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Funding Request Name	Kentucky-BEAD-Initial Proposal-Volume 2
Applying Organization	COMMONWEALTH OF KENTUCKY
Applicant Name	Meghan Sandfoss

02.01.01 Objectives

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 tables below list Kentucky's broadband deployment and digital equity objectives, identified and validated during the Commonwealth's local coordination process as well as concurrent research and outreach to stakeholders and interested parties:

Broadband Deployment Objectives Category

- Objective Deployment** With ISPs and local governments, identify unserved and underserved locations and community anchor institutions (CAIs) in need of broadband infrastructure
- Deployment Eliminate unserved locations** (speeds of less than 25/3), prioritizing areas of "no service" (under 10/1), low density areas, and high-cost locations, deploying networks capable of least 100/20 with scalability to 100/100 to close the digital divide and enhance economic growth and job creation
- Deployment Eliminate underserved areas** (speeds less than 100/20), deploying networks capable of least 100/20 with scalability to 100/100 to close the digital divide and enhance economic growth and job creation
- Deployment Identify and leverage other potential funding sources** to maximize federal investments
- Deployment Develop an Initial Proposal** that identifies prioritized project areas and proposed distribution of federal funds through an efficient and transparent subgrantee selection process
- Deployment Develop a Final Proposal** that reviews and strengthens processes and procedures for subgrantee selection identified during Initial Proposal
- Deployment Coordinated infrastructure development**
- Deployment Construct resilient networks and infrastructure**
- Deployment Assist internet service providers (ISPs)** in navigating federal funding requirements
- Deployment Improve permitting processes**
- Deployment Increase broadband workforce availability**
- Access Ensure that residents of multi-dwelling units (MDUs)** have access to home internet service
- Access Promote the development of additional public wi-fi connections**
- Affordability Continue to promote participation in the Affordable Connectivity Program (ACP)** by ISPs and consumers. Affordability Explore other policy solutions and programs to support low- and no-cost internet subscriptions for eligible households should ACP funding lapse

Digital Equity Objectives Category

- Objective Equity Enhance broadband availability and affordability for covered populations**
- Equity Ensure access to affordable devices are available for all Kentuckians**
- Equity Increase application accessibility and inclusivity to state and local government programs and services**
- Equity Ensure that all Kentuckians are equipped to navigate the internet safely**
- Equity Improve digital literacy for all covered populations in Kentucky**
- Equity Kentuckians develop the digital skills necessary for work and life**

Accomplishing the above-listed objectives will allow Kentucky to close the digital divide and enhance Kentucky's economy. By increasing access to high-speed internet, Kentucky will address long-standing issues of access,

affordability, equity, and adoption of broadband networks, which will increase economic opportunities for all Kentuckians by promoting economic growth and the creation of jobs and other economic, social, and educational opportunities across the Commonwealth.

02.02.01 Local, Tribal and Regional Broadband Planning Processes

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.

Stakeholder engagement has been an important, and ongoing, process for broadband deployment in Kentucky, and began prior to the first round of funding for broadband expansion was awarded in 2021. Stakeholder engagement will be a continuous process throughout the implementation of the BEAD program in Kentucky. Section 2.3.1 describes the Kentucky Office of Broadband Development Office's (the "Office") current and future efforts related to stakeholder engagement. The Office and the Education and Labor Cabinet initiated collaborative planning efforts for the development of this Five-Year Action Plan and the separate Digital Equity Plan. These initiatives have different objectives but share the vision that all Kentuckians have access to affordable, reliable high-speed internet. Both teams were involved and attended each of the listening sessions and the Office is part of the Digital Equity Core Planning Team and participates its regular meetings. Frequent communication and collaboration occur between the members of each team including the development of goals, strategies and activities included in this plan as well as the DE plan when submitted. Additionally, the Office has engaged the Area Development Districts for assistance with regional broadband planning processes. As a direct link to local governments, this partnership is especially valuable. Further, the ADDs include broadband planning into each of their Comprehensive Economic Development Strategy (CEDs). The Area Development Districts will work with local governments within each region to participate in the challenge process and provide planning and grantwriting assistance for broadband deployment projects. The Office has begun to coordinate with US Fish and Wildlife Service and the Kentucky Heritage Council (SHPO) to plan for environmental reviews required for BEAD in order to develop clear guidance for subgrantees when conducting environmental reviews. The Office will continue to conduct stakeholder outreach throughout the BEAD program in order to support efforts to deploy broadband and close the digital divide.

02.03.01 Local Coordination Tracker and Description

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 fulfill the coordination associated with its Final Proposal.

The local coordination requirements of the BEAD program outlined in the BEAD Notice of Funding Opportunity (NOFO) were considered throughout the planning, outreach, and engagement phases of Kentucky's stakeholder engagement efforts, including:

1. Full geographic coverage of the Eligible Entity: The statewide listening tour visited communities across the state, covering urban, suburban, and rural areas. The tour was supported by Kentucky's Area Development Districts (KEDDs), which represent all 120 Kentucky counties.
2. Meaningful engagement of and outreach to diverse stakeholder groups was accomplished by conducting multiple in-person listening sessions with key stakeholder groups, including residents, community-based non-profits and digital inclusion

practitioners, local governments, and ISPs. 3. Utilization of multiple awareness and participation mechanisms and different methods to convey information and outreach was accomplished by promotion of events through press releases in each community, promotion of events on the Office's website and the Commonwealth's social media channels, email, and local media coverage of events. 4. Establishment, documentation, and adherence to clear procedures to ensure transparency. Events included accessibility considerations for covered populations, regular website updates, and frequent meetings with other state agencies, non-profits and community organizations, local governments, and internet service provider associations. 5. Outreach and engagement of unserved and underserved communities, including historically underrepresented and marginalized groups and/or communities was a consideration in planning the outreach, including targeted outreach to covered populations.

Statewide Listening Tour The Office and the Kentucky Education and Labor Cabinet (ELC) hosted a 14-stop listening tour, in partnership with the Area Development Districts in their role as regional convenors and stakeholders. The listening sessions allowed the public to participate in the planning process and provide feedback on internet access and use in their communities directly to state officials. In addition to the 14 in-person stops, two statewide virtual meetings were held—one during the day and one during the evening— to allow participation from residents who were unable to attend in person. Over 400 participants from across the Commonwealth attended to share local perspectives. Public promotion of the tour included outreach to local governments, CAIs, and nonprofits serving covered populations, as well as press coverage and social media announcements. Attendance by covered population included:

- 59% rural residents
- 32% people with disabilities
- 39% low-income households
- 28% veterans
- 39% seniors
- 25% people of color
- 23% individuals with language barriers
- 17% justice-involved people

During the discussions, officials from local governments, internet service providers, non-profits, residents, and for-profit businesses, as well as education, libraries, and healthcare provided input. Participants were led through discussions that included a summary and timeline of the BEAD and DE programs, as well as facilitated discussion related to high-speed internet needs, barriers, digital inclusion, and impacts on their community. Digital meeting facilitation tools were used to pose questions to guide discussion and collect and aggregate responses.

Focus Groups In addition to the statewide listening sessions, the ELC has begun hosting a series of focus groups to gather insights from covered populations. As of August 2023, at least one focus group for each covered population have been hosted with plans to hold more. The focus groups included participants living in covered households, aging individuals, individuals with disabilities, low income, rural communities, justice involved, individuals with a language barrier, racial or ethnic minorities, and veterans. Focus group feedback indicates that cybersecurity is a serious concern for older adults and veterans. For participants with literacy challenges or a language barrier, the lack of in-person services in their native languages (such as live phone operators, versus written or online communication) presents a challenge; they discussed preferring to do things with a live person rather than a form or website. For many, those forms are too difficult to navigate without assistance, no matter what language the form is presented in. For others, the monthly cost of home internet service is a barrier, leading families to resort to free Wi-Fi hotspots in restaurant parking lots or libraries as their only option. These challenges and existing financial and social stressors lead many non-English speakers to choose not to subscribe. The ELC continues to conduct more of these focus group meetings to provide a clearer picture of broadband adoption and barriers among covered populations in the Commonwealth.

Provider Advisory Group In March 2023, the Office hosted an advisory meeting with the internet service provider community. During this meeting, the Office encouraged discussion from ISPs related to policy issues contained in BEAD to guide the Office's decisions in these matters. Additional meetings and outreach will be held with ISPs as the Commonwealth develops its Initial and Final Proposals.

General Outreach Office staff continuously

engage the Commonwealth's many stakeholders by accepting meetings and speaking engagements to promote the Office's activities related to broadband planning and deployment. Office staff have met individually with elected officials, other state agencies involved in broadband deployment, community organizations, and industry officials. The Office works closely with the Education and Labor Cabinet to align workforce development activities and programs with broadband development workforce needs. The Office has communicated with labor unions including the Communications Workers of America and the International Brotherhood of Electrical Workers and will continue to engage labor organizations and other industry training groups, such as the Wireless Industry Association, the Fiber Broadband Association, manufacturers, local workforce boards, and other stakeholders to encourage diverse participation in the broadband workforce by women and other historically marginalized populations. Additionally, Office staff have provided program updates to stakeholder groups at meetings and events held by groups such as the Kentucky County Judge/Executive Association, the Kentucky Rural Broadband Association, the Kentucky Municipal Utility Association, the Kentucky 811 conference, as well as many local and national stakeholder groups and associations.

02.03.01.01 Local Coordination Tracker Tool

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.

02.03.02 Tribal Consultation

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."

Not applicable

02.03.02.01 Tribal Consultation Evidence

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.

2.4 Deployment Projects Subgrantee Selection Process

02.04.01 Subgrantee Selection Process Integrity

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

Kentucky's BEAD subgrantee selection process will begin following approval of Volume II of its Initial Proposal by the National Telecommunications and Information Administration (NTIA) or following the completion of the BEAD challenge process and publication of a finalized list of unserved and underserved Broadband Serviceable Locations (BSLs), and unserved CAIs, whichever is later. The subgrantee selection process will begin with a 30-calendar day period where the Office will accept submissions of Notices of Intent to Apply (NOIA) from prospective subgrantees for BEAD funding. This

process may run concurrent with the BEAD Challenge Process. The NOIA will require prospective subgrantees to outline plans to construct broadband services, including middle-mile networks, equipment, or other investments required to deliver last-mile service to eligible areas of the Commonwealth. The NOIA will serve as a prequalification period for potential subgrantees. Eligible subgrantees are traditional and non-traditional internet service providers, including units of local government (municipalities and political subdivisions), cooperatives, non-profits, and utilities. Tribal governments are also eligible BEAD subrecipients, but no Tribal governments are located in Kentucky. Prospective subgrantees will be required to submit information including, but not limited to, their managerial, financial, and technical capacity related to broadband deployment. In addition, the prospective subgrantee must identify counties in which it may intend to file an application for funding under the BEAD program. Prospective subgrantees will not be required to submit a full application in all counties identified during the NOIA process, however, a prospective subgrantee may not apply for projects in a county or counties that it did not identify during the NOIA process. Additionally, only prospective subgrantees submitting a NOIA during the submission period will be eligible to submit applications during the application cycle. Eligible project geographies will be defined by Census Block Groups (CBGs). CBGs may be split into smaller geographies at the discretion of the Office. CBG boundaries and unserved and underserved BSLs and CAIs contained within each will be published prior to the NOIA period. Project applications may include one or multiple contiguous or non-contiguous block groups. By including a CBG in an application, the prospective subgrantee commits to serving no less than 95% of the eligible unserved or underserved BSLs contained within that CBG if awarded. The Office will invite applications for 60 calendar days following the close of the NOIA period from responsive prospective subgrantees meeting the prequalification criteria. Prior to and throughout this application period, the Office may issue clarifications and answer questions related to guidance outlined in this Initial Proposal to streamline project development and clarify requirements for prospective subgrantees. Within 10 business days following the submission deadline, the Office will post all applications and non-proprietary materials submitted on its website. If an award of other state or federal funds for broadband deployment occurs during the application window, applications impacted by these awards will be given an extension of 10 business days to revise and resubmit applications or be withdrawn. An application must include the list of CBGs and BSLs included in the application, the amount of BEAD funds requested, the proposed technology type for the project and additional primary and secondary application elements including plans for affordability, fair labor practices, deployment timeline, local support, resiliency, speed of network for non-fiber to the home (FTTH) applications and the budget and technical plan for deployment to the eligible locations included in the application. Prospective subgrantees should detail any unserved or underserved BSLs not included in the proposal and reason for exclusion, not to exceed 5% of eligible locations within a CBG, and list any served BSLs included in the application. Served locations should not exceed 10% of locations included in the application, on aggregate. An application will also ask prospective subgrantees to indicate whether an included CBG is separable or inseparable from an application in event of a competitive application. Following the announcement of these awards, the Office will engage with nearby awardees, incumbent service providers, and other applicants to seek broadband access solutions for the up to 5% of unserved and underserved locations, as well as unserved Community Anchor Institution that may remain after projects are awarded. The Office will not specify an Extremely High-Cost Per Location Threshold (EHCT) cost level in advance of this Initial Proposal to encourage the broad participation of non-FTTH technologies and providers to address the variety of needs across the Commonwealth. Following the closure of the application period, the Office will evaluate all proposals submitted based on the scoring criteria described in Section 2.4.2 below. "Priority Broadband Projects" for which there are no competing applications, do not exceed the EHCT,

and which satisfy all NOFO and other applicable criteria shall be considered the default winner and will be recommended for some BEAD funding. Competing applications (overlapping applications containing one or more common block group) that would otherwise meet the criteria to be considered "Priority Broadband Projects" will be prioritized and scored as described in Section 2.4.2 and be deconflicted as described in Section 2.4.6 prior to selection of a proposal for funding. The subgrantee selection process will be completed within 365 days of approval of Kentucky's Initial Proposal. The Office estimates that the Notice of Intent to Apply period will begin in May 2024, with full applications being accepted beginning in June 2024. Following the closure of the application period, the Office will undertake deconfliction and evaluation of applications, and solicit solutions for areas and locations not included in applications. The Office anticipates submitting its Final Proposal in January 2025. The Office will publish updated timelines for the stages of the process on its website. The Office has developed a rigorous and transparent subgrantee selection process to identify the most qualified applicants for broadband infrastructure deployment. This approach promotes accountability and fairness and ensures that all potential grant recipients have access to the information, tools, and resources needed to participate fully in this opportunity.

Conflicts of Interest The Office will require subgrant applicants to fully disclose any real or apparent (perceived) conflicts of interest. In addition to these generally applicable requirements, the Office will require prospective subgrantees to attest that will include the acceptance of these terms. Such a conflict would arise when the "employee, any member of his (her) immediate family, his or her partner...has a financial or other interest in the firm selected for award" (2 CFR 200.318). As employees of an Executive Branch agency of the Commonwealth of Kentucky state employees are bound by Executive Branch ethical standards (KRS 11A.020) and must not use or attempt to use their influence in any matter "which involves a substantial conflict between his personal or private interest and duties in the public interest." Employees are required to disclose conflicts of interest in writing and abstain from conduct that may give the appearance of using an official position to further professional or private interests. The Office will also require employees and contractors involved in the evaluation of subgrant applications to certify that they have no financial or other interest in any applicant entity and will not allow any employees or contractors with such an interest to participate in the selection of BEAD subgrants. Other federal regulations with which the subgrantee must comply are the conflict-of-interest requirements in 2 CFR 200.112 and 24 CFR 570.489(h). Based on these disclosures, the Office reserves the right to take appropriate mitigation steps including, if necessary, the disqualification of the entity from BEAD subgrant eligibility. Kentucky law prohibits direct collusion between bidders or offerors for state funds or contracts. Further, KRS 45A.160 requires that suspicions of collusion among bidders are reported to the Attorney General. Additionally, the BEAD program implements several new requirements designed to mitigate the risks of indirect collusion between applicants in the form of public communication about desired service areas, funding requests, or other information that could lead to anti-competitive behavior or other forms of coordination by applicants. At the beginning of the BEAD pre-registration process, for example, prospective subgrantees shall certify that they will refrain from making any public communication with respect to plans for applying for specific BEAD subgrants, until the announcement of awards. In addition, all prospective subgrantees also will agree to adhere to the specific BEAD rule prohibiting any prospective subgrantee from publicly disclosing that it has received an award until the Commonwealth makes an official announcement. This prohibition applies to any prospective subgrantees confidentially notified of an award, and failure to comply with this rule shall result in the disqualification of any subsequent funding round applications. The Office will guard against bias or arbitrary outcomes via the use of transparent, objective criteria both for the definition of Project areas as well as for scoring and selecting subgrantees. For example, as described below in section 2.4.2, Kentucky's scoring rubric is weighted toward objective, quantitative metrics that involve little or no

qualitative scoring discretion and therefore minimal or no risk of arbitrary outcomes.

2.4 Deployment Projects Scoring Criteria

02.04.02 Scoring Rubric and Prioritization

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

The Office will first determine which CBG project areas are subject to one or more proposals that constitute Priority Broadband Projects and satisfy all other requirements set out in the NOFO with respect to subgrantees. In the event there is just one proposed Priority Broadband Project for a project area, the prospective subgrantee meets minimum subgrantee qualifications, and that proposal does not exceed the EHCT, that proposal will be the default winner. The Office reserves the ability, as outlined within NTIA's Initial Proposal Guidance, to request a grant waiver from the Assistant Secretary, which would allow the Office to select an alternative project. All proposals that qualify as Priority Broadband Projects will be scored based on the elements outlined below. If there are multiple proposals that constitute Priority Broadband Projects and satisfy all other requirements with respect to subgrantees, the Office will use the scoring criteria outlined in this section to select the successful proposal. If there are multiple proposals for a given project area, and one or more do not qualify as Priority Broadband Projects, they will be evaluated as "other last-mile deployment projects."

Scoring Elements

Minimal BEAD Program Outlay (35 points) Description: The total BEAD funding that will be required to complete the project, accounting for both total projected cost and the prospective subgrantee's proposed match (which must, absent a waiver, cover no less than 25 percent of the project cost), with the specific points awarded increasing as the BEAD outlay decreases. Scoring: Per BSL cost scoring (35 points) - The most cost-efficient proposal, evaluated as the average BEAD funding per BSL requested to provide broadband access to a defined application area, will receive full credit under this section. Less cost-efficient proposals will receive points based on an inverse proportion of cost per BSL compared to the most cost-efficient proposal.

Affordability (30 points) Description: For priority broadband projects, the prospective subgrantee's commitment to provide the most affordable total price to the customer for 1 Gbps/1 Gbps (Gigabit symmetrical) service in the project area. For other last mile broadband projects, the prospective subgrantee's commitment to provide the most affordable total price to the customer for 100 Mbps/20 Mbps service in the project area. Scoring: The Office will adopt the rate for the highest speed threshold plan listed in Kentucky by the Federal Communications Commission (FCC or Commission) in the Commission's Urban Rate Survey³ as the standard to score prospective subgrantees' highest speed threshold plan. Packages, inclusive of all taxes, fees, and charges billed to the customer, more expensive than this rate will receive no points. Packages set at the benchmark will receive partial points. Packages less expensive than the standard will receive maximum points. The service option that the prospective subgrantee submits to the Office for scoring purposes must remain available for the useful life of the network assets. Pricing Above benchmark = 0 points Pricing at Benchmark = 15 points Pricing Below Benchmark = 30 points The price identified, as well as the speed offerings, for this service option will be a contractual requirement of awardees for the useful life of the network assets, which is defined as 10 years following project closeout. This price may be indexed to the Consumer Price Index, as outlined by the U.S. Bureau of Labor Statistics, but shall not exceed an increase 4% annually. Prices cannot be introductory rates, subject to arbitrary cost escalation, or part of a bundle.

Fair Labor Practices (10 points) Description: Points will be awards to projects based on a prospective subgrantee'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. Any applicant that certifies full compliance in the past with all applicable labor laws will receive 5 points. Applicants unable to certify past full compliance with applicable labor laws will be required to provide details of the past violations, remediation steps taken and the results, and a specific, future-focused plan to ensure full compliance. Applications that meet the minimum gating criteria will be scored on a 0-4 point scale. A new entrant without an organizational record of labor and employment law compliance may submit evidence of past compliance by senior executives in prior roles at other organizations as evidence of past compliance and will be scored as indicated above. New entrants that are unable to produce any evidence of past compliance with federal labor or employment law, either as an organization or from senior executives within the organization, will receive zero points for this section because the BEAD NOFO requires the Office to prioritize funding based on a prospective subgrantee's record of compliance and therefore, some evidence of past compliance is required to score points. Consistent with how prospective subgrantees will be evaluated in other scoring criteria, applicants with strong prior records of performance will be scored higher than those with little to no prior record of performance. New entrants without evidence of past compliance with federal labor law may mitigate, or lessen the negative impact of their lack of prior record of compliance, by making specific, forward-looking commitments to strong labor and employment standards and protections in their plans for future compliance with federal labor laws. In this case, such an applicant could receive up to 5 points for future compliance (and up to 5 points total for this scoring criterion) as is described below. Applicants will also be required to describe in detail well-designed plans for ensuring future compliance with federal labor laws during the project period. The Office will evaluate the completeness of and effectiveness of these plans and award up to 5 points. Complete and well designed plans should include wage information for the applicant's workforce. Plans lacking wage information will lose 1 point.

Scoring: Points will be assigned according to the table below:

Fair Labor Element	Points
Past compliance with federal labor and employment laws	= up to 5 points
Plans for future compliance	= up to 5 points

Speed to Deployment (2 points)

Description: All prospective subgrantees 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 not later than four years after the date on which the subgrantee executes a subgrant award with the Office.

Scoring: Points will be assigned according to the table below:

Project includes detailed plans about project milestones to be achieved in order to complete deployment within	Points
2 years	= 2 points
3 years	= 1.5 points
4 years	= 1 points
Project lacks detailed plans about project milestones to be achieved in order to complete deployment within 4 years	= 0 points

Local Coordination (7 points)

Description: While most proposals for broadband deployment come directly from broadband providers, this scoring criteria is designed to allow a mechanism for local input in the awarding of BEAD funding. Prospective subgrantees should demonstrate outreach efforts in proposed jurisdictions.

Scoring: Points will be assigned based on prospective subgrantees' evidence of local coordination, including, but not limited to, support letters from county judges/executive, fiscal court members, mayors, and/or city council/commission members, resolutions of support from local governments, matching funds commitments, and/or minutes or records of public meetings where project proposals were discussed. Local governments may support one or multiple prospective subgrantees.

Evidence of local coordination engagements	Points
Evidence of one local coordination engagement	: 2 points
Evidence of two local coordination engagements	: 4 points
Evidence of three local coordination engagements	: 6 points
Evidence of four or more local coordination engagements	: 7 points

Network Resiliency (8 points)

Description: Prospective subgrantees should describe network design elements that enhance the resiliency of the BEAD-funded network against risks identified in Section 2.11, including but not limited to buried fiber optic cable, multiple or redundant paths to head-in equipment, redundant power sources, and availability of crews to conduct repairs. Scoring: Proposals containing descriptions of network design elements that enhance the resiliency of BEAD-funded networks against climate related risks will receive full points. Scalability of Technology (8 points) Description: Scalability is the capacity of the infrastructure being to accommodate growth that may occur in the area served that minimizes additional investment. Points will be awarded to applicants providing evidence of capacity for expansion described below. Any applicant not providing details on future capacity shall receive zero points. Priority projects (end-to-end fiber) demonstrating network scalability based on the following criteria may receive up to 8 points based on the criteria below. Technology (maximum of 4 points) Fiber deployment using active ethernet, XG-PON, XGS PON, NG-PON, 10G EPON, NG-EPON or better – 4 points Fiber deployment using GPON or EPON – 2 points Network Design (maximum of 4 points) Deployment of high-density fiber with spare capacity – 2 point Design includes structures to accommodate future growth (handholds, fiber huts, interconnection points) – 2 points Other last-mile broadband projects may receive up to 8 points for scalability as described below: Useful life of funded infrastructure (maximum of 4 points) Less than 5 years – 0 points 5 – 10 years – 2 points More than 10 years – 4 points Speed and latency performance (maximum of 3 points) Minimum downstream/upstream meets 100/20 requirement and latency does not exceed 100ms – 0 points Minimum downstream/upstream capable of 300/150 and latency does not exceed 100ms – 1 point Minimum downstream/upstream capable of 400/200 and latency does not exceed 100ms – 2 points Minimum downstream/upstream capable of 1000/500 and latency does not exceed 100ms – 3 points Cost Effectiveness of Future Scalability (maximum of 1 point) Applicants must address the cost of future scalability to higher performance levels, compared to initial investment. Cost ineffective to increase performance levels – 0 points Cost effective to increase performance levels – 1 points Scoring for Applications with Multiple Technologies for Broadband Service Some project proposals may include a combination of fiber optic technology, hybrid fiber coaxial cable (HFC), or fixed wireless. Applications that include multiple technologies for broadband service will be considered for an award if they satisfy the speed of service requirements, any competing proposals exceed the EHCT, and the proposed project can attain a lower cost per location within the project area. For these projects, the scores for “affordability” and “scalability” will be based on the alternate technology. Waiver of Matching Funds As permitted by the NOFO, the Office may consider requesting a full or partial waiver of matching funds from NTIA on a case-by-case basis. Prospective subgrantees requesting a waiver must demonstrate the effect of affordability to potential subscribers by submitting pro forma financials with different capex assumptions based on different matching fund requirements, showing the impact on subscriber rates to achieve average revenue per customer (ARPC). To the extent NTIA allows additional waivers, including but not limited to the EHCT, the Office reserves the right to consider any and all waivers for subgrantees. All waiver requests are subject to NTIA review and approval.

02.04.02.01 Scoring Rubric and Prioritization

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.

BEAD Initial Proposal_Volume II_Subgrantee Se-05-02-2024 12-21-COMMONWEALTH OF KENTUCKY-GRN-000114.xlsx

02.04.03 Prioritization of Projects

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 inclusion of a project area in an application by a prospective subgrantee carries an obligation to deploy broadband service to no less than 95 percent of broadband serviceable locations within the boundaries of the project area if the application is awarded. While subgrant applications may propose to serve less than 100 percent of eligible locations in a project area, the Office will use the process described below to achieve universal coverage of any unserved, followed by underserved locations, that have been omitted from proposals. The obligation to provide broadband service also includes any future BEAD-eligible locations identified via the FCC's DATA Act map and Broadband Data Collection process through the end of the BEAD subgrant performance term. All application plans and commitments such as for affordability, technology type, and performance level must apply to all current and future eligible locations within the project area. For BSLs and/or CBGs that are not included in a successful application, or for which no application was filed, the Office will assume that these locations exceed the EHCT, and will seek solutions for these projects by undertaking the following: 1. Omitted locations are offered to the winning priority applicant or adjacent highest scoring priority applicant. 2. Omitted locations are offered to unsuccessful priority applicants. 3. Non-priority applications will be considered. 4. Alternative technologies such as fixed wireless or satellite will be considered. 5. Omitted locations will be offered to incumbent providers who did not apply for BEAD. While the BEAD NOFO defines "unserved service projects" as projects in which not less than 80 percent of broadband-serviceable locations served by the project are unserved locations and "underserved service project" as projects in which not less than 80 percent of broadband-serviceable locations served by the project are unserved locations or underserved locations, the Office will require that proposals contain not less than 90 percent unserved or underserved locations on aggregate, respectively. Should subgrant proposals exceed available funding, the Office will prioritize funding to unserved service projects and project areas before underserved project areas. As described above in sections 2.4.1 and 2.4.2, the Office has reviewed enforceable commitments, projected BEAD funding, and cost modeling data and is confident that the allotted funding is sufficient to reach 100% of Kentucky locations with high-speed internet. However, deploying service to unserved locations is the priority, and the Office reserves the right to unilaterally remove locations from a subgrant proposal in order to comply with BEAD program requirements to serve unserved locations before underserved locations or CAIs if a determination is made in the future that BEAD funds are not sufficient to reach all locations. In this circumstance, the Office would adjust the subgrant award as described in section 2.4.7.

02.04.04 Prioritization of CAIs

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

Not applicable

02.04.05 Subgrantee EHP and BABA Requirements

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.

The Office is committed to following all relevant federal and state guidance and regulations in the deployment of BEAD funds. As such, the Office will communicate to potential subgrantees their responsibilities in following regulations established by the Build America, Buy America Act (BABA) and the Environmental and Historic Preservation (EHP) requirements. To meet BABA requirements, subgrantees must meet the following criteria:

- All iron, steel, and manufactured products (including but not limited to fiber-optic communications facilities) and construction materials used in the project must be produced in the United States, as defined in Section 70921 of the Build America Buy America Act.
- The Secretary of Commerce will seek to minimize any BABA requirement waivers, and those waivers that are offered will be limited in duration and scope. However, a BABA requirement waiver may be offered if:
 - o Applying a domestic procurement would be inconsistent with the public interest;
 - o The type of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality;
 - o The inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cover of the overall project or other eligible activities by more than 25 percent.

The Office will also require subgrantee compliance with other purchasing restrictions contained in the NOFO. For example, subgrantees cannot use BEAD funding to purchase or support any covered communications equipment or services. Moreover, subgrantees cannot use BEAD funding to purchase or support fiber optic cable and optical transmission equipment manufactured in the People's Republic of China unless a waiver is received from the Assistant Secretary of Commerce. In this circumstance, the potential subgrantee must demonstrate that this restriction would unreasonably increase the cost of the project, or cause a delay in implementing the project or project-related activities. Any application that does not demonstrate intent to comply with BABA⁴, or found to be in violation of the requirements, will not be considered for BEAD funding. The Office will incorporate BABA requirements into the subgrantee selection process. The Office will disseminate information on BABA requirements through outreach, including informational webinars, sharing relevant information on its website, and including the requirements in grant applications and assistance agreements. Additional outreach and subgrantee compliance activities will occur post-award, including but not limited to project reporting and monitoring. Prospective subgrantees will also have to demonstrate compliance with Environmental and Historical Preservation requirements. The Office will engage in and document the following activities, and encourage subgrantees to do the same:

- Coordinate with federal land- and resource-managing agencies, such as the National Park Service, U.S. Fish and Wildlife Service, and the U.S. Forest Service.
- Coordinate with state agencies that may have a role in EHP requirements, including but not limited to Kentucky Heritage Council, the State Clearinghouse, and the Energy and Environmental Cabinet (EEC).
- Solicit contracted, EHP-related subject matter expertise and technical support where currently not available. The Office will conduct the following activities:
 - Understand the National Environmental Policy Act (NEPA) review process and the National Historic Preservation Act (NHPA) requirements for implementation of the BEAD program;
 - Hire staff or contractors as necessary to ensure adequate capacity and expertise to manage EHP compliance;
 - Conduct an RFQ process to identify qualified EHP compliance service providers to assist subgrantees with NEPA and NHPA requirements; and
 - Conduct post-award technical assistance with subgrantees related to NHPA and NEPA compliance requirements.

02.04.06 Project Area Definition

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

As described above in sections 2.4.1 and 2.4.2, Kentucky's BEAD program will require prospective subgrantees to define applications as a set of pre-defined project areas based on CBG geographies*. The inclusion of a CBG in an application obligates the prospective subgrantee to serve not less than 95 percent of all eligible BSLs within each individual block group project area. The Office has chosen to use Census geographies to ensure full geographic coverage. Census geographies have been used previously to determine project areas for broadband funding programs such as the FCC's RDOF and CAF II programs. The Office has chosen CBGs as the basic unit of geography in order to allow potential subgrantees flexibility in designing project proposals and to encourage project scopes and participation by the widest variety of providers while encouraging the inclusion of relatively harder to serve BSLs in project proposals. This approach will also allow the Office to compare and de-conflict overlapping proposals by requiring prospective subgrantees to use a common set of geographies when defining project areas. * Large block groups may be divided into smaller geographies by the Office prior to the application period, as necessary. For overlapping proposals, the Scoring Criteria for Priority Broadband Projects and Other Last- Mile Broadband Deployment Projects will be used, but only like-to-like comparisons will be made (i.e., Priority Broadband Projects will not be compared to Other Last-Mile Broadband Deployment Projects). Prospective subgrantees will be asked to identify if any CBGs included in the application would be accepted on an independent basis ("separable") if the Commonwealth was unable to award the entire application as a whole, (i.e., a prospective subgrantee may indicate which individual CBGs, if any, it would accept if awarded separately from the whole proposal due to overlap with a higher scoring proposal), or if the acceptance of an award is contingent on the inclusion of all CBGs. A declaration of separability or inseparability will not supersede or overwrite the results of the scoring rubric evaluation; the highest evaluation score will be awarded. Allowing subgrantees to designate CBGs in this manner will assist the Office in deconflicting applications competing for overlapping areas. Applicants will be allowed 15 business days to revise applications from which a block group has been removed through voluntary separation. For overlapping applications where all applicants identify one or more common block groups included as part of more than one application as inseparable, the highest scoring proposal will be awarded. The Office will attempt to negotiate a resolution with the other applicant(s) for the remainder(s) of the applications that advances the BEAD goal of reaching 100% of eligible locations. In the event that negotiations are unsuccessful, resulting in two or more otherwise selectable applications posing a small amount of overlap that cannot be resolved using the "separability" preferences of the applicants, the Office reserves the right to de-scope one or more of the applications only to the amount necessary to award the applications without overlap, such as the removal of one or more block group comprising in total less than 20% of the BSLs from one of the applications, or dividing locations contained in the CBGs between one or more application. Finally, if the state does de-scope an application prior to award under this provision, the amount of the award will be reduced by an amount proportional to the average cost per location times the number of locations in the subject application. The Office will not limit the number of applications an individual prospective subgrantee can submit. Applications can be made for one or more contiguous or non-contiguous project area. The same individual CBG project area may not be included in more than one application by the same prospective subgrantee.

02.04.07 Coverage for Locations with No Proposals

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

If no proposals to serve an eligible location or group of locations are received, the Office will conduct targeted outreach to prospective subgrantees whose service areas are near or adjacent to the omitted locations, or to other internet service providers who have the capacity to serve these locations. The Office will identify any eligible locations not included in a proposal and facilitate the inclusion of these locations in proposed priority projects where feasible. The Office will undertake a direct negotiation process for a period not to exceed four months to meet the deadline to submit the Final Proposal. If no proposals are received for a project area, and direct negotiations are unsuccessful, the Office may determine that the subject project area is above the EHCPLT and seek alternative technologies to serve the locations. The Office may conduct this as a second application round. While the Office does not have designated funding to provide matching funds for BEAD subgrant applications, the Office will make applicants aware of other potential complimentary funding opportunities that may act as inducements for projects, such as the Department for Local Government's new G.R.A.N.T. program, which was established to provide local governments with matching funds for federal grant applications, as well as Appalachian Regional Commission funds through the state's Area Development Fund program, the POWER grant program, or the Center for Rural Development's ARC-funded broadband grant programs. The Office will use CostQuest cost modeling data as a reference for evaluating the proposed expense of expanding project proposals to include appropriate omitted locations. The Office will seek approval in the Final Proposal for an alternative technology option to be made available to individual locations (for example, unlicensed fixed wireless or low-earth orbit satellite service) with minimum speeds of 100 Mbps download and 20 Mbps upload.

02.04.08 Deployment Project Tribal Consent

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 Commonwealth has no federally recognized tribes or tribal lands, however, there are 13 tribes that have an interest in Kentucky. Tribal consultation will be conducted and documented during the NEPA and NHPA review process.

02.04.09 Extremely High Cost Per Location Threshold Identification

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 Office will not set an EHCT until all priority and non-priority project proposals are received to ensure that funds are used efficiently and effectively to meet the goal of universal service. The Office will use CostQuest cost modeling data and other relevant data to aid in setting the threshold and the EHCT tool in the NTIA's Eligible Entity Toolkit to assist in establishing the threshold. The Office may elect to set EHCT regionally to account for factors that vary by region and impact the cost of deployment, such as variations in population density and topography. Following the application process, de-confliction, and selection processes, the Office will identify the highest scoring application and the next

best non-priority option for each CBG and calculate a per-location cost for each option. The Office will assess whether all unserved locations have received either access to FTTH or access to reliable service through another technology, such as HFC or licensed fixed wireless. If a material number of unserved locations remain without access to reliable broadband through FTTH, HFC, or licensed fixed wireless, the Office will review the FTTH awards in order of most expensive to least expensive per location. If at any cost per location, a non-FTTH application could be selected that would result in materially more locations receiving reliable service, that cost per location will be selected as the EHCT. Certain FTTH awards above the EHCT may be de-selected in favor of a non-FTTH award if that would allow for more unserved locations to receive service. Setting the EHCT does not obligate the Office to select any non-priority projects, however it is a tool to ensure that BEAD funds are sufficient to reach all Kentucky locations with qualifying service.

02.04.10 Extremely High Cost Per Location Threshold Process

Outline a plan for how the Extremely High Cost Per Location Threshold will be utilized in the subgrantee selection process to maximize the use of the best available technology while ensuring that the program can meet the prioritization and scoring requirements set forth in Section IV.B.6.b of the BEAD NOFO. The response must describe:

- a. The process for declining a subgrantee proposal that exceeds the threshold where an alternative technology is less expensive.
- b. The plan for engaging subgrantees to revise their proposals and ensure locations do not require a subsidy that exceeds the threshold.
- c. The process for selecting a proposal that involves a less costly technology and may not meet the definition of Reliable Broadband.

a) Process for Declining Proposals above the EHCT If the Office receives an application to serve an area that exceeds the EHCT, calculated as the average funding requested per location in application, the Office will then evaluate any non-priority applications received for that same service area. In the circumstance that no non-priority applications are submitted for a project area, the Office will determine whether the costs for the project exceeding the EHCT program are appropriate and justify an award exceeding these thresholds. b) Process for Ensuring Locations Do Not Require a Subsidy All applications will be assessed against reference benchmark costs for the locations included. The Office reserves the right to negotiate with prospective subgrantees proposing projects where costs exceed the benchmark to ensure cost reasonableness and minimal BEAD subsidy. c) Process for Selecting Applications with Less Costly Technology The Office will consider technology options proposed by prospective subgrantees neutrally and identify the most cost-effective technology and appropriate options for each area through research with the subject areas and experts. Kentucky will consider unlicensed fixed wireless and low-orbit-satellite technology if no other technology meeting the Reliable Broadband Service definition is proposed or no application is received below the EHCT. Only alternative technologies that are provided at a lower cost and meet the BEAD program technical requirements (minimum 100/20 Mbps with less than or equal to 100 milliseconds latency) will be considered.

02.04.11 Deployment Subgrantee Qualifications: Financial Capability

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:

a. Detail how the Eligible Entity will require prospective subgrantees to certify that they are qualified to meet the obligations associated with a Project, that prospective subgrantees will have available funds for all project costs that exceed the amount of the grant, and that prospective subgrantees will comply with all Program requirements, including service milestones. To the extent the Eligible Entity disburses funding to subgrantees only upon completion of the associated tasks, the Eligible Entity will require each prospective subgrantee to certify that it has and will continue to have sufficient financial resources to cover its eligible costs for the Project until such time as the Eligible Entity authorizes additional disbursements.

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

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

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

a) Prospective subgrantees will be required to certify during prequalification that they will be comply with all program requirements, including service milestones. Additionally, prospective subgrantees will be required to certify that they have the financial capacity to fulfill project requirements, including but not limited to, firm commitments of matching funds and certification that all cost overruns will be paid by the prospective subgrantee. The Office will reimburse subgrantees for project costs as expenses are incurred, therefore prospective subgrantees must further certify that sufficient financial resources are available to cover eligible costs until such reimbursement can be made. b) In order to ensure that subgrantees have the resources to build, deploy, and operate broadband networks, the Office will require prospective subgrantees to demonstrate financial capacity by one of the methods described in the BEAD NOFO and the conditional programmatic waiver of the NOFO's letter of credit requirements, which together require the following: Prospective subgrantees must submit a letter from: • An eligible bank or credit union committing to issue an irrevocable standby letter of credit in the form established by the Eligible Entity; or • A certified surety on federal bonds committing to issue the prospective subgrantee a performance bond. Before finalizing any subgrantee agreement, the prospective subgrantee must obtain: • A standby letter of credit in the form established by the Eligible Entity valued at no less than 25% of the subaward amount; or • A performance bond acceptable in all respects to the Office in a value of no less than 100% of the subaward amount; or • The Office may elect to issue funding on a reimbursable basis for periods of no more than six months and permit subgrantees to maintain a letter of credit or performance bond valued at 10% of the subaward amount. • If requiring the 25% letter of credit or 100% performance bond, the Office may elect to permit subgrantees to reduce the amount of the letter of credit or performance bond upon achievement of specific deployment milestones. • Letters of credit, but not performance bonds, must

be accompanied by an opinion letter from legal counsel asserting that in bankruptcy proceedings the letter of credit or its proceeds will not be treated as the subgrantee's bankruptcy estate property, subject only to customary assumptions, limitations, and qualifications. Irrevocable Letter of Credit Letters of credit (LOC) from an eligible bank (see 47 C.F.R. §54.804(c)(2)) must be substantially similar to the model LOC required by the FCC's Rural Digital Opportunity Fund (RDOF), whereby the bank commits to issuing an irrevocable standby LOC to the prospective subgrantee. This letter must include the dollar amount and be accompanied by the agreement from the issuing bank. An irrevocable standby LOC shall be obtained by every prospective subgrantee prior to the execution of any subgrant agreement and shall comprise no less than 25% of the award amount. An opinion letter from prospective subgrantee's legal counsel must be included with the LOC stating, subject only to customary assumptions, limitations, and qualifications, that in a proceeding under Title 11 of the United States Code, 11 U.S.C. § 101 et seq. (the "Bankruptcy Code"), the bankruptcy court would not treat the LOC or proceeds of the LOC as property of the winning subgrantee's bankruptcy estate under Section 541 of the Bankruptcy Code. The LOC Requirement may be waived where: 1. During the application process, prospective subgrantees submit a letter from a company holding a certificate of authority as an acceptable surety on federal bonds as identified in the Department of Treasury Circular 5707 committing to issue a performance bond to the prospective subgrantee. The letter shall at a minimum provide the dollar amount of the performance bond. c) Prospective subgrantees must submit the most recent audited financial statements as a required exhibit during prequalification. Awarded subgrantees will be required to submit subsequent audited financial statements to the Office during the period of performance. In order to encourage participation from a diverse range of providers, the Office will allow prospective subgrantees, which in the ordinary course of business did not conduct an independent audit of the prior fiscal year's financial statements, to submit unaudited financial statements from the prior fiscal year. These unaudited statements must be accompanied by a certification that it will conduct an audit of the prior fiscal year's financial statements. The Office will not execute any subgrant agreement with any potential subgrantee unless the documents submitted demonstrate sufficient financial capability with respect to the proposed project. d) The application will require prospective subgrantees to submit business plans and related analyses such as projected operating budgets, revenue projections, and forecasts of cash flows for no less than 8 years following project completion, that demonstrate the sustainability of the proposed project as an exhibit during for the project application. The Office and its contractors will review business plans, projections, pro formas, subscriber estimates and estimated take rate and revenue, and other documents to ensure that they are comprehensive and realistic and that projections indicate that projects are sustainable. The Office will also ensure that the prospective subgrantee has identified contingencies and risk management strategies in its business plan.

02.04.11.01 Deployment Subgrantee Qualifications: Financial Capability

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.

02.04.12 Deployment Subgrantee Qualifications: Managerial Capability

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:

- a. Detail how the Eligible Entity will require prospective subgrantees to submit resumes for key management personnel.
- b. Detail how it will require prospective subgrantees to provide a narrative describing their readiness to manage their proposed project and ongoing services provided.

a) Prospective subgrantees will be required to submit resumes for all key management personnel and any necessary project organizational chart(s) and corporate relationships detailing all parents, subsidiaries, and affiliates during the prequalification phase. b) Prospective subgrantees must provide a narrative describing the prospective subgrantee's readiness to manage a broadband network. The narrative should describe the experience and qualifications of key management for undertaking this project, its experience undertaking projects of similar size and scope, recent and upcoming organizational changes including mergers and acquisitions, and relevant organizational policies. The Office shall not approve any grant for the deployment or upgrading of network facilities unless it determines that the documents submitted demonstrate the prospective subgrantee's managerial capability with respect to the proposed project. The Office will relay these requirements to prospective subgrantees through webinars, posting rules and regulations on its website, and by incorporating these requirements into the grant application and agreement processes. Applications that fail to meet the minimum qualifications for managerial capability as described on pages 73-74 of the BEAD NOFO will not be considered to receive BEAD funding.

02.04.13 Deployment Subgrantee Qualifications: Technical Capability

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:

- a. Detail how the Eligible Entity will require prospective subgrantees to certify that they are technically qualified to complete and operate the Project and that it is capable of carrying out the funded activities in a competent manner, including that it will use an appropriately skilled and credentialed workforce.
- b. Detail how the Eligible Entity will require prospective subgrantees to submit a network design, diagram, project costs, build-out timeline and milestones for project implementation, and a capital investment schedule evidencing complete build-out and the initiation of service within four years of the date on which the entity receives the subgrant, all certified by a professional engineer, stating that the proposed network can deliver broadband service that meets the requisite performance requirements to all locations served by the Project.

a) During the prequalification process, prospective subgrantees will be required to certify that they have adequate technical capability to deploy network facilities. This certification will require a description of the technical capability including but not limited to, personnel, project engineer, and contractor oversight team with the relevant certifications for deployment projects as mandated by

state and federal law and reflective of industry best practices. In addition, prospective subgrantees must certify that all contracted resources will possess the relevant and necessary skills, and detail in narrative the contractor selection process along with which skills, certifications, qualifications, or training programs will be required for each role. The Office will evaluate these materials to confirm adherence to industry best practices, as well as compliance with relevant state and federal law. b) As part of the application, prospective subgrantees must submit detailed plan elements, including network design in shapefile, diagram in PDF, project costs in a spreadsheet template, build-out timeline with milestones for project implementation. Prospective subgrantees will submit the capital investment schedule as part of the pro forma template, which is auto-calculated, as required by 2.4.11 (d). A licensed professional engineer will be required to certify that the proposed network can deliver broadband service that meets the requisite performance requirements to all locations served by the project within the required four-year deployment timeline. The Office may use third-party consultants or contracted professional engineer to verify that the details in the submitted materials are reasonable and achievable within the prescribed four-year timeline.

02.04.14 Deployment Subgrantee Qualifications: Compliance with Laws

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:

- a. Detail how the Eligible Entity will require prospective subgrantees to demonstrate that they are capable of carrying out funded activities in a competent manner in compliance with all applicable Federal, State, Territorial, and local laws.
 - b. Detail how the Eligible Entity will require prospective subgrantees to permit workers to create worker-led health and safety committees that management will meet with upon reasonable request.
- a) The Office will require prospective subgrantees to demonstrate capability of conducting funded activities competently and in compliance with all applicable federal, state, territorial, and local laws during the prequalification process, and certify that no information has changed during the application phase. The prospective subgrantee will be required to demonstrate compliance, including but not limited to the following regulatory and legal areas: • Employment • Safety and Health (OSHA) • Underground utility protection • Siting of wireless infrastructure • Use of Public right-of-way • Consumer Privacy • Cybersecurity (data breach notification) • FCC (ACP participation) • Kentucky Secretary of State • Subgrantee Registrations with regulatory agencies • Truth in Billing • Deceptive Trade Practices • Nondiscrimination in service areas • Lobbying Prospective subgrantees may provide written internal procedures, required compliance reports, reports of violations and their remedies, audit reports etc. as evidence of demonstrated compliance with all applicable laws. In addition, the prospective subgrantee must identify the key management personnel responsible for legal compliance. Any legal actions taken against the subgrantee resulting from non-compliance with any federal, state, or local laws resulting in judgment or are pending litigation against the prospective subgrantee in the three (3) years prior to the submission of an application must be disclosed and documented. If the prospective subgrantee operations are unionized, any union actions reaching the Chief Compliance Officer or key management personnel level must be disclosed and documented. b)

The Office will require prospective subgrantees to certify that, upon award, the prospective subgrantee will permit workers to create worker-led health and safety committees that key management personnel will meet upon reasonable request. The Office will require prospective subgrantees to describe the process for promoting worker-led health and safety committees for each functional area described in Section 2.4.12. Prospective subgrantees with existing worker-led health and safety programs must describe the program and document past meetings with key management personnel. Prospective subgrantees with union contracts must disclose terms and conditions in the contract applying to worker-led health and safety committees. Prospective subgrantees must document the reasonable time provided for during working hours for the worker-led health and safety committees to meet independently of key management personnel on prospective subgrantee premises. Key management personnel of the prospective subgrantee must respond to a reasonable request to meet with the worker-led health and safety committees within 10 business days of the request. Prospective subgrantees are prohibited from retaliation against the worker-led health and safety committee or its members. A worker-led health and safety committee does not supplant the prospective subgrantee's obligation to comply with all applicable federal, state, and local laws.

02.04.15 Deployment Subgrantee Qualifications: Operational Capability

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:

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

a) Prospective subgrantees will be required to provide information about organizational and certify that they meet the operational capacity requirements during the prequalification period, including but not limited to:

- Experience providing internet service, including number of years providing mass-market, non-enterprise grade internet service and years of operation in Kentucky;
- Whether the provider participates in the Kentucky Broadband Availability Map.
- Number of households, businesses, and community anchor institutions CAIs currently subscribing to prospective subgrantee's internet service;
- Prospective subgrantee's network monitoring and restoration capabilities;
- Quality-of-service metrics and/or reports;
- Past experience with federal- or state-funded deployment projects, including sources and amounts of funding; whether open projects are meeting completion milestones; completion or non-completion of closed out projects; and explanation of any awards turned back, clawed back, or otherwise returned to any agency;
- Penalties paid by the prospective subgrantee, or any subsidiary or affiliate or holding company of the prospective subgrantee related to broadband deployment projects; and
- The number of times prospective subgrantee has ever been a defendant in any federal or state criminal proceeding or civil litigation along with final rulings, details on any penalties assessed or provisions against future service.

Prospective subgrantees not currently participating in Kentucky's Broadband Availability mapping program will be required to furnish availability data to the Office or its contractors as a condition of a subgrant agreement.

b) During the prequalification period, prospective subgrantees, including wholly owned subsidiaries, will be required to submit certification, and supporting evidence supporting the certification, that they have provided voice, broadband, and/or electric transmission or distribution service for at least two years prior to the date of application submission. The certification must be signed by an officer of the prospective subgrantee (President, CEO, etc.). A draft certification form will be provided by the Office. Evidence sufficient to support the certification may include, but is not limited to:

- Audited Financial Statements
- FCC Form 477 filings
- Evidence of registration in good standing with the Kentucky Secretary of State
- Federal and/or USF Filings and Disbursements
- Board Meeting Minutes and Resolutions
- Number and type of broadband subscribers
- Number of subscribers enrolled in ACP

c) During the prequalification period, prospective subgrantees that currently provide a voice and/or broadband service will be required to certify that they have filed timely Commission Form 477s and the Broadband DATA Act submissions, if applicable, as required during the two years prior to the date of its application submission, and otherwise has complied with the Commission's rules and regulations. The certification must be signed by an officer of the prospective subgrantee (President, CEO, etc.). A draft certification form will be provided by the Office. Evidence supporting the certification may include, but is limited to:

- Bi-annual Submission Acknowledgements by the FCC of Form 477 filing
- A narrative explanation if the prospective subgrantee has not filed Form 477

In addition, the prospective subgrantee must disclose during prequalification, any Form 477 issues, corrections, or other actions requested by the FCC to the prospective subgrantee including data irregularities, missed filings, and any other inquiry. Prospective subgrantees must disclose any pending or completed enforcement action, civil litigation, or other matter in which it failed to comply or was alleged to have failed to comply with Commission rules or regulations.

d) Prospective subgrantees that have operated only an electric transmission or distribution service will be required to submit qualified operating or financial reports that it has filed with the relevant financial institution or regulatory agency during the previous two years prior to the date of its application submission, along with a certification that the submission is a true and accurate copy of the reports that were provided to the relevant financial institution or regulatory agency. The certification must be signed by an officer of the prospective subgrantee (President, CEO, etc.). A draft certification will be provided by the Office. Audited financial statements including the auditor's opinion

are preferred. In addition, the Office will require the electric transmission or distribution service prospective subgrantee to describe its proposed organizational structure separating the electric transmission or distribution service from its broadband operations to prevent any cross subsidization of electric transmission or distribution operations by broadband operations in the application process.

e) Prospective subgrantees with less than two (2) consecutive years providing a voice, broadband, and/or electric transmission or distribution service in Kentucky will be considered a “new entrant” to the market and must submit sufficient to demonstrate that the newly established entity has obtained, through internal or external resources, sufficient operational capabilities to conduct such service in the Commonwealth. Any evidence provided must be certified and signed by an officer of the prospective subgrantee (President, CEO, etc.). A draft certification will be provided by the Office. Sufficient evidence may include, but is not limited to, resumés from key personnel, project descriptions and narratives from contractors, subcontractors, or other partners with relevant operational experience, or other comparable evidence. Operational capabilities must demonstrate experience in operating a broadband network providing mass-market services to residential and business customers. Documentation related to the requirements listed above will be collected and reviewed by qualified personnel. If necessary, the Office will hire additional staff or contractor support to ensure there is appropriate capacity and expertise to review prospective subgrantee qualifications. The Office will communicate requirements stipulated above to all prospective subgrantees prior to the prequalification and application process. Information will be disseminated by conducting outreach efforts to participating stakeholders (webinars, in-person meetings, etc.), posting a list of requirements and regulations on the Office website, and including the requirements in grant application instructions and grant agreement terms, conditions, and program monitoring requirements.

02.04.16 Deployment Subgrantee Qualifications: Ownership

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:

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

The Office will ensure that any prospective subgrantee proposing to deploy network facilities meets ownership disclosure requirements outlined in 47 C.F.R. § 1.2112(a)(1)-(7) as follows: 1) List the real party or parties in interest in the prospective subgrantee or application, including a complete disclosure of the identity and relationship of those persons or entities directly or indirectly owning or controlling (or both) the prospective subgrantee. 2) List the name, address, and citizenship of any party holding 10% or more of stock in the prospective subgrantee, whether voting or nonvoting, common, or preferred, including the specific amount of the interest or percentage held. 3) List, in the case of a limited partnership, the name, address and citizenship of each limited partner whose interest in the prospective subgrantee is 10% or greater (as calculated according to the percentage of equity paid in or the percentage of distribution of profits and losses). 4) List, in the case of a general partnership, the name, address and citizenship of each partner, and the share or interest participation in the partnership. 5) List, in the case of a limited liability company, the name, address, and citizenship of each of its members whose interest in the prospective subgrantee is 10% or greater. 6) List all parties holding indirect ownership interests in the prospective subgrantee as determined by successive

multiplication of the ownership percentages for each link in the vertical ownership chain, that equals 10% or more of the prospective subgrantee, except that if the ownership percentage for an interest in any link in the chain exceeds 50% or represents actual control, it shall be treated and reported as if it were a 100% interest. 7) List any FCC-regulated entity or prospective subgrantee for an FCC license, in which the prospective subgrantee or any of the parties identified in paragraphs (a)(1) through (a)(5) of this section, owns 10% or more of stock, whether voting or nonvoting, common, or preferred. This list must include a description of each such entity's principal business and a description of each such entity's relationship to the prospective subgrantee (e.g., Company A owns 10% of Company B [the prospective subgrantee] and 10% of Company C, then Companies A and C must be listed on Company B's application, where C is an FCC licensee and/or license prospective subgrantee). The Office will require prospective subgrantees to make disclosure of ownership based on (1) through (7) in as part of the prequalification process. The Office will validate disclosures of ownership through various sources of information including SEC filings, FCC filings, registration with the Kentucky Secretary of State, and other regulatory bodies. In addition, public record services such as Dun and Bradstreet or audited financial statements may be considered if proper disclosures are made regarding ownership.

02.04.17 Deployment Subgrantee Qualifications: Public Funding

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:

- a. Detail how it will require prospective subgrantees to disclose for itself and for its affiliates, any application the subgrantee or its affiliates have submitted or plan to submit, and every broadband deployment project that the subgrantee or its affiliates are undertaking or have committed to undertake at the time of the application using public funds.
- b. At a minimum, the Eligible Entity shall require the disclosure, for each broadband deployment project, of:
 - (a) the speed and latency of the broadband service to be provided (as measured and/or reported under the applicable rules),
 - (b) the geographic area to be covered,
 - (c) the number of unserved and underserved locations committed to serve (or, if the commitment is to serve a percentage of locations within the specified geographic area, the relevant percentage),
 - (d) the amount of public funding to be used,
 - (e) the cost of service to the consumer, and
 - (f) the matching commitment, if any, provided by the subgrantee or its affiliates.

a) Prospective subgrantees and its affiliates will be required to disclose any application it has submitted or plans to submit, and every broadband deployment project that the subgrantee or its affiliates are undertaking or have committed to undertake using public funds in the Commonwealth of Kentucky at the time of the application. The Office will use publicly available information for validation of the broadband deployment projects being undertaken or committed to undertake at the time of the application using public funds and resolve any discrepancies with the prospective subgrantee. Initial Proposal, Volume 1, Requirement 3 identifies many of these programs and the Office tracks recipients of public funding for broadband deployment through state and federal programs, and will conduct outreach to local governments to identify local commitments of public funds for broadband deployment projects. and local agreements has identified the potential prospective subgrantees receiving these public funds. b) Prospective subgrantees will be required to disclose the following information about publicly funded projects, along with any supplemental information requested: 1) The speed and latency of the broadband service to be provided (as measured and/or reported under the applicable rules) 2) The technology to be deployed 3) The geographic scope of the project 4) 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) 5) The amount of public funding committed 6) The amount of matching funding committed by the prospective subgrantee or its affiliates 7) The cost of service to the consumer 8) The number of CAIs to be served and speeds to be made available 9) If the CAI served is participating in the FCC E-rate or Rural Health Care programs 10) Estimated date of project completion Prospective subgrantees will be required to certify disclosure of the use of public funds by an appropriate officer of the company (i.e., CEO, CFO, President). Failure to disclose may result in rejection of the application or forfeiting of all awarded funds. As a post-award subgrantee reporting requirements, the Office will require subgrantees to report progress and completion, including but not limited to (1) through (10) above, of every broadband deployment project funded by a federal, state, or local program. Subgrantees who are in compliance with reporting requirements of earlier Kentucky Broadband Deployment Fund grants will be considered to be in compliance with this requirement for those grants.

02.05.01 Non-Deployment Subgrantee Selection Process Integrity

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.

Kentucky does not intend to subgrant for non-deployment activities under the assumption that all available funds will be expended for deployment activities. If funds remain after the prioritization of projects to serve all unserved and underserved areas and CAIs, the Office will re-evaluate this determination during the Final Proposal stage.

02.05.02 Non-Deployment Initiative Preferences

Describe the Eligible Entity's plan for the following:

- a. How the Eligible Entity will employ preferences in selecting the type of non-deployment initiatives it intends to support using BEAD Program fund;
- b. How the non-deployment initiatives will address the needs of residents within the jurisdiction;

c. The ways in which engagement with localities and stakeholders will inform the selection of eligible non-deployment activities;

d. How the Eligible Entity will determine whether other uses of the funds might be more effective in achieving the BEAD Program's equity, access, and deployment goals.

Not applicable

02.05.03 Ensure Coverage Prior to Non-Deployment Projects

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

Not applicable

02.05.04 Non-Deployment Subgrantee Qualifications

Describe how the Eligible Entity will ensure prospective subgrantees meet the general qualifications outlined on pages 71 - 72 of the BEAD NOFO.

Not applicable

02.06.01 Eligible Entity Implementation Activities

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

The Office proposes to implement two (2) initiatives as the recipient (i.e., without making a subgrant), which are:

- BEAD Implementation, Deployment, and Administrative Activities, in which the Office will implement the BEAD program and undertake further planning, mapping, data collection, and conduct administrative activities required to successfully manage the BEAD program in Kentucky
- Workforce Development Initiatives, in which the Office, working with the Department of Workforce Development in the Education & Labor Cabinet (a state agency) will develop a cohesive, statewide workforce development program to help meet the workforce needs of the BEAD program. The Office will follow Kentucky procurement laws and develop Memoranda of Understanding (MOU) or Memoranda of Agreement (MOA) with state agencies as necessary for any Eligible Entity Implementation Activities. These initiatives will not involve any broadband adoption activities.

BEAD Implementation, Deployment, and Administrative Activities The Office plans to implement key grant activities without issuing a subgrant. These activities include those directly related to the BEAD program, including:

- BEAD grant administration, including development of grant agreements and contracting, subgrant management, reporting, monitoring, and compliance processes
- Hiring or contracting to increase Office capacity
- Deduplication of funding, both prior to and after the Challenge process
- Development and implementation of the subgrantee selection process, including development of application, prequalification, selection, negotiation, challenge, rebuttal, and adjudication processes
- Continued local coordination
- Project inspection and testing
- Continued data collection to support further mapping, analysis, and program development and evaluation
- Grant disbursement and financial management
- Program closeout
- Procurement of software and professional services to support processes listed above.

Workforce Development Initiatives Kentucky is experiencing historically low unemployment rates, currently at 4.1 percent.

Further, workforce research conducted by the NTIA identifies a cross-industry labor deficit of 20,900 FTEs for occupations related to construction of broadband networks. Shortfalls in these occupations do not address the shortfalls in non-technical roles such as administrative and customer support. Pursuant to NTIA guidance for “Eligible Entity Deployment Activities,” the Office intends to designate \$10 million for workforce development and readiness efforts, in partnership with the Department of Workforce Development in the Education & Labor Cabinet. Additional funds may be made available for workforce development initiatives if, after the subgrantee selection process, all unserved, underserved, and CAIs are addressed and funds are otherwise unobligated. The Office believes that there will be sufficient funds to cover its deployment obligations. Since workforce development and availability of workers is critical the timely deployment of broadband networks, the Office intends to implement workforce development activities following the subgrantee selection process but prior to submission and approval of the final proposal. These efforts are in direct support of deployment activities as they will ensure ISPs have an available, diverse, and highly skilled workforce. The activities to be undertaken will include:

- Local outreach and planning with educational facilities, local community leaders, correctional facilities, and non-profit organizations involved in digital and technical education
- Take advantage of existing workforce training programs for technical training curriculum in multiple community colleges, and workforce centers focused on covered populations
- Marketing and advertising of workforce development and adult education programs
- Develop career pathways and training access for all parts of the state, especially for covered populations—the entire lifecycle of technical training, broadband education, and digital literacy will be considered
- Support of registered apprenticeship programs
- Mobile training units that can provide training access to those with limited mobility or resources
- Re-entry training for “justice involved” individuals to create pathways to employment
- K-12 education and training modules to guide students in digital skills and digital career pathways
- Coordination efforts between BEAD and DEA personnel
- Data collection to inventory and monitor the success of broadband and digital skillset curriculum
- Childcare and transportation stipends or reimbursements to remove barriers to training attendance

02.07.01 Labor Standards and Protection: Subgrantees Compliance with Federal Labor and Employment Laws

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 and 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.

a) The Commonwealth of Kentucky has a history of requiring fair labor standards and adherence to federal and state labor laws and wage and hour requirements, as applicable, in prior state-administered federal grant programs. The Office will work with the appropriate agencies to ensure compliance by subgrantees. A prospective subgrantee will be required to submit evidence of compliance with state and federal labor and employment laws for the preceding three years during the prequalification process. Requiring a three-year compliance record will help the Office ensure a prospective subgrantee can complete a deployment and infrastructure project in a competent manner. The Office will require the following information from prospective subgrantees to evaluate:

- A certification from an Officer/Director-level employee (or equivalent) of the prospective subgrantee demonstrating consistent past compliance with federal labor and employment laws by the subgrantee, as well as any contractors and subcontractors for the proposed project identified at the time of submission, of the laws outlined in the table below for the preceding three years.
- 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 in the table below for the preceding three years.

Act	Summary
Fair Labor Practices	Fair Labor Standards Act: Establishment of minimum wage, overtime pay, recordkeeping, and child labor standards affecting full-time and part-time workers across private and public sectors
Occupational Safety and Health Act	Establishment of safe and healthy workplace standards
Civil Rights and Nondiscrimination	Title VI of the Civil Rights Act of 1964 (See also 15 C.F.R. Part 8): Prohibition on discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance, including from the Department of Commerce
Title IX of the Education Amendments of 1972	Prohibition of discrimination on the basis of sex under federally assisted education programs or activities
The Americans with Disabilities Act of 1990	Prohibition of discrimination on the basis of disability under programs, activities, and services provided or made available by Eligible Entities and local governments or instrumentalities or agencies thereto, as well as public or private entities that provide transportation
Section 504 of the Rehabilitation Act of 1973	Prohibition of discrimination on the basis of handicap under any program or activity receiving or benefiting from federal assistance
The Age Discrimination Act of 1975	Prohibition of discrimination on the basis of age in programs or activities receiving federal financial assistance
Additional Authorities	Parts II and III of Executive Order 11246. Equal Employment

Opportunity: Requires that federally assisted construction contracts incorporate and fulfill the nondiscrimination provisions of §§ 202 and 203 of E.O. 11246 and Department of Labor regulations implementing E.O. 11246 (41 C.F.R. § 60-1.4(b)); Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency Requires federal agencies to examine the services that they provide, identify any need for services to those with limited English proficiency (LEP), and develop and implement a system to provide those services so LEP persons can have meaningful access to them Executive Order 13798, Promoting Free Speech and Religious Liberty (see also OMB M-20-09 Guidance Regarding Federal Grants and Executive Order 13798): States or other public grantees may not condition sub-awards of federal grant money in a manner that would disadvantage grant applicants based on their religious character New entrants without a three-year record of federal labor and employment law compliance will be permitted to make binding commitments to strong labor and employment standards and protections for BEAD-funded projects. Prospective subgrantees, who at the time of submission have not identified all contractors and subcontractors for the proposed project, shall provide binding commitments that strong labor and employment standards and protections will be required from contractors and subcontractors engaged in BEAD-funded projects. If prospective subgrantee, including a new entrant, fails to provide certification, confirmation, and/or a binding commitment, the prospective subgrantee will not be prequalified and will not be permitted to file an application for BEAD funding. b) Should a prospective subgrantee satisfy prequalification criteria and submit an application (or applications) for BEAD funding that advance(s) in the selection process, the Office will require a prospective subgrantee to provide a plan for ensuring consistent compliance with federal labor and employment laws. An effective plan for consistent compliance with federal labor and employment laws shall include the following: • How the prospective subgrantee will ensure organizational compliance with its own labor and employment practices, and that of its contractors and subcontractors, including: o Information on wage scales and wage and overtime payment practices for each class of employee expected to be involved directly in the physical construction of the broadband network. o 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. o Information on wage scales and wage and overtime payment practices can be satisfied by presenting contracts in effect at the time of application submittal. All information on applicable wage scales and wage and overtime payment practices will be treated confidential and not published publicly. Supervisory, managerial, and executive wage scales and wage and overtime practices should not be provided.

02.07.02 Labor Standards and Protection: Additional Measures

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.

As stated in Section 2.7.1, the Office will require subgrantees to turn in a written plan for ensuring compliance with state and federal labor and employment regulations. An effective plan for compliance with federal labor and employment laws may include items a) through i) listed in the text box above, although they will not be mandatory. Potential subgrantees will be required to include a description of its fair labor practices into application materials as dictated by the BEAD NOFO. These items will not be included in legally binding commitments, but will be evaluated in the selection process. To demonstrate subgrantees' commitments to strong labor standards and protections for the project workforce, the Office will require prospective subgrantees to submit:

- A description of how it will incorporate strong labor standards, including but not limited to, offering wages at or above the prevailing wage and adhering to local hiring provisions.
- A description of how it will ensure that its work provides quality jobs, as defined by the Department of Commerce and Department of Labor's Good Jobs Principles
- A description of any prior legal determination by any court, administrative body or other adjudicator that the prospective subgrantee has failed to satisfy governing wage or labor mandates.
- A description of how, if at all, it expects to rely on subcontracting arrangements in completing the project.

02.08.01 Prospective Subgrantees' Workforce Plan

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

- a. A description of how the Eligible Entity will ensure that subgrantees support the development and use of a highly skilled workforce capable of carrying out work in a manner that is safe and effective;
- b. A description of how the Eligible Entity will develop and promote sector-based partnerships among employers, education and training providers, the public workforce system, unions and worker organizations, and community-based organizations that provide relevant training and wrap-around services to support workers to access and complete training (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 community-based organizations to maintain worker voice throughout the planning and implementation process; and

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

The Office will collaborate with state agencies, non-profits, and subject matter experts to support and expand existing efforts to train workers and develop the talent pipeline to support the deployment of broadband throughout Kentucky. a) The Office will require safety training and compliance measures to be incorporated into any workforce training created or supported by BEAD funds. These training and compliance measures shall include but are not limited to, OSHA training, bucket truck certifications, safety training for work around electric utilities, proper grounding techniques, pole climbing and vault descension techniques certifications, parking and traffic management safety, and compliance with all 811 or local "dig once" policies. In addition, subgrantees will be encouraged to undertake activities to reduce barriers to employment, such as providing laptops and electronics required for training programs and providing personal protective equipment for onsite activities such as hard hats, safety glasses, boots (available in all sizes for both men and women), and gloves. These activities reduce the financial barriers for individuals seeking to join trades and workforce development programs. The Office will require subgrantees to document and report on activities undertaken to reduce barriers to employment. Additional strategies to create equitable on-ramps to employment include, but are not limited to, the following:

- Subgrantees, through outreach, labor standards, and investment requirements, will be encouraged to document and evaluate efforts to hire and retain workers from underrepresented and historically disadvantaged groups, which could include women, people of color, veterans, and people with disabilities.
- Subgrantees will be encouraged to document and evaluate efforts to promote an inclusive working environment that does not tolerate harassment or discrimination. This could include promoting anti-harassment policies, offering equitable training opportunities, and providing employee benefits such as childcare and pregnancy and parental support.
- Subgrantees shall demonstrate that the project workforce is appropriately trained, certified, and credentialed, including pre-existing occupational training, certification, and licensure. Subgrantees will be required to document and evaluate efforts to support and implement training, certification, and credentialing standards for the industry.

b) The Office will collaborate with workforce development partners to support programs to identify, attract, and prepare new workforce entrants throughout the Commonwealth. This will include partnerships among employers, education and training providers, the public workforce system, unions and worker organizations, and community-based organizations that provide relevant training and wrap-around services to support workers to access and complete training (such as childcare, transportation, mentorship, etc.). The Office will require subgrantees to document and report on these activities. Strategies to be undertaken include, but are not limited to:

- Encouraging subgrantees to provide "wrap-around services" such as on-site childcare or stipends for childcare, learning materials, and transportation to training programs.
- Encouraging subgrantees to promote or participate in existing job training and workforce development programs such as registered apprenticeships, pre-apprenticeships, joint labor management training programs, or other high-quality on-the-job training opportunities. These programs can create a pathway to advancement and increased wages through

career progression either with the same employer or prepare workers for other jobs. • The Office, in collaboration with the Department of Workforce Development, will work to identify appropriate training and education providers and help facilitate contacts amongst providers who have similar training needs. • Encouraging subgrantees to participate in local career fairs, incentivize employee referrals, and promoting and supporting existing programs and/or scholarships for fiber and splicing certification or apprenticeship programs and other targeted functional areas like broadband network architects, surveyors/locators, or digital navigators. • Collecting data and information from employers, education and training providers, the public workforce system, unions and worker organizations, and community-based organizations to tailor the development of workforce programs. The Office will promote and support existing efforts being undertaken by the Department of Workforce Development to develop the workforce pipeline. The Office has designated \$10,000,000 of the BEAD allocation to support workforce development programs. Among the existing programs that currently support the development of the broadband workforce are: • Work Ready Kentucky Scholarship Program, a collaborative effort between the Education & Labor Cabinet, public and private universities, and Kentucky Community and Technical Colleges to provide tuition assistance to Kentucky students and adults to obtain an industry-recognized certificate, associate degree in applied science or diploma at one of 21 participating colleges and universities throughout the Commonwealth, in one of Kentucky's high-demand industry sectors, which includes many programs in the broadband career pipeline. • Kentucky's Registered Apprenticeship program, which helps businesses develop their workforce by increasing employee retention and finding qualified candidates for hard-to-fill jobs. This program helps businesses develop talent through work-based training initiatives, combining on-the-job training with first-hand experience. Broadband technicians and line workers are among the occupations eligible for this program. • The Department of Workforce Development was awarded \$5 million in September 2023 through the Quality Jobs, Equity, Strategy and Training (QUEST) Dislocated Worker Grant. This program will focus on individuals whose employment was affected negatively by the pandemic and workers from historically underrepresented and underserved populations. The goal of this program is to support unemployed and underemployed people in accessing, returning to, or advancing in high-quality jobs in infrastructure, environment and climate, the care economy and other critical and growing industries. • Work Opportunity Tax Credits, which assists employers in hiring certain types of workers, including veterans from families currently or recently receiving public assistance or food stamps. • Kentucky Fair Chance Bonds, part of the Federal Bonding Program to provide fidelity bonds that protect employers against employee fraud and dishonesty for "at-risk," hard-to-place job seekers. These bonds are available through the Kentucky Career Center at no cost to Kentucky employers or job prospective subgrantees. Among the types of job seekers these bonds can assist are individuals with criminal records and individuals in recovery from substance use disorders. c) The Commonwealth is committed to developing and creating equitable on-ramps into broadband-related jobs by removing barriers to entry while maintaining job quality and worker voice. Multiple strategies will be undertaken to ensure that prospective subgrantees support the development and use of a highly skilled workforce to deploy and operate broadband networks throughout the state. Those strategies include, but are not limited to, the following: • Encouraging subgrantees document and monitor efforts to engage with labor organizations to prioritize local workers and the development of robust plans to recruit historically underrepresented populations facing labor market barriers and ensure reasonable access to the job opportunities created by subgrantees. • Encouraging subgrantees to demonstrate their active support of job skills development and Diversity, Equity, Inclusion, and Accessibility (DEIA) efforts in the workplace. • Encouraging subgrantees to remove barriers for women, people of color, formerly incarcerated individuals, people with disabilities, and other historically marginalized groups to entering the

telecommunications workforce. • Documenting and monitoring subgrantee efforts to remove barriers to entry, such as limitations on hiring people who have previously been incarcerated and unneeded degree requirements, provide roles where those with physical disabilities or limitations can safely perform, and promote pre-apprenticeship programs that will encourage underrepresented youth to seek early education in this sector. d) The Office has conducted, and will continue to conduct, stakeholder outreach to industry organizations, as well as individual ISPs, local governments, labor unions, and others who have the need for a highly skilled workforce. The Office collaborates with the Department of Workforce Development, which connects all Kentuckians to employment, workforce information, education, and training. The Office will continue to collaborate with the Department of Workforce Development to ensure that the workforce development activities related to the BEAD program are in alignment with, and integrated with, the services and initiatives overseen by the Department of Workforce Development. The statewide reach and breadth of services offered by the Department of Workforce Development will ensure that the job opportunities created by BEAD are available to a diverse pool of workers.

02.08.02 Prospective Subgrantees' Highly Skilled Workforce

Describe the specific 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 pre-existing occupational training, certification, and licensure;
- c. Whether the workforce is unionized;
- d. Whether the workforce will be directly employed or whether work will be performed by a subcontracted workforce; and
- e. The entities that the proposed subcontractor plans to contract and subcontract with in carrying out the proposed work.

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

- a. The job titles and size of the workforce (FTE positions, including for contractors and subcontractors) required to carry out the proposed work over the course of the project and the entity that will employ each portion of the workforce;
- b. For each job title required to carry out the proposed work (including contractors and subcontractors), a description of:
 - i. Safety training, certification, and/or licensure requirements (e.g., OSHA 10, OSHA 30, confined space, traffic control, or other training as relevant depending on title and

work), including whether there is a robust in-house training program with established requirements tied to certifications, titles; and

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

Prospective subgrantees will be required to submit a plan ensuring the project workforce will be an appropriately skilled and credentialed workforce, including:

1. How they will use an appropriately skilled workforce, e.g., through Registered Apprenticeships or other joint labor-management training programs that serve all workers
2. The steps they will take to demonstrate that all members of the project workforce will have appropriate credentials, e.g., appropriate, and relevant pre-existing occupational training, certification, and licensure
3. Whether the project workforce is unionized
4. Whether the workforce will be directly employed or whether work will be performed by a subcontracted workforce
5. The entities that the proposed subgrantee plans to contract and subcontract with in carrying out the proposed work, if known.

Subgrantees should include sufficient information related to their workforce's skills and credentials, including identifying training and credentials required by or provided to their employees

In the event the project workforce or any subgrantee's, contractor's, or subcontractor's workforce is not unionized, The Office will require the subgrantee to provide the following with respect to the non-union workforce:

1. The job titles and size of the workforce (FTE positions, including for contractors and subcontractors) required to carry out the proposed work over the course of the project and the entity that will employ each portion of the workforce
2. For each job title required to carry out the proposed work (including contractors and subcontractors), a description of:
 - a. 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
 - b. Information on the professional certifications and/or in-house training in place to ensure deployment activities meet a high standard

For the purposes of this program, "project workforce" means employees of the applicant, its contractors or subcontractors directly engaged in the physical construction of the infrastructure, but does not include support staff or senior management. The Office and its subcontractors will review plans for level of detail and practicality of execution.

02.09.01 Minority Business Enterprises (MBEs), Women's Business Enterprises (WBEs), and Labor Surplus Firms Inclusion Strategy

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

Subgrantees will be required to document affirmative efforts to recruit, use, and retain MBEs/WBEs. Examples of measures a subgrantee may take to solicit MBE/WBE firms include:

- Including MBE and WBE firms on solicitation lists and sending Invitation to Bid.
- Maintaining a list of qualified small, minority, and female owned businesses.
- When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum participation by small businesses and MBE/WBEs.
- Where the requirements permit, establishing delivery schedules which will encourage participation by small businesses and MBE/WBEs.
- If any subcontracts are to be let, requiring the prime contractor to take the above affirmative steps.
- 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
- Setting aside a percentage of subgrant

funds to be awarded to MBE/WBEs. •Including MBE/WBE criteria with additional points in selection criteria for professional services procurement. The Office will require subgrantees to report on such efforts in periodic reporting requirements, including identifying efforts undertaken to recruit, use, and retain MBE and WBE firms when possible. Existing Kentucky resources that can assist subgrantees and MBE/WBEs are: • Kentucky’s Minority & Women Business Enterprise Certification Program provides certification of MBEs/WBEs and maintains a listing of certified Kentucky businesses. • Kentucky Transportation Cabinet maintains a Certified DBE directory • Kentucky Chamber of Commerce hosts the Kentucky Minority-Owned Business Database • Kentucky APEX Accelerator, (formerly the Kentucky Procurement Technical Assistance Center), aids small businesses in connecting with procurement processes and socioeconomic certifications. Additionally, Kentucky has 17 counties considered to be “labor surplus areas” where the local unemployment rate more than 20% higher than the national average unemployment rate, or a minimum of 6%. Subgrantees will be required to document efforts to recruit, use, and retain labor surplus area firms. As part of post-award outreach, the Office will provide subgrantees information on best practices to recruit, use, and retain MBE/WBEs and labor surplus area firms. While the Office does not currently track and monitor efforts to recruit, use, and retain MBE/WBEs or labor surplus area firms, documentation of subgrantee efforts undertaken to engage disadvantaged firms will be included in required subgrantee reporting. At a minimum, subgrantees will be required to report number of MBE/WBE and labor surplus area firms solicited, method of solicitation, and whether contracts or subcontracts were awarded to MBE/WBE or labor surplus firms.

02.09.02 MBEs, WBEs, and Labor Surplus Firms Inclusion Affirmative Steps

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

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

Yes

02.10.01 Cost and Barrier Reduction Steps

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.

The Commonwealth of Kentucky is committed to improving broadband access and connectivity in the most efficient, cost-effective manner. Efforts to overcome the costs and barriers of broadband expansion that have been undertaken, or are planned, are described below:

a) Promoting the use of existing infrastructure • KentuckyWired, the state-owned, statewide middle mile fiber optic network has capacity to lease dark fiber to ISPs to expand broadband access. The network spans 3,200 miles and touches all 120 counties. The location of KentuckyWired's network is published in the statewide broadband map. • KRS 278.5464, created in 2021, removed regulatory barriers for electric distribution cooperatives to provide broadband.

b) Promoting and adopting dig-once policies • Kentucky does not have a dig-once law; however other efforts are underway to promote coordination and work to remove the duplication of efforts of utilities and other infrastructure located in public rights-of-way. Broadband providers are required to seek permits from the Kentucky Transportation Cabinet (KYTC) when telecommunications infrastructure encroaches on public right of way. Office staff and KYTC staff meet at regular intervals to coordinate on matters related to utility and rights-of-way permits and ongoing construction of broadband infrastructure in public rights-of-way, and these meetings and collaboration are expected to continue throughout the implementation of the BEAD program.

c) Streamlining permitting processes • The Office will provide subgrantee outreach and training to navigate the environmental and historical review requirements of the BEAD program. • The Office will continue to work with its local, state and federal government partners to streamline the permitting process of broadband projects and find solutions to improve the capacity of permitting agencies to address the increased volume of requests that will occur during BEAD.

d) Streamlining cost-effective access to poles, conduits, easements • Pole access continues to be a significant barrier in the timely deployment of broadband infrastructure. Before permits are approved, providers seeking to attach to poles must comply with pole owners' requirements, including load limitation, separation requirements, and height standards before the permit is approved. Pole owners can require the attaching provider to replace the pole before granting a permit ("Make-Ready" work). Make-ready work can add significant costs and delays for broadband deployment. Kentucky has the \$20 million Rural Infrastructure Improvement Program, which subsidizes the replacement of utility poles for the extension of broadband service to unserved areas. • While pole attachment processing times are set out in state law and utility tariffs, these processing times do not apply to "high volume" requests. High volume requests are subject to timelines mutually agreed upon by pole owners and attaching providers. Broadband projects presently under construction have resulted in many high volume requests; this has already overburdened the capacity of pole owners to process attachment

permits. The Office will work with ISPs and pole owners to develop solutions to these capacity limitations. e) Streamlining rights of way, including the imposition of reasonable access requirements.

- KYTC and the Office of Broadband Development are actively collaborating to address permitting issues related to installation of broadband facilities on public rights-of-way. Internet providers must obtain encroachment permits to operate in the right-of-way. Permits are obtained from local KYTC District Offices. On December 3, 2021, FHWA published a new Broadband Infrastructure Deployment rule. § 645.307(a) adds four new requirements to Section 607 of the MOBILE NOW Act. Under the new rules, states must: (1) Identify a broadband utility coordinator who is responsible for facilitating the infrastructure ROW efforts within the State. (2) Establish a registration process for broadband infrastructure entities who may be interested in installing facilities in conjunction with roadway projects. (3) Notify broadband infrastructure companies identified under (2), on an annual basis, of the State Transportation Improvement Program (STIP) and provide other notifications as necessary (4) Coordinate these initiatives with other statewide telecommunication and broadband plans, state and local transportation plans and land use plans. KYTC and the Office work collaboratively to meet MOBILE NOW Act requirements.

02.11.01 Climate Risks Assessment

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 should clearly do each of the following, as outlined on pages 62 – 63 of the BEAD NOFO:

- a. Identify the geographic areas that should be subject to an initial hazard screening for current and projected future weather and climate-related risks and the time scales for performing such screenings;
- b. Characterize which projected weather and climate hazards may be most important to account for and respond to in these areas and over the relevant time horizons;
- c. Characterize any weather and climate risks to new infrastructure deployed using BEAD Program funds for the 20 years following deployment;
- d. Identify how the proposed plan will avoid and/or mitigate weather and climate risks identified; and
- e. Describe plans for periodically repeating this process over the life of the Program to ensure that evolving risks are understood, characterized, and addressed, and that the most up-to-date tools and information resources are utilized.

Severe weather events pose a significant threat to the environment, human health, and the economy, and are projected to increase in occurrence and severity in the future. Over the past few years, Kentucky has experienced significant natural disasters, including severe tornados and flooding that devastated entire communities. Telecommunications infrastructure has been a critical asset in both

preventing loss of life, but also in the recovery efforts following disasters. The BEAD Program is aimed at supporting Eligible Entities in addressing these risks and minimizing their impacts. This proposal outlines a plan for addressing climate threats within the Eligible Entity and proposed mitigation methods while performing BEAD-funded activities. Kentucky's Hazard Mitigation Plan identifies the following statewide vulnerabilities, many of which are climate-related: • Flooding • Drought • Earthquakes • Landslides • Karst/Sinkholes & Mine Subsidence • Severe Winter Storms • Tornadoes and Severe Thunderstorm Wind • Extreme Temperatures • Wildfire These hazards are all statewide in nature and risks apply in all 120 counties. Additional information about these hazards can be found in Kentucky's Statewide Hazard Mitigation Plan.

(<https://kyem.ky.gov/recovery/Pages/2018-Kentucky-Hazard-Mitigation-Plan-.aspx>) The Office has identified the following weather and climate hazards that have potential to impact telecommunications infrastructure:

a) Flood: Flooding is the most frequent and costly natural hazard within the Commonwealth, with an average annual loss of greater than \$40,000,000. Flood events occur within the state every year with several substantial floods occurring annually. Kentucky's topography contains 13 major drainage basins to accommodate 40-50 inches of average rainfall (maximum during winter and spring, minimum during late summer and fall), The state contains 89,431 miles of rivers and streams, 637,000 acres of wetlands, 18 reservoirs over 1,000 acres in size, and 228,382 acres of publicly-owned lakes and reservoirs.

b) Extreme Temperatures : Extreme heat from the warming climate will impact the entire Commonwealth. Per the Climate Explorer, days where the temperature exceeds 90 degrees will double by the mid-2050s, even under a lower-emissions scenario. Infrastructure will need to be able to stand up to extended periods of extreme heat. Additionally, severe winter weather is also expected to intensify. Higher temperatures lead to more moisture in the air, which creates stronger snowstorms. While the frequency of regular snowfall will decrease, the storms that do hit will be more intense than before. This effect will be felt statewide. More winter weather can be expected in localities with higher elevations, but winter storms and ice events impact all areas.

c) Tornadoes and Severe Thunderstorm Wind: Higher winds, especially those from severe weather, are expected to become more frequent. Climate change is leading to an increase in severe weather and high-wind events. These storms and events can impact any part of the commonwealth and infrastructure needs to be withstand these events. Through research conducted using the resources and tools recommended by NTIA, the Office believes the weather and climate risks mentioned above (flood, extreme temperatures, and tornadoes and severe wind) all present risks to new infrastructure deployed using BEAD program funds. Soil erosion from flooding and damage from high winds or severe weather are all possible given the climate projections over the next 20 years. For the identified weather and climate hazards, subgrantees should describe how these climate risks will be mitigated by:

- Incorporating climate resilience into infrastructure design
- Developing emergency response plans and communication strategies to ensure timely and effective response to extreme weather events.

Additional mitigation measures not listed may be required by the Office. On an annual basis, unless otherwise spurred by a severe weather event, the Office will periodically repeat this analysis over the course of the program to ensure that evolving risks are understood, characterized, and addressed. The most up-to-date tools and information resources will be utilized to ensure that the plan remains effective in addressing climate threats. The Office may update program materials including but not limited to programmatic guidelines and applications.

02.11.01.01 Climate Reports

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.

02.12.01 Low-Cost Broadband Service Option

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.

For the BEAD program, Kentucky defines a Low-Cost Option broadband service as a plan that is \$30 per month or less. All recurring fees include monthly subscription, Wi-Fi router or modem fees, and any taxes or surcharges applied. No charges for installation, repair or maintenance of qualified broadband service will be allowed. The Office recognizes that small and rural networks in areas with low population density or small service areas have fewer customers to support capital expenditures and may charge higher monthly fees than providers with higher subscriber counts and density in order to be financially sustainable. The Office will permit applicants and subgrantees to modify their low-cost service option from the \$30 target effective rate as follows: *In no case may the offered rate exceed \$65, which is 88% of the highest rate for comparable service plans in Kentucky as reflected in the 2024 FCC Urban Rate Survey. *The rate does not exceed the cost of an existing, designated low-income plan offered by the subgrantee in non-BEAD markets that is eligible for the ACP benefit, that meets, at a minimum, all other criteria below, including speed and latency requirements, and that is inclusive of all taxes, fees, and with no additional non-recurring costs or fees to the consumer; *Modifications to offered rates to a level between \$30 and the \$65 Not to Exceed (NTE) level may be granted based on evidence supporting the proposed rate: -Per-subscriber costs in an area indicating that the target effective rate above would be financially unsustainable; and/or - The impact on average revenue per user (ARPU) and total project revenue of the target effective rate above would be financially unsustainable given actual or projected subscriber adoption patterns. *If a modification request is granted, the new modified level shall remain the maximum Not to Exceed offered rate for the provider for the duration of the federal interest. The Office may allow an annual adjustment of the rate once per year by the subgrantee based on the Consumer Price Index, as defined by the U.S. Bureau of Labor Statistics, beginning with an adjustment in the first new calendar year after the date of Volume II approval. *The prospective subgrantee must submit to the Office justification on why the service option is affordable to the eligible population, including market analysis that demonstrates clearly that the service option is reasonably affordable to the average ACP-eligible household. Failure to demonstrate that the low-cost service option is affordable may result in the Office requiring additional

information be submitted to justify that the service option meets the requirement. For defining this Low-Cost Option, the Office examined the 2024 FCC Urban Rate Study (<https://www.fcc.gov/economics-analytics/industry-analysis-division/urban-rate-survey-data-resources>). For broadband service (excluding DSL) at 100 Mbps, Kentucky has advertised prices ranging from \$29.95 to \$73.99. The Urban Rate Study uses a sample of census blocks to collect rate information. Of the 25 urban census blocks sampled in Kentucky, 7 census blocks are \$30 per month or less and 1 census block was \$30 exactly; while 17 census blocks exceeded the \$30 per month rate. The average rate for this level of service was \$56.74. Cable and fiber technologies were the technologies providing \$30 or less broadband service. As required in the BEAD Notice of Funding Opportunity, subgrantees receiving BEAD funds to deploy broadband infrastructure are required to offer a “low-cost broadband service option” that is available to customers for the useful life of the network assets. The Office defines a low- cost service option as the following:

- Allows the end user to apply any ACP-successor benefit subsidy to the service price and makes a demonstrable effort to inform prospective customers of these programs and the steps necessary to enroll and apply the benefit to the service plan.
- Consistently and reliably provides download speeds of at least 100 Mbps and typical upload speeds of at least 20 Mbps.
- 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 prospective subgrantee 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 little to no cost.
- The prospective subgrantee is required to participate in the ACP or any ACP-successor program, and encouraged to ensure that prospective customers are aware of their participation in the program.
- The low-cost broadband service option must be made available to those who qualify for the FCC’s ACP. The Office requires the low-cost broadband service option made available to all eligible prospective customers across the subgrantee’s service territory, including locations within the awarded project areas under the BEAD program. The Office proposes this definition for a required low-cost service option after consideration of how to best effectuate the affordability aims of both the BEAD program and the Infrastructure Investment and Jobs Act. The Office’s priority in establishing affordability requirements for the BEAD program is to increase awareness of and enrollment in available broadband subsidy programs while maintaining flexibility given the diversity in size, territory, and service offerings of prospective subgrantees.

02.12.02 Affordable Connectivity Program Participation

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

Yes

02.13.01 Middle-Class Affordability Plan Description

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.

Affordability of broadband services from BEAD-funded networks for middle-class households is a priority for the Commonwealth. The affordability of internet service plans for middle class households is addressed with the following program elements: BEAD Proposal Scoring Criteria Affordability is a primary criterion in the scoring rubric for Kentucky's BEAD program established in this proposal. Affordability is assigned 30% of the points in evaluating proposals. In addition to these requirements, the following recommendations and requirements listed below will promote affordability of services for middle class households. Low-Cost Service Option Providers participating in the BEAD program are required to offer to eligible customers the Low- Cost Service Option defined in this Proposal. Broadband service providers are encouraged to ensure that broadband services offered to prospective customers in the BEAD-awarded area are affordable and reasonably accessible to middle class households. Special Construction Costs For some Kentucky residents, connecting to internet service is unaffordable because the distance to their home exceeds an internet service provider's standard connection drop length from a roadway or easement containing telecommunications infrastructure. The cost incurred by homeowners to extend broadband infrastructure to these locations, referred to as special construction costs, range from a few hundred to a few thousand dollars depending on the distance and cost to connect the location. Subgrantees will be prohibited from charging special construction charges for a minimum of twelve months after broadband service is made available to a BEAD-funded location. Subgrantees will not be permitted to charge any fees to subscribers for these line extensions during the subgrant agreement period of performance, except for the regular connection fees associated with any connection made on the network.

02.14.01 20 Percent of Funds Usage

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 for Initial Proposal funds, 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 Commonwealth is requesting 100% of its funding allocation upon approval of its BEAD Initial Proposal. The table below shows funding requested for each activity, including initiatives and activities to be undertaken without a subgrant process as described in Section 2.6.1.

Personnel	\$1,056,506.50
Travel	\$214,578.50
Supplies	\$9,660.00
Contractual/Subawards	\$1,051,734,882.75
Other	
Direct Costs	\$26,349,692.01
Total Direct Costs	\$1,079,365,319.76
Indirect Costs	\$1,807,217.10
Total	\$1,081,172,536.86

The Office is requesting early access to an amount of funds equal to \$211,389,343.34 prior to the submission to NTIA of the Final Proposal to support its BEAD efforts. A breakdown of estimated early access funds is provided as follows: 25% of Personnel Expenses

\$264,126.63 25% of Travel Expenses \$53,644.63 50% of requested computers \$1,590.00
25% of all remaining supplies \$1,620.00 Grants Management System \$600,066.00 25% of
deployment program contractors \$2,625,000.00 Indirect Costs related to these expenses
\$354,604.73 20% of BEAD Grant Program Funds* \$207,488,691.35 *May be withheld with
Specific Award Conditions pending approval of the Kentucky's Final Proposal.

02.14.02 Initial Proposal Funding Request Amount

Enter the amount of the Initial Proposal Funding Request. If not requesting Initial Proposal funds, enter '\$0.00.'

\$1,081,172,536,.86

02.14.03 20 Percent of Funds Requirements

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."

Yes

02.15.01 Laws Related to Subgrant Competition

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

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

a) Kentucky has no statutes or regulations that would preclude or limit public sector providers from being eligible and participating in the subgrantee selection process for BEAD funding. Kentucky Revised Statute 278.5462 expressly prohibits state regulation of the provision of broadband services. No waiver of regulations is necessary to allow public sector providers to participate in the BEAD program. b) Not applicable.

02.15.01.01 Laws Related to Subgrant Competition List

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.

02.16.01 Requirements Compliance Certification

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

Yes

02.16.02 Subgrantee Accountability

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.

a. The Office will review invoices and documentation submitted by subgrantees and reimburse eligible expenses as they are incurred by the subgrantee. The Office will process disbursement requests on a quarterly basis, unless a more frequent (monthly) cadence is required to meet subrecipient needs. Subgrant funds shall be reimbursed proportional to matching funds. The Office reserves the right to hold up to 10 percent of grant funds until project monitoring and closeout requirements are completed by the subgrantee. b. Kentucky's BEAD program assistance agreements will include clawback provision to allow for recoupment of funds previously disbursed if a subgrantee fails to meet performance objectives. These provisions have not yet been developed. c. The Office of Broadband Development will require the following subgrantee reporting requirements: Quarterly Performance and Financial Reports Subgrantees will be required to submit at least on a quarterly basis, performance and financial reports. The first set of reports is to cover the first three months after the awards begins. Pursuant to 2 CFR 200.328, PFR's shall be submitted no later than 30 calendar days following the period covered by the report. Grantees will also be required to submit a final closeout report within 45 calendar days following the end of the period of performance. Project Reporting Grantees will be required to submit regular reports to document the progress of the project as part of the grant requirements. These reports include but are not limited to: • Projected/actual construction start date (month/year) • Projected/actual initiation of operations date (month/year) • Location (for broadband, geospatial location data); • Speeds/pricing tiers to be offered, including the speed/pricing of its affordability offering; • Technology to be deployed; • Miles of fiber; • Cost per mile; • Cost per passing; • Number of households projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload; • Number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download; • Number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload; • Number of businesses and CAIs projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business,

elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization a. Specify the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps symmetrical upload and download; and b. Specify the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload. For projects with total projects costs over \$10 million: a. Grantee may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)) and the Illinois Project Labor Agreements Act (30 ILCS 571). Grantee will provide a copy of the project labor agreement. A project labor agreement must • Set forth mutually binding procedures for resolving jurisdictional labor disputes and grievances; • Guarantee against strikes, lockouts, or similar actions; • Ensure a reliable source of labor; • Set goals for woman and minority apprenticeship hours; • Permit the selection of the lowest responsible bidder, regardless of union status; • Bind all contractors and subcontractors through the inclusion of bid specifications in all relevant bid documents; and • Be signed by a bona fide labor organization. Grantee will provide contact information for the bona fide labor organization. b. Grantee must maintain sufficient records to substantiate this information upon request. c. If the Grantee does not provide such certification, Grantee must provide a Project Workforce Continuity Plan, detailing: • How the Grantee will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality and timely construction throughout the life of the project; • How the Grantee will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project; • How the Grantee will resolve jurisdictional labor disputes and grievances; • How the Grantee will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities; • How the Contractor will ensure that the lowest responsible bidder is chosen for the project; • How the Grantee will ensure that all contractors and subcontractors are bound by the Project Workforce Continuity Plan; • Whether workers on the project will receive wages and benefits that secure an appropriately skilled workforce in the context of a local or regional labor market; • Whether the project prioritizes local hires; and • Whether the project has a Community Benefit Agreement, with a description of any such agreement d. Kentucky's BEAD program will implement the same robust monitoring practices currently in practice for the administration of prior Broadband Deployment Fund grants, in compliance with BEAD regulations, and modeled after practices adopted by the Kentucky Infrastructure Authority in the administration of federal funds, to which the Office of Broadband Development is administratively attached. Subgrantees will be subject to fiscal and programmatic monitoring visits by the Office or its contractors in accordance with 2 CFR 200.337. Subgrantees will be required to have periodic monitoring visits by Office staff or contractors to evaluate the compliance and progress of the project. Subgrantees must provide documentation upon request of the monitor. Program staff will also maintain contact with participants and monitor progress and performance of the contracts. The Office reserves the right to modify subgrant awards based on performance.

02.16.03 Subgrantee Civil Rights and Nondiscrimination

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

Yes

02.16.04 Subgrantee Cybersecurity and Supply Chain Risk Management Compliance

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

- 1) The prospective subgrantee has a SCRM plan in place that is either:
 - a. operational, if the prospective subgrantee is already providing service at the time of the grant; or
 - b. ready to be operationalized, if the prospective subgrantee is not yet providing service at the time of grant award;
- 2) The plan is based upon the key practices discussed in the NIST publication NISTIR 8276, Key Practices in Cyber Supply Chain Risk Management: Observations from Industry and related SCRM guidance from NIST, including NIST 800-161, Cybersecurity Supply Chain Risk Management Practices for Systems and Organizations and specifies the supply chain risk management controls being implemented;
- 3) The plan will be reevaluated and updated on a periodic basis and as events warrant; and
- 4) The plan will be submitted to the Eligible Entity prior to the allocation of funds. If the subgrantee makes any substantive changes to the plan, a new version will be submitted to the Eligible Entity within 30 days. The Eligible Entity must provide a subgrantee's plan to NTIA upon NTIA's request.

Yes

Volume II Waivers

Upload an attachment(s) detailing the waiver request(s) for the requirements related to Volume II. Please draft the waiver request(s) using the Waiver Request Form template.

02.17.01 Volume II Public Comment

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.

Volume II was posted for public comment on November 2, 2023 and public comment was accepted until December 4, 2023, which exceeded 30 days. The documents were posted on the Office's website and stakeholders were notified directly by email that it was available for comment. In addition to accepting public comments, Office staff also met with and discussed its Volume II proposal with stakeholders upon request by the stakeholder. The Office received 30 comment submissions from a wide range of local, state, and national stakeholders. Comments received provided feedback on the scoring rubric, labor and workforce standards, the subgrantee selection process, and the low-cost and middle class service options. Comments were received and evaluated for inclusion into the proposal where appropriate. Modifications were made to the scoring rubric and subgrantee selection process based on public comment feedback. The weights of the secondary criteria in the scoring rubric were changed based on feedback on the importance of those elements, as well as how the primary and secondary criteria would be evaluated and scored.

02.17.02 Volume II Supplemental Materials

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.

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