- Rainfall has become more frequent and severe and is expected to worsen. As a result, urban flooding will increase — as much as 30 percent to 50 percent more than occurred over the last half of the 20th century.
- Hurricane intensity is also expected to increase. Due to sea level rise, the risk of hurricane storm surge in some places along the Texas Gulf Coast by 2050 may be twice as high as it was around 1900.

Texas ranks second in total U.S. population at 30,500,280, has four of the 10 largest cities in the U.S. and represents the only state having three cities with more than 1 million population. The current statewide population growth rate in Texas is 1.80 percent, according to [World Population Review](#), ranking Texas third in the country.

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

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

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

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

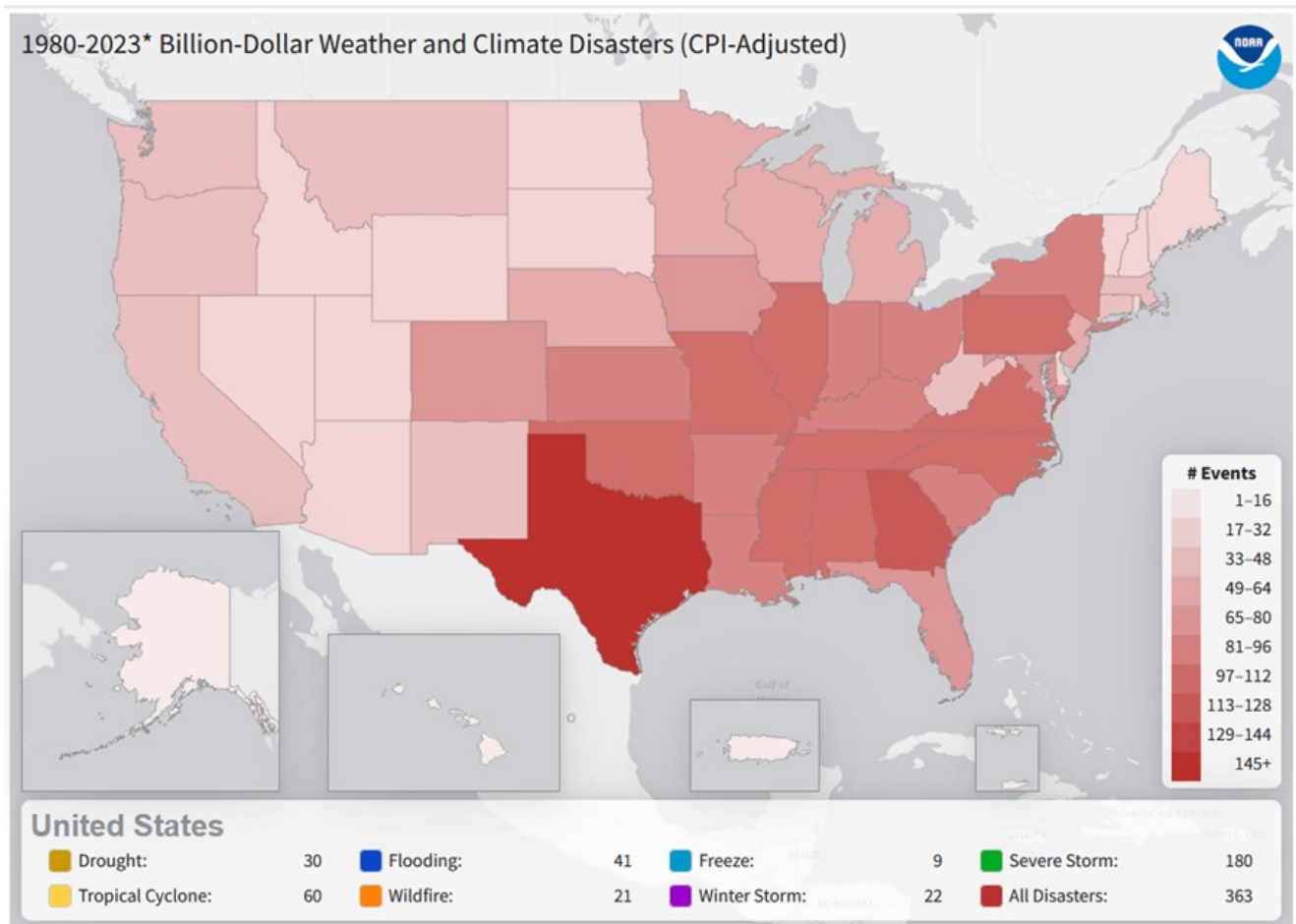
Over the period of 1900 to 2020, Texas endured approximately 85 tropical storms and hurricanes. Since 2000, Texas has experienced 19 named storms, including eight destructive hurricanes, with Hurricane Harvey (Category 4), Hurricane Rita (Category 3) and Hurricane Ike (Category 2) causing the most significant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

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

Fortunately for Texas, the State Climatologist’s report states less likely extremes for projected drought severity and river flooding. However, urban flooding is projected to increase, especially in Houston, the state’s largest urban area, along with its forecasted precipitation increase. The Texas State report

predicts a change in the expected frequency of urban flooding: 30 percent to 50 percent more in 2036 relative to climatological expectations for 1950-1999 and 10 percent to 15 percent relative to 2000-2018.

The map below is produced by NOAA¹⁶ and illustrates states with the most billion-dollar weather and climate disasters, with Texas leading the nation with 166 such disasters from 1980 to August 2023. As such, the impact of ever-evolving climate risks combined with the ominous long-term climate projections means eligible subgrantees must account for climate hardening and make provisions for the durability and mitigation of these substantial risks.



Please note that the map reflects a summation of billion-dollar events for each state affected (i.e., it does not mean that each state shown suffered at least \$1 billion in losses for each event). *As of August 8, 2023

- 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;

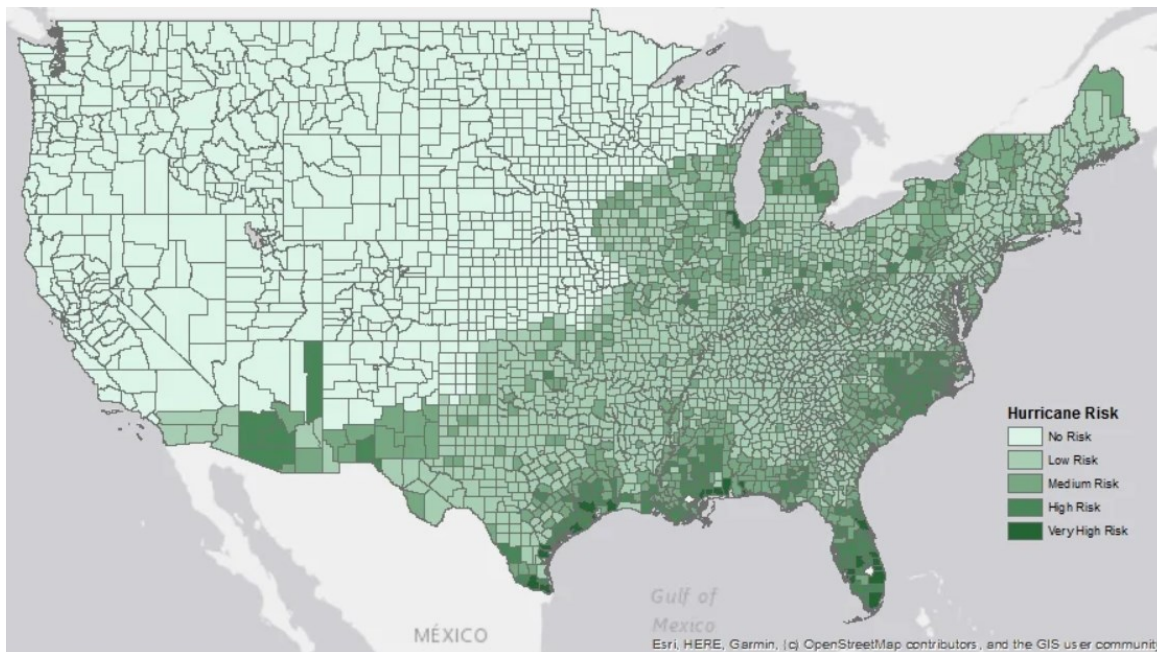
¹⁶ National Oceanic and atmospheric Administration, <https://www.ncei.noaa.gov/access/billions/mapping>

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

Regionalizing these primary events:

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

Climate Assessment: Hurricane Risk Across U.S.

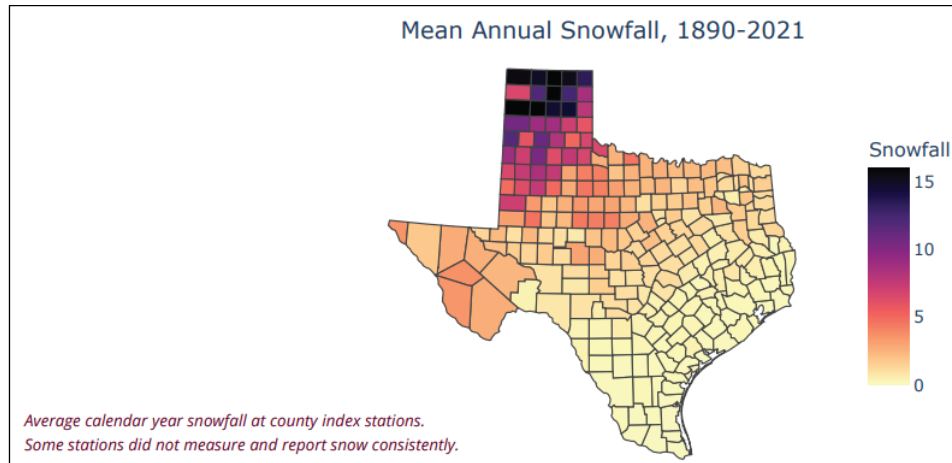


Source: <https://www.urbint.com/blog/extreme-weather-events-utilities>

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

- Panhandle (Northwest) – Cold weather-related events such as snow and ice storms can wreak havoc with aerial broadband networks as falling trees knock down utility poles throughout an affected area. Such events were previously relegated to northern parts of the state. However,

the Texas power crisis of 2021¹⁷ witnessed catastrophic damage statewide as polar vortex storm systems reached deep into the state. As a result, climate risk screening will have a heightened awareness as eligible applications are reviewed for northern portions of the state and necessitated monitoring will be included as part of the eligible subgrantee grant award contract.



Source: <https://climatexas.tamu.edu/files/ClimateReport-1900to2036-2021Update>

- Statewide – Tornadoes: The amount of infrastructure damage from tornadoes will vary by the size of the tornado. While some tornadoes do little damage, the more powerful events can easily knock miles of utility poles to the ground and create a field of debris causing homes and businesses to lose essential services for weeks or more. Though more prevalent in the eastern side of the state, any county in Texas can experience tornadoes.
 - Characterize which projected weather and climate hazards may be most important to account for and respond to in these areas and over the relevant time horizons;

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

- Hurricanes – Hurricanes and coastal flooding in the southeast part of Texas take primary concern because of their extreme crippling effects on society with transportation routes blocked or flooded utility infrastructure destroyed and emergency services paralyzed.
- Tornadoes – Tornadoes can quickly take out a span of aerial network or a mile of aerial network. And like hurricane destruction, performing restorative maintenance on downed networks can be delayed by lack of access.
- Sea Rise/Flooding – Flooding occurs from heavy rains and/or storm surges that raise coastal water levels. Hurricanes provide a double impact with both effects. Additionally and as stated above, sea rise is claiming more and more land mass along the Gulf shore each year. Combined, the increase in water permeation can negatively affect broadband networks.

¹⁷ Wikipedia, https://en.wikipedia.org/wiki/2021_Texas_power_crisis

- Snow/Ice – Both snow and ice buildup can cause extensive network destruction as overburdened trees fall on aerial networks and bring them down. Also, icy roads create traffic hazards that result in vehicle crashes into utility poles and roadside network cabinets.
 - Characterize any weather and climate risks to new infrastructure deployed using BEAD Program funds for the 20 years following deployment.

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

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

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

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

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

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

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

- Develop a minimum emergency inventory of critical components to ensure timely restoration.
 - Describe plans for periodically repeating this process over the life of the Program to ensure that evolving risks are understood, characterized and addressed and that the most up-to-date tools and information resources are utilized.

The BDO will continue to communicate with the State Climatologist’s office and monitor state and federal informational resources to ensure the ongoing climate risk-mitigation plan remains useful and relevant in addressing potential climate threats. The BDO may initiate additional screening processes over the life of the BEAD Program to ensure evolving risks from climate-related hazards are understood and communicated to the provider community.

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

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

Office of the Texas State Climatologist, 2021, *ASSESSMENT of HISTORIC and FUTURE TRENDS of Texas, 1900-2036*, TEXAS A&M UNIVERSITY

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

2.12 Low-Cost Broadband Service Option (Requirement 16)

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

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

As described in the BEAD NOFO, all BEAD eligible subgrantees will be required to offer a low-cost broadband service option. The BDO will, for the most part, adopt the example low-cost broadband service option definition as outlined in the BEAD NOFO to fulfill this requirement. The only changes

made by Texas to the NTIA's recommended low-cost option definition and eligibility criteria are (a) raising the option from \$30 or less to an option based on 2 percent of the 150 percent Federal Poverty guidelines and the median household income for a household of three and (b) extending the applicability of the \$75 low cost option price point to ISPs that qualified for the enhanced ACP benefit in non-Tribal areas under FCC rules.

This adjustment reflects industry feedback about what is needed for commercial sustainability, but also aligns with a well-established, broadband service affordability benchmark of 2 percent of median household income set by the FCC. Additionally, establishing a low-cost option that can be adjusted annually based on median household incomes and poverty guidelines published in the Federal Register will ensure the low-cost option reflects evolving economic conditions. Based on these parameters, the current low-cost option would be \$62.15 or less per month. In the future, the amount of the low-cost option will likely increase with the Federal Poverty guidelines. BEAD sub awardees would be expected to establish and offer their low-cost option within these parameters at the time service is made available to locations committed to service under their subaward. For reference, at the 150 percent rate, a household is considered a "covered household" as defined by the Digital Equity Act (DEA) Notice of Funding Opportunity (NOFO). At the 200 percent rate, a household is eligible for the FCC's Affordable Connectivity Program.

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

- Costs per month at an amount at most equal to 2 percent of 150 percent of the federal poverty rate income converted from annual to monthly, inclusive of all taxes, fees and charges and/or costs \$75 per month or less, inclusive of all taxes, fees and charges, if the subscriber resides on Tribal Lands, or the ISP qualifies to offer enhanced ACP benefit at the point of service, with no additional non-recurring costs or fees to the consumer. As noted, this would equate to \$62.15 or less per month at the time of writing but will be adjusted annually based on parameters noted.
- Allows the end user to apply the Affordable Connectivity Benefit subsidy to the service price.
- Provides the greater of (a) typical download speeds of at least 100 Mbps and typical upload speeds of at least 20 Mbps, or the fastest speeds the infrastructure is capable of if less than 100 Mbps/20 Mbps or (b) the performance benchmark for fixed terrestrial broadband service established by the FCC pursuant to Section 706(b) of the Communications Act of 1934, as amended.
- Provides typical latency measurements of no more than 100 milliseconds.
- Is not subject to data caps, surcharges, or usage-based throttling and is subject only to the same acceptable use policies to which subscribers to all other broadband internet access service plans offered to home subscribers by the participating subgrantee must adhere.
- In the event the provider later offers a low-cost plan with higher speeds downstream and/or upstream, permits eligible subscribers that are subscribed to a low-cost broadband service option to upgrade to the new low-cost offering at no cost.

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

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

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

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

Eligible subgrantees will be required to participate in the ACP or any successor program and eligible subscribers that are eligible for a broadband service subsidy can apply the subsidy to the proposed service option.

2.13 Middle-Class Affordability Plans (Requirement 20)

2.13.1 Text Box: Describe a middle-class affordability plan that details how high-quality broadband services will be made available to all middle-class families in the BEAD-funded network’s service area at reasonable prices. This response must clearly provide a 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 BEAD NOFO urges states to look beyond infrastructure investment and the required low-cost service option and target broadband affordability throughout the state:

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

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

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

- *Competition*
The BEAD Program will increase broadband availability in Texas. As past efforts have shown, an increase of broadband availability can improve affordability, though the effects will vary locally.
- *Special pricing for low-income households*
As noted in the prior section, BEAD subgrantees will be required to offer special pricing arrangements for low-income households, increasing the overall number of subscribers and the ability to spread out fixed network costs. A subgrantee's ability to spread fixed costs over additional customers will reduce the broadband price necessary to break even.
- *Affordability as a rubric score component*
As discussed in Section 2.4, one component of the scoring rubric the BDO will use to select subgrantees is affordability. Applicants will get 35 additional points if they meet the following criteria: "Participates in ACP and offers low-cost option for 100 Mbps/20 Mbps service for \$60 per month or less, inclusive of all taxes, fees and charges if the subscriber does not reside on Tribal Lands, or \$75 per month or less, inclusive of all taxes, fees and charges if the subscriber resides on Tribal Lands, with no additional non-recurring costs or fees to the consumer." This will help to incentivize ISPs to commit to keep plans affordable to compete for grants.

Due to the priority of BEAD funding, areas not designated to be unserved or underserved will not be targeted and funds for a given area are awarded to only one eligible subgrantee.

The BDO would welcome the NTIA's assistance in securing broadband pricing data that could help the state assess middle-class affordability and develop strategies to address any problems identified. If data

were available, the BDO would be able to promote consumer pricing benchmarks that provide consumers with an objective criterion to use in determining whether the rate offerings of broadband service providers are reasonable. The data would also allow the BDO to encourage affordable pricing.

In addition to implementing the BEAD Program, the BDO has plans to launch other ongoing activities that are expected to contribute to broadband affordability in the state.

First, through its ongoing stakeholder outreach, it promotes and will continue to promote a variety of externally sourced, authoritative information that can help internet connection customers to make informed decisions and know their rights. Trainings and resources from nonprofits are often helpful and can be disseminated through the BDO's varied communication channels. A flow chart for the public of what to do when your internet is throttled is in the works.

Second, the FCC's broadband consumer labels, sometimes called "nutrition labels," though not yet available at the time of writing, promise to be a valuable resource in helping consumers to make informed decisions and protect themselves against hidden charges and unfair pricing practices. The BDO looks forward to promoting these and leveraging them as part of its statewide strategy for expanding high-speed, affordable and reliable broadband.

Third, as part of the parallel workstream that will lead to the release of a Texas Digital Opportunity Plan (TDOP), Texas has conducted extensive consultations with the public to better understand the problems of broadband affordability and what can be done about it. The BDO looks forward to funding, through the implementation of the TDOP, creative ways to help people afford and make good use of broadband connections.

2.14 Use of 20 Percent of Funding (Requirement 17)

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

- a. If the Eligible Entity does not wish to request funds during the Initial Proposal round, it must indicate no funding requested and provide the rationale for not requesting funds.
- b. If the Eligible Entity is requesting less than or equal to 20 percent of funding allocation during the Initial Proposal round, it must detail the amount of funding requested for use upon approval of the Initial Proposal, the intended use of funds and how the proposed use of funds achieves the statutory objective of serving all unserved / underserved locations.
- c. If the Eligible Entity is requesting more than 20 percent (up to 100 percent) of funding allocation during the Initial Proposal round, it must detail the amount of funding requested for use upon approval of the Initial Proposal, the intended use of funds, how the proposed use of funds achieves the statutory objective of serving all unserved / underserved locations and provide rationale for requesting funds greater than 20 percent of the funding allocation.

The BDO expects little broadband grantmaking from BEAD Program funds prior to the submission and approval of the Final Proposal. Its focus will be on deploying CPF funds effectively through the BOOT

program to keep broadband deployment moving forward, while capably administering the BEAD Program to find the way to a statewide broadband coverage solution that meets the needs of all Texans. But to ensure effective administration of the BEAD Program, with its complex requirements and ambitious goals, the BDO plans to request the full allowable 2 percent of its BEAD allocation, roughly \$66 million, in the Initial Proposal Funding Package for grants administration.

2.14.2 Financial Data Entry: Enter the amount of the Initial Proposal Funding Request. If not requesting Initial Proposal funds, enter "\$0.00."

\$66,000,000.00

2.14.3 Check Box: Certify that the Eligible Entity will adhere to BEAD Program requirements regarding Initial Proposal funds usage. If the Eligible Entity is not requesting funds in the Initial Proposal round and will not submit the Initial Proposal Funding Request, note "Not applicable."

Not applicable.

2.15 Eligible Entity Regulatory Approach (Requirement 18)

2.15.1 Text Box:

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

The BDO has no authority to waive any laws concerning broadband, utility services or similar subjects and therefore may not waive any laws that either (a) preclude certain public sector providers from participation in the subgrant competition or (b) impose specific requirements on public sector entities, such as limitations on the sources of financing, the required imputation of costs not actually incurred by the public sector entity, or restrictions on the service a public sector entity can offer. Any changes or revisions to such laws could only occur through the legislative enactment process with the Texas State Legislature and the Texas Governor's Office.

- 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.

Chapter 43, Texas Utilities Code.

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

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

Sec. 43.101(c), Tex. Util. Code, restricts electric utilities from providing internet service to end-use customers on a retail basis. The BDO anticipates this limited restriction will not preclude an electric utility from participation in the subgrant competition. Chapter 43, Tex. Util. Code, permits an electric utility to “own, construct, or operate fiber facilities for the support of electric service and to lease excess fiber capacity for the provision of middle-mile broadband service.” See Sec. 43.051. A utility may “install and operate facilities to provide middle-mile broadband service on any part of its electric delivery system.” See Sec. 43.101(a). An “electric utility system” is defined to include “the power lines and related transmission and distribution facilities constructed to deliver electric energy to the electric utility's customers.” See Sec. 43.003 [Emphasis added]. Therefore, while the provision restricts the ability of a utility to provide internet service on a retail basis, it does not prohibit an electric utility from constructing last-mile fiber to connect to end-users. Chapter 43 further provides that electric utilities may lease any excess capacity on their network to ISPs on a non-discriminatory basis. Accordingly, the BDO believes an application submitted by an electric utility would be eligible to receive funding if the proposal (i) includes construction of qualifying broadband infrastructure to unserved and underserved locations and (ii) addresses how broadband internet service will be delivered to the end users at the BSLs (i.e., by leasing excess capacity on the constructed network to one or more ISPs).

Texas Government Code Sec. 490i.0106 (d)(2).

(d) The office may not:

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

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

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

Chapter 490i.0106 relates to the creation of the Texas state broadband development program and includes the statutory preference toward commercial (privately owned) broadband internet service providers in state broadband grant programs. The BDO does not expect this to limit nor impede subgrantee applications due to a lack of noncommercially owned broadband service providers in the state. In the unlikely event of two applications for the same BSLs from each of a commercial and noncommercial provider, the BDO would consistently enforce this law and reject the noncommercial application.

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

Entity Regulatory Approach template provided.

2.16 Certification of Compliance with BEAD Requirements (Requirement 19)

2.16.1 Check Box: Certify the Eligible Entity's intent to comply with all applicable requirements of the BEAD Program, including the reporting requirements.

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

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

- a. Distribution of funding to subgrantees for, at a minimum, all deployment projects on a reimbursable basis (which would allow the Eligible Entity to withhold funds if the subgrantee fails to take the actions the funds are meant to subsidize);
- b. The inclusion of clawback provisions (i.e., provisions allowing recoupment of funds previously disbursed) in agreements between the Eligible Entity and any subgrantee;
- c. Timely subgrantee reporting mandates; and
- d. Robust subgrantee monitoring practices.

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

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

Disbursement of Grant Funding

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

- A. Allowable Expenditures. Subgrantees will only be entitled to payment for allowable expenditures as enumerated in the BEAD Program guidelines and subject to the requirements of the cost principles provided in 2 C.F.R. 200 Subpart E, NTIA Guidance and any other restrictions imposed by applicable state law and the subgrant agreement. "Applicable Laws" means all applicable federal, state, foreign and local laws, rules, regulations, codes, ordinances, policies, orders or any other legal requirements or limitations, including those set forth in the impending Agreement and NOFA, all of which may be updated, amended, modified, or added to from time to time and all of which are incorporated herein by reference as of the date of any such change

in law. The BDO may require the return of any funds previously disbursed or deny a request for reimbursement for any expenditures that do not constitute allowable expenditures and subgrantees will not otherwise be entitled to payment or reimbursement for any expenditures that do not constitute allowable expenditures.

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

Requests for Reimbursement

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

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

Time for Reimbursement

The BDO anticipates needing a minimum of 30 calendar days to process and release subgrant funds to subgrantees; however, no payment of grant funds will be disbursed until the BDO has reviewed and approved the eligible expenses incurred by subgrantee. If the BDO requires additional supporting

documentation for a request for reimbursement, a hold will be placed for such request for reimbursement until claimed allowable expenditures are verified.

Payments Conditional

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

Retainage

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

Right to Withhold Reimbursement

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

1. Subgrantee has failed to supply appropriate supporting documentation or withheld a material fact in a request for reimbursement.
2. Subgrantee's request for reimbursement, when combined with all prior reimbursement requests, exceeds the total amount of the grant.
3. Subgrantee has used any portion of the grant for uses or activities other than the project, or in a manner inconsistent with the terms and conditions of its subgrant agreement, Government Code Section 490I.0106, the Regulations, Applicable Laws and/or BEAD Program requirements.
4. Subgrantee is not performing or completing key benchmark indicators in the project and expenditure (P&E) reports as submitted by subgrantee and approved by BDO.
5. Subgrantee is in default under any other term or condition contained in its subgrant agreement.
 - b. The inclusion of clawback provisions (i.e., provisions allowing recoupment of funds previously disbursed) in agreements between the Eligible Entity and any subgrantee.

Return of Funds

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

Erroneous Payments and Credits

Subgrantees will be required to promptly pay or refund to the BDO the full amount of any overpayment,

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

Return of Unexpended Funds

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

Duty to Report Misuse of Funds

Subgrantees will be required to promptly refer to the BDO any credible evidence that a principal, employee, agent, subcontractor, subgrantee or subrecipient, subcontractor, or other person has either: 1) submitted a false claim for grant funds as that term is used under any false claims act or other similar law, whether state or federal or 2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving grant funds. This condition also applies to any subcontractor for the project.

Records Retention

Subgrantees will be required to maintain accurate financial, management, programmatic and other records, including those pertaining to subawards and subcontracts, of the subgrantee, of all transactions relating to the receipt and expenditure of the subgrant and administration of the project (collectively, "records") in compliance with the records retention requirements of 2 CFR § 200.334. The records will be in a commercially reasonable form acceptable to the BDO. Subgrantee will retain the records for five years following the date the BDO approves the Final Report of the subgrant.

Right of Audit and Inspection

Subgrantees will be required to provide the federal Office of Inspector General, the General Accounting Office, NTIA, the Texas State Auditor's Office, the BDO, or any of their duly authorized representatives, access to and the right to examine and audit all books, accounts, records, reports, files, other papers, things, or property belonging to or in use by subgrantee pertaining to the project. Such rights to access and audit will continue if the records are retained by subgrantee. Subgrantees will further be required to cooperate with auditors and other authorized representatives of the BDO and the state of Texas and will provide them with prompt access to all such property as requested by the BDO or the state of Texas. Subgrantees must agree to maintain such records in an accessible location and to provide citizens reasonable access to such records consistent with the Texas Public Information Act, Chapter 552 of the Texas Government Code.

c. Timely subgrantee reporting mandates; and

Subgrantee Reports

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

Quarterly Status Reports

On Jan. 1, April 1, July 1 and Oct. 1 of each year during the term of the subgrant, subgrantees will be required to provide the BDO with interim P&E reports in a manner and form to be determined by the

BDO. The interim progress reports will contain such information as the BDO requests, including narrative updates on the status of the project, including notification of any delays, project activities and accomplishments for the reporting period, key performance indicators including speeds and adoption rates, financial reports including current expenditures and invoice documentation, and any information requested by the BDO related to the current status of the project. Subgrantees will ensure that each P&E report is received by the BDO no later than 10 working days after the end of each reporting period. Each P&E report should cover the most recent 3-month reporting period. Reporting periods are represented as:

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

Final Report

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

Final Report Certifications

The final report will also contain:

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

Inspections

Throughout subgrantees' grant agreements and for a period of up to five years following the completion date, subgrantees will be required to allow the BDO to monitor the project to ensure the project is being carried out in accordance with the terms of the subgrant agreement and subgrantee will make the subgrantee's administrative offices and its personnel, whether full time, part time, consultants or volunteers, available to the BDO for inspection upon request. Subgrantee will permit the BDO to

perform program monitoring, evaluation and audit activities as determined to be necessary, at the discretion of the BDO provided such activities are limited to project monitoring, establishing completion of the project, ensuring proper expenditure of grant funds and subgrantee is provided 15 calendar days' written notice by the BDO.

Performance Testing

The BDO may, in its sole discretion, conduct performance tests for purposes of verifying compliance with the BEAD program terms on one or multiple occasions during the term of the subgrant agreement and for up to five years after a project is certified as complete. The BDO may exercise this right both before (except for authorized prepayments) and after reimbursing a subgrantee for any claimed, allowable expenditures; provided that if the BDO elects to do so before reimbursing a subgrantee for any claimed allowable expenditures, it will do so within a reasonable time, not to exceed one year after project is certified as complete pursuant to Part VI., Section E.3. (Final Report Certifications). Such performance tests may include:

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

Project Completion

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

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

Consequences of Non-Performance

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

entitled to reimbursement for such expenditures.

Monitoring and Review

In addition to any other terms and conditions related to auditing, verifying, or ensuring subgrantee's compliance with the terms, conditions, requirements, or limitations of subgrantee's subgrant agreement, the BDO will closely monitor and review subgrantee's performance under their agreement to ensure compliance. Such review and monitoring will include the BDO's review and assessment of any claims or invoices and any reports furnished by subgrantee. The BDO reserves the right to monitor subgrantee performance through site visits, reports, or any other means deemed necessary by the BDO. The subgrantee will be required to allow the BDO to conduct during regular business hours site visits to review contract compliance, assess management controls and assess relevant services and activities. Subgrantee agrees to ensure the cooperation of subgrantee personnel in such efforts and to provide the BDO with all the information requested in the manner determined by the BDO, including allowing the BDO to inspect subgrantee or subcontractor's facilities, books and records to monitor and evaluate performance of the subgrant agreement.

Corrective Action

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

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

2.16.3 Check Box: Certify that the Eligible Entity will account for and satisfy authorities relating to civil rights and nondiscrimination in the selection of subgrantees.

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

2.16.4 Check Box: Certify that the Eligible Entity will ensure subgrantee compliance with the cybersecurity and supply chain risk management 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.

The BDO certifies it will ensure subgrantee compliance with the cybersecurity and supply chain risk management requirements on pages 70-71 of the BEAD NOFO by requiring prospective subgrantees to attest as follows:

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 NIST Framework for Improving Critical Infrastructure Cybersecurity (currently Version 1.1) and the standards and controls set forth in Executive Order 14028 and specifies the security and privacy controls being implemented.
 - 3) The plan will be reevaluated and updated on a periodic basis and as events warrant.
 - 4) The plan will be submitted to the Eligible Entity prior to the allocation of funds. If the subgrantee makes any substantive changes to the plan, a new version will be submitted to the Eligible Entity within 30 days.

Supply Chain Risk Management (SCRM)

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 - (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.

2.17 Volume II Public Comment

2.17.1 Text Box: Describe the public comment period and provide a high-level summary of the comments received during the Volume II public comment period and how they were addressed by the Eligible Entity. The response must demonstrate:

- a. The public comment period was no less than 30 days; and
- b. Outreach and engagement activities were conducted to encourage feedback during the public comment period.

To be completed after public comment

2.17.2 Optional Attachment: As an optional attachment, submit supplemental materials to the Volume II submission and provide references to the relevant requirements. Note that only content submitted via text boxes, certifications, and file uploads in sections aligned to Initial Proposal requirements in the NTIA Grants Portal will be reviewed, and supplemental materials submitted here are for reference only.

Appendix A: Regional Public Meeting Agenda

Texas Broadband Development Office Digital Opportunity Planning Regional Public Meetings – Agenda

Location: One of 24 cities selected for regional public meeting

- I. Welcome and Introductions

- II. Overview and Background
 - a. Overview of Texas BDO and planning process.
 - i. Define broadband and digital opportunity.
 - ii. BDO Work.
 - iii. IJJA programs and timelines.
 - b. Regional data.

- III. Small Group Discussions
 - a. Table-top discussions facilitated by small group leader.
 - i. Barriers to access and adoption.
 - ii. Digital opportunity resources in the community.
 - iii. Benefits of expanded broadband access, adoption and use.

- IV. Report Out
 - a. Read out of key themes, challenges, and priorities discussed in each group.

- V. Questions and Closing
 - a. Highlight Affordable Connectivity Program.
 - b. Next steps.
 - c. Q&A (if time).

Appendix B: Dear Tribal Leader Letters

Appendix C: Tribal Consultation Agenda

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