

Broadband Equity, Access, and Deployment Program

Distribution of Funds Policy

Version 1.0

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Purpose

The Broadband Equity, Access, and Deployment (BEAD) Program provides funding from the Bipartisan Infrastructure Law to expand high-speed internet access across the country. South Dakota utilizes federal funding through the BEAD Program to build a strong foundation of broadband infrastructure. The distribution of BEAD program funds is managed by the Governor's Office of Economic Development (GOED). This policy will detail the procedures for distributing funds from the BEAD program.

Internal Controls

To ensure proper utilization of grant funds; minimize the opportunity for waste, fraud, and abuse; and inform the public on grants and subgrants awarded, GOED has implemented procedures and controls including routine reviews and site visits, segregation of duties, and standard reporting policies. These procedures are outlined in the Final Proposal, Sub-Recipient Agreement, SD BEAD Program Monitoring Plan Summary, and this document.

Sub-Recipient Agreement

All grantees (sub-recipients) of the BEAD grant enter into a Sub-Recipient Agreement with the State of South Dakota. The Sub-Recipient Agreement includes terms and conditions within required audit provisions for grant awards, agency or grant specific clauses, and standard clauses. All topics covered in the sub-recipient agreement are identified below. The Sub-Recipient Agreement is available on the South Dakota GOED ConnectSD website.

State of South Dakota Sub-Recipient Agreement (https://sdgoed.com/partners/connectsd/bead/)		
Required Audit Provisions for Grant Awards	Agency or Grant Specific Clauses	Standard Clauses
• Federal Award Identification • Period of Performance of this agreement • Basis for Subaward Amounts • Risk Assessments, Monitoring, and Remedies • Retention and Inspection of Records • Audit Requirements • Sub-recipient Attestations • Fixed Amount Subaward • Closeout	• Compliance with Federal and State Program Guidance • Property Management Standards • Environmental and Historic Preservation Matters • Permitting • Security for Sub-recipient's Performance • Technical Assistance • Licensing and Standard Compliance • Work Product	• Assurance Requirements • Cost Principles • Termination • Funding • Indemnification • Sovereign Immunity • Insurance • Confidentiality of Information

State of South Dakota Sub-Recipient Agreement (https://sdgoed.com/partners/connectsd/bead/)		
Required Audit Provisions for Grant Awards	Agency or Grant Specific Clauses	Standard Clauses
	• IT Standards • Davis-Bacon Act • Compliance with 40 U.S.C 3702 and 3704 • Funding Agreement and “Rights to Invention” • Whistleblower Protection • Prohibition on use of Certain Equipment and Services • Highly Skilled Workforce • Deployment Benchmarks • Conduit Access Points • Low-cost Broadband Service Option Plans • Consumer Protections • Access to Service • Public Notice • Cybersecurity and Supply Chain Risk Management • Prohibition on Profit and Fees • Prohibition on use of Funds and Collective Bargaining • Federal Funding Accountability and Transparency Act of 2006 • Protected and Proprietary Information • Domestic Preference for Procurement (2 CFR 200.322) • Procurement of Recovered Materials (2 CFR 200.322)	• Compliance with Executive Order 2020-01 • Certification of No State Legislator Interest • Conflict of Interest • Assignment and Amendment • Controlling Law and Venue • Supersession • Severability • Notice • Subcontractors/Sub-recipients • States Right to Reject • Terms • Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion • Force Majeure • Waiver of Breach • Headings • Authority to Execute

State of South Dakota Sub-Recipient Agreement (https://sdgoed.com/partners/connectsd/bead/)		
Required Audit Provisions for Grant Awards	Agency or Grant Specific Clauses	Standard Clauses
	• Prohibition on the Supplantation of Funds • Civil Rights and Nondiscrimination Law Compliance • Network Capabilities	

Payment Disbursement Process

In accordance with Exhibit “C” of the Sub-Recipient Agreement, all sub-recipients excluding low earth orbit (LEO) capacity sub-recipients will be issued bi-monthly progress payments on a reimbursement basis. In accordance with Exhibit “D” of the Sub-Recipient Agreement, LEO capacity sub-recipients will receive a portion of the total grant at the time the sub-recipient certifies the availability of service throughout the project area, and the remaining grant balance will be issued quarterly on a reimbursement basis for a period of up to 10 years.

Once a LEO capacity subrecipient is certified, an initial payment will be requested by the GOED broadband coordinator. The GOED finance and fiscal director or fiscal accountant must review and approve the payment prior to the GOED fiscal assistant submitting a request for payment to the State Auditor’s Office. The State Auditor’s Office balances the pay request, and the South Dakota Treasurer issues the payment.

In accordance with the Sub-Recipient Agreement and reimbursement process outlined in the SD BEAD Program Monitoring Plan Summary, the sub-recipient will submit an invoice to the GOED broadband coordinator for reimbursement of expenses. The broadband coordinator will review the invoice to verify the amount requested is correct and all required reporting to date has been submitted. The GOED broadband coordinator will either submit their approval along with the invoice to the GOED finance and fiscal director or fiscal accountant for secondary approval, request additional information from the sub-recipient, or deny the invoice and report back to the sub-recipient a reason for denial. Once an invoice is approved by both the GOED broadband coordinator and the finance and fiscal director or fiscal accountant, the fiscal assistant will then submit a voucher to the State Auditor’s Office. The State Auditor’s Office balances the pay request voucher, and the South Dakota Treasurer issues the payment to the sub-recipient.

In the event a sub-recipient fully completes its work on the project prior to a scheduled payment request deadline, it may immediately present a final payment request to GOED. GOED will then pay any remaining amount required to reimburse the sub-recipient within 30 days of such a request.

Clawback Provisions

As described in the Agency or Grant Specific Clauses of the Sub-Recipient Agreement, a letter of credit or performance bond is required by the sub-recipient prior to receiving funds through the BEAD program. GOED will ensure the recovery of funds in the event of sub-recipient noncompliance with BEAD program requirements, including the requirements set in the Final Proposal, Sub-Recipient Agreement, and SD BEAD Program Monitoring Plan Summary.

Justifications GOED may use to withhold reimbursements of funding from the sub-recipient or to clawback funding include, but are not limited to:

- Insufficient or untimely reporting of:
 - defined key performance indicators, such as locations served, infrastructure deployed, and milestone progress, to demonstrate project performance;
 - itemized expenditures and budget comparisons to demonstrate that all costs are allowable, reasonable, and properly supported;
 - unexpended funds with an explanation for delays or timeline adjustments; and
 - Financial obligations to show progress toward full fund utilization,
- Site visits that result in findings or observations of noncompliance with state or federal requirements. The frequency of site visits is determined by the sub-recipient's determined risk as outlined in the SD BEAD Program Monitoring Plan. Sub-recipient risk is assessed based on the risk assessments in the Sub-Recipient Agreement.
- Noncompliance found during audits.

Reporting frequency requirements are established in the SD BEAD Program Monitoring Plan Summary and the Sub-Recipient Agreement.

Administration Costs

Administrative expenses associated with the BEAD program are reimbursable. Reimbursements may be submitted to the GOED fiscal assistant. Once the fiscal assistant has approved the reimbursement, a secondary approval by the GOED finance and fiscal director is required. Once reimbursements are approved by both the GOED fiscal assistant and finance and fiscal director, the reimbursement is then submitted to the State Auditor's Office for payment from the BEAD program fund.

Capped Administration Costs

The administrative costs associated with the BEAD program are capped in accordance with Section 60102(d)(2)(B) of the Infrastructure Investment and Jobs Act. Two percent of South Dakota's allocated federal BEAD dollars may be utilized for expenses relating to the administration of the BEAD program. Expenditures are monitored by the GOED fiscal

accountant to ensure they have not exceeded the appropriated and capped amount. All expenditure reports are shared with the GOED finance and fiscal director.

Time Reporting and Payroll

GOED employee time spent on the BEAD program may be entered online in the State's Time Keeping System (TKS). The time reported for pay purposes may include regular hours worked, paid holidays, paid administrative leave, and other leave taken, such as, vacation, sick, and personal. Time worked and absences are paid after-the-fact. The individual time forms and leave requests are approved by the division director or designee. The GOED employees are paid out of BEAD administration funds unless they have other program duties assigned, then they are paid per applicable time study rules. Payroll checks are direct deposited as directed by the employee by providing a completed ACH Direct Deposit Form or entering the information themselves on the self-service online, Self-Evident Application, website. Payroll distribution reports are reviewed by the GOED finance and fiscal director to assure that all payroll charges are correctly charged. Payroll expenses are included in the monthly BEAD financial report that is provided to the finance and fiscal director.

Financial Statements & Audits

Audits are conducted in accordance with auditing standards generally accepted in the United States and the standards applicable to financial audits contained in the Government Auditing Standards. Annual Financial Reports utilize a fiscal year end of June 30 and include the following: Statement of Net Assets, Statement of Revenues, Expenses, and Changes in Fund Net Assets, Statement of Cash Flows, and Notes to the Financial Statements. GOED Finance and Fiscal Division will conduct semi-annual financial reviews of the BEAD program. Audit requirements for the sub-recipient are included in the SD BEAD Program Monitoring Plan.