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South Dakota Broadband Summit
April 10, 2024

Program Status / Resources 2024

- **Broadband Equity Access and Deployment (BEAD)**
    1. Challenge Process
    2. Subgrantee selection
    3. BEAD Final Proposal submitted
- **Digital Equity Capacity Grant**
    - Digital Opportunity Plan approval
    - Capacity Grant
- **Resources Federal/State**

Why is the BEAD Challenge Process Important?

The BEAD Challenge Process is vital because it determines the **locations and community anchor institutions** within each jurisdiction that are **eligible for BEAD funding.**

Key step toward achieving BEAD goals

Before the BEAD program can meet the goal of providing accessible and affordable broadband, all unserved locations, underserved locations, and eligible Community Anchor Institutions must be identified.

Helps ensure accurate results

An evidence-based, fair, transparent, and expeditious BEAD Challenge Process, as outlined in the NOFO and Challenge Process Policy Notice, helps ensure accurate results, an efficient process, and a precise allocation of resources.

Gathers information needed before running the subgrantee selection

The subgrantee selection process cannot be run without first having an accurate and comprehensive list of eligible locations and CAIs.

Design Requirements: Basics

Eligible Entities must outline a challenge process that is transparent, evidence-based, and expeditious. The challenge process **must include the following 4 phases**:

Publication of Eligible Locations

- The Eligible Entity *publishes the set of locations eligible for BEAD funding* which includes the full universe of locations potentially eligible for BEAD funding minus those removed in the modifications to location classifications process

- This set also includes locations considered served

Challenge

- The Eligible Entity defines the level of evidence needed for a challenge.

- A permissible challenger submits a challenge to the EE's online portal ("challenge portal") and the location becomes *challenged*.

- These challenges must be *visible* to the relevant ISP

Rebuttal

- A rebuttal of a challenger makes the location or locations *disputed*

- A challenge that is not rebutted within the rebuttal period is *sustained*

- A provider may agree with the challenge, making the location(s) *sustained*

Final Determination

- The Eligible Entity either *sustains* the disputed locations, or *rejects* the dispute

Allowable Challengers: Units of local government, nonprofit organizations, broadband service providers

Design Requirements: Examples of Allowable Challenges

Looking specifically at the Challenge Process, Eligible Entities must be sure to distinguish what types of challenges are allowable and which types of challenges are not allowable.

ALLOWABLE CHALLENGES

- Location Funding Eligibility Determinations
- Identification of Community Anchor Institutions (CAIs)
- CAI Eligibility Determinations
- Enforceable Commitments
- Planned Service

UNALLOWABLE CHALLENGES

- Altering the BSL's "Building Type" classification
- Addition of BSLs
- Removal of BSLs

What are the Different Types of Allowable Challenges?

Eligible Challengers for the BEAD State Challenge Process include **units of local government**, **non-profits**, and **broadband service providers**.

CHALLENGE TYPE	DESCRIPTION
Availability	The broadband service identified is not offered at the location, including a unit of a multiple dwelling unit (MDU).
Speed	The actual speed of the-service tier falls below the unserved or underserved thresholds.
Latency	The round-trip latency of the broadband service exceeds 100 ms.
Data cap	The only service plans marketed to consumers impose an unreasonable capacity allowance ("data cap") on the consumer.
Technology	The technology indicated for this location is incorrect.
Business service only	The location is residential, but the service offered is marketed or available only to businesses.
Enforceable Commitment	The challenger has knowledge that broadband will be deployed at this location by the date established in the deployment obligation.
Planned service	The challenger has knowledge that broadband will be deployed at this location by June 30, 2024 either without an enforceable commitment or because a provider is building out broadband offering performance beyond the requirements of an enforceable commitment.
Not part of enforceable commitment	This location is in an area that is subject to an enforceable commitment to less than 100% of locations and the location is not covered by that commitment. (See BEAD NOFO at 36, n. 52.)
Location is a CAI	The location should be classified as a CAI.
Location is not a CAI	The location is currently labeled as a CAI but is a residence, a non-CAI business, or is no longer in operation.

Example of Allowable Challenges

The BEAD Challenge Process has specific requirements regarding what types of challenges are allowed.

Location Eligibility Determination

Planned Service

Description

A challenger could submit a challenge to the classification of a location as unserved or underserved because of **service availability, speed, latency, business service only, data caps, or the technology type.**

A challenger could submit a challenge to the classification of a location as unserved because there are **plans to provide broadband service to the location in the future**.

Example

Example: *A challenger could argue that a location is underserved because the available broadband speed is less than what the NOFO defines as qualifying broadband service of 100 Mbps for downloads and 20 Mbps for uploads.*

Example: *A challenger could argue to change a location from unserved to served because they have evidence of planned expansion of broadband access to that location.*

SOUTH DAKOTA will begin running the Broadband Equity, Access, and Deployment (BEAD) Program's Challenge Process MMM DD, 2024.

The Challenge Process is a critical phase of the BEAD Program because it determines which locations and community anchor institutions in each state and territory are eligible to be served by BEAD funded networks.

In this process, an eligible challenger may challenge a determination made by the state as to whether a particular location (home or business) or Community Anchor Institution (CAI)—such as schools or libraries—is served, underserved, or unserved.

Who Can Participate?

Eligible challengers include (1) units of local and/or Tribal government, (2) nonprofit organizations, and (3) broadband service providers. Individuals do not have standing to submit challenges but can participate by contacting an eligible challenger to submit a challenge on their behalf.

What is the Role of Eligible Challengers?

Read the Challenge Process instructions and guidance posted by your state or territory to understand the steps required to submit a challenge.

Gather acceptable evidence, which may include speed tests, screenshots from a provider website, service requests, letters or emails, and more.

Submit a challenge with acceptable evidence to your state or territory's BEAD Challenge Process website. Inform and encourage other eligible challengers to participate.

Respond to, or check for responses to, your challenge by periodically checking your state or territory's BEAD Challenge website for updates.

What Resources Can I Use to Create My Strategy for Participating in the Challenge Process?

SOUTH DAKOTA Resources

✓ **Challenge Process Website** South Dakota's Challenge Process website/portal for conducting the Challenge Process. Consider signing up early and be validated as a permissible challenger. BEAD - South Dakota (sdgoed.com)

✓ **ConnectSD Overview** Provides an overview of the Challenge Process phases, challenge timelines, and instructions on how to submit and rebut a challenge.

✓ **Approved Initial Proposal Volume 1** Details the NTIA approved plans for conducting the BEAD Challenge Process.

NTIA Resources

✓ **BEAD Challenge Process Policy Notice** Guidance informing the design and implementation of the BEAD Challenge Process.

✓ **BEAD NOFO** Describes the requirements under which NTIA awards grants for the BEAD Program.

Visit **BEAD - South Dakota (sdgoed.com)** to review the Challenge Process instructions and guidance, submit your challenge evidence, and check for challenge responses.

South Dakota's Challenge Process

- **Refer to South Dakota's approved Initial Proposal V.1**

- **NTIA Challenge Process Policy Notice**

- **CostQuest Licence** information for eligible challengers
  - State initiates the coordination process for eligible challenging entities to obtain a Tier E License. Contact CostQuest at IFAsupport@costquest.com
  - **FAQ on Tier E CostQuest licenses** with eligible challengers: FAQ - Requesting an NTIA TIER E License

Updates and Guidance

Letter of Credit

- **BEAD Letter of Credit Waiver**

- **Programmatic Waiver of Letter of Credit Requirement (November 2023)**

Federal Uniform Guidance and BEAD

Uniform Guidance: *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards 2CFR Part 200*

- **Policy Notice** *(December 2023)*
  - Exceptions, adjustments, clarifications
  - Scope/Applicability
    - Last-mile broadband deployments
    - Middle Mile infrastructure deployments
    - Internet and Wi-fi infrastructure deployment within multi-family residential buildings
- Specifically addresses:
  - Program Income
  - Fixed Amount subawards and cost principles
  - Procurement standards for Fixed Amount Subawards
  - Property Standards for Fixed Amount Subawards
  - Federal interest period
  - Audit Requirements

Build America, Buy America (BABA)

Formalizing the BABA requirements for BEAD

<u>BABA Waiver and FAQ</u>

[Dept of Commerce Office of Acquisition Management]

Optical fiber & fiber optic cable

Optical fiber

Fiber optic cable

Optical fiber and fiber optic cable are both categorized as "construction materials," for which BABA requires production in the U.S.

(3) **Glass**: All manufacturing processes, from initial batching and melting of raw materials through annealing, cooling, and cutting, occurred in the United States.

(4) **Fiber optic cable (including drop cable)**: All manufacturing processes, from the initial ribboning (if applicable), through buffering, fiber stranding and jacketing, occurred in the United States. All manufacturing processes also include the standards for glass and optical fiber, but not for non-ferrous metals, plastic and polymer-based products, or any others.

(5) **Optical fiber**: All manufacturing processes, from the initial preform fabrication stage through the completion of the draw, occurred in the United States.

NTIA proposes waiving the Buy America preference for non-optic-glass inputs (*e.g.*, an overclad cylinder) which are used as an input to the preform manufacturing process of optical fiber.

Four Electronics that are NOT Waived

Optical Line Terminals (OLTs & rOLTs)	OLT Line Cards	Optic Pluggables (installed in OLTs)	Optical Network Terminals (ONTs & ONUs)

- NTIA provides **specific guidance regarding manufacturing processes** that must occur in the United States for these categories of electronics to be BABA compliant.
- NTIA proposes to **waive the 55 percent cost of components test**.

Enclosures are NOT Waived

NTIA definition: Enclosures are a manufactured product used at a location where a network function (*e.g.*, active electronics, fiber split or splice) is housed, and includes pedestals, terminals, and fiber distribution frames.

What is waived for enclosures? NTIA proposes a limited waiver of the 55% cost of components requirement for enclosures used in BEAD Program projects.

Specific manufacturing steps are required to be Buy America compliant.

Permitting

- **Permitting and Environmental Mapping Tool** to help identify the types of permits needed and plan routes for broadband deployments.

- **Tutorial available**

- **Advisory Council on Historic Preservation (ACHP) to streamline historic preservation permitting rules**
  - **Expanding Internet Access and Protecting Historic Properties**

National Environmental Policy Act (NEPA)

NTIA adopts new measures to streamline Environmental Impact Permitting Review for IFA projects:

- **Adoption of First Responder Network Authority Categorical Exclusions**

- **NEPA Procedures and Categorical Exclusions**
  - **Summary:** NTIA will follow the *First Responder Network Authority's* NEPA procedures on an interim basis … and establish 30 new categorical exclusions ("CEs") in compliance with NEPA, Council on Environmental Quality regulations, and other related authorities.

- **Contact:**
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State Digital Equity Capacity Grant Program

Purpose of Capacity Grant Program Funds

Capacity Grant Program funds must support the adoption of sustainable, long-term programs that address digital equity through defined projects and activities[1].

States and Territories will Use Capacity Funds to Implement their Digital Equity Plans

States and U.S. Territories will receive funding to **invest in strategic and sustainable interventions** aimed at achieving digital equity (and related purposes as detailed in the NOFO).

Monitoring Progress and Adjusting for Success

The success of the States and Territories in meeting these goals will be **tracked through the reporting requirements on the applicable performance metrics**.

Integration with the BEAD Program

The Digital Equity Act is closely tied to the broader infrastructure deployment goals of the Broadband Equity, Access, and Deployment (BEAD) Program[1].

What is BEAD? | How do they Relate?

The BEAD program is a historic, last mile investment for:

- 🏠 **Broadband Planning,**
- 📡 **Deployment,**
- 🗺️ **Mapping,**
- ✴️ **Equity,**
- 💻 **Adoption, and**
- 📖 **Meaningful use projects.**

*The two programs complement each other and require high levels of coordination to make sure **resources are working in a non-duplicative manner**. States, Territories, and Native Entities should do the following to reinforce coordination:*

- 💬 Establish **formal and direct communications** and **collaboration pathways**

- 💵 Ensure projects are **coordinated with other broadband-related projects**

This is important to **reduce the burden and confusion on community stakeholders** when fulfilling the local coordination, outreach, and stakeholder engagement requirements of both programs.

1. SDECGP NOFO Section I.B

Capacity Grant Program Permitted Activities

In examining whether a proposed strategy or intervention furthers the goals of the State Digital Equity Capacity Grant Program and the State or Territory's Digital Equity Plan, grant recipients must consider the criteria and focal points outlined in the NOFO.

Permitted Activities[1]:

Grant recipients should think through the following criteria below:

✓ **Focus on Covered Populations**

✓ **Stakeholder Engagement**

✓ **Long-lasting and Meaningful Change**

✓ **Measurable Implementation Strategies**

1. SDECGP NOFO Section II.C.3.b

Examples of Capacity Grant Program Allowable Uses

Digital Equity grantees can use their funds in multiple ways to achieve the equitable adoption of high-speed internet and empower their communities to learn and the services they provide to grow[1].

Digital Literacy and Skills Training | *Encourage digital literacy and skills programs that provide training and education to members of the Covered Populations*

E-Government and Civic Engagement | *Develop digital tools that enable online community engagement and that empower individuals to participate in the democratic process*

Device Deployment Programs | *Coordinate deployment of accessible devices such as laptops, smartphones, tablets, or other internet-enabled devices for those that need it most*

Economic Development | *Support digital entrepreneurship, online job training, and remote work opportunities to foster economic empowerment and reduce disparities*

Online Access to Health and Mental Wellness Services | *Build or strengthen tools that directly help patients and end users within the Covered Populations to access healthcare services online*

Online Accessibility | *Coach programs to ensure that websites and applications are designed with accessibility in mind*

Access to Affordable Broadband Service | *Promote programs to provide low-cost services*

1. SDECGP NOFO Section II.C.3.b

Key Dates to Remember

Application submission and grant award dates for the Capacity Grant Program are described in the NOFO[1].

Period of Performance

States and US Territories will be able to spend down grant funds during the **5-year period of performance beginning on the date when the State is awarded grant funds**.

Application Due Date

Applications are due by the following dates for…:

- States, D.C. and Puerto Rico: 60 days after the NOFO is released, **May 28, 2024**

- U.S. Territories: The due date for US Territories' Capacity Grant Applications is **July 31, 2024**

- Native Entities: 315 days after the NOFO is released; the Native Entity *application window opens September 25, 2024* and **closes February 7, 2025**

Issuing Awards

NTIA expects to begin issuing awards to Eligible States on a rolling basis **no later than August 28, 2024**.

1. SDECGP NOFO Executive Summary

Native Entities

Native Entities will have a competitive process for obtaining Digital Equity Capacity Grants. This information includes award amounts, eligibility, the application and submission process, and review criteria. Please be sure to note that more information and guidance will be released at a later date.

KEY NOTES FOR NATIVE ENTITIES:

Application Window

Applications for Native Entities are due **315 days after the NOFO** is released.

- The Application window opens September 25, 2024.
- The Application window closes February 7, 2025.

Eligibility

Indian Tribes, Alaska Native entities, and Native Hawaiian organizations (collectively, "Native Entities") are eligible to apply for grants with NTIA to carry out activities contemplated in this program.

> ⚠️ **Additional guidance and information will be released at a later date. This webinar only touches on States and Territories, so expect more information and technical assistance related to Native and Tribal Entities soon.**

Ways to Get Involved

There are plenty of ways for stakeholders to get involved in the DE Program, even if they are not an Administering Entity. Stakeholders should be thinking hard about what they want their involvement to look like.

Engage with your State Broadband Office (SBO)

Reach out to your SBO to learn additional ways stakeholders can get involved, whether it be helping with plan development or with carrying out the plans. SBOs are looking for stakeholder feedback!

Get Familiar with your State/Territory's Subawarding Process

Stakeholders should prioritize getting familiar with their State/Territory's subgrantee selection/subawarding process and learn if they are eligible to apply. Stakeholders can contact their SBO for additional information on the subgrantee selection/subawarding process.

Keep an Eye out for the Competitive Program

Remember, the next round of funding that will be coming from NTIA for Digital Equity will be under a Competitive Grant Program.

Resources...

- **BroadbandUSA Technical Assistance Hub**

- **Tribal Broadband Connectivity Program** Round 2 application deadline March 22, 2024

- **Digital Equity Capacity Grant Notice of Funding Opportunity** (NOFO) released March 29, 2024 (deadline to submit May 28, 2024)

- NTIA site for **BEAD and Digital Equity Plan / Initial Proposals / Challenge Process Portals**

Thank you!

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