

# **Arizona Broadband, Equity, Access, and Deployment Program (BEAD) Preregistration Guidance**

Arizona Commerce Authority (ACA)

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# 1. Key Information

## 1.1. Summary

The Broadband Equity, Access, and Deployment (BEAD) Program provides \$42.45 billion from the National Telecommunications and Information Administration (NTIA) to expand high-speed internet access by funding planning, infrastructure deployment and adoption program in all 50 states and the territories. The State of Arizona has been allocated \$993.1 million. Details of the program are available in the NTIA's Notice of Funding Opportunity at NTIA BEAD NOFO and the BEAD Restructuring Policy Notice (BEAD RPN).

## 1.2. Purpose of this Guidance

The purpose of this preregistration guidance is to aid Potential Applicants in providing the required documentation needed to preregister for the Arizona Commerce Authority's (ACA) BEAD funding program. The preregistration guidance aims to assist Potential Applicants in gathering the necessary information for ACA to assess a Potential Applicant's financial, technical, managerial, operational, and other capabilities, as outlined in the BEAD Notice of Funding (NOFO), the BEAD RPN, and Arizona's BEAD Initial Proposal. By submitting this information through preregistration, Potential Applicants can focus their efforts on project-related details once the subgrant program project application window opens.

**This preregistration is mandatory for the Potential Applicant's participation of the BEAD program.** The information collected during preregistration can apply to all future applications, including multiple project applications. Only the primary applicant will need to preregister. Preregistration is intended to streamline the application process, serving as a gating stage to ensure applicants meet the program's minimum and mandatory requirements.

To facilitate this process, ACA has developed comprehensive guidelines for the preregistration process based on the BEAD NOFO, which are outlined in this document. Informational webinars and documents will also be shared to provide further assistance. Additionally, all relevant information regarding the preregistration process will be shared on the ACA's website, including the ACA Procurement and Grants Policy, which apply to this process.

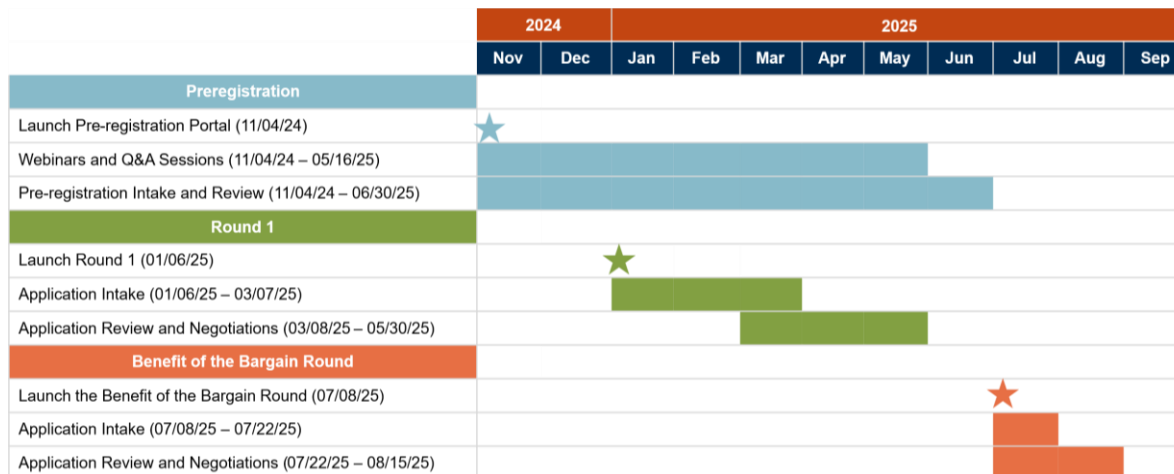
**Please read through the entire guidance package before beginning preregistration responses. This will ensure clarity of the full scope of preregistration requirements as well as the details and information required to complete the preregistration process.**

## 1.3. Preregistration Deadline

Preregistration opened on November 4<sup>th</sup>, 2024. ACA will accept and review preregistration applications on a rolling basis until June 30<sup>th</sup>, 2025.

Figure 1 provides a tentative timeline for the BEAD subgrantee selection. The dates shown in Figure 1 are subject to change.

Additional information on submitting a preregistration response is provided in Section 4 of this document.



**Figure 1: BEAD Subgrantee Selection Tentative Timeline**

## 1.4. Submission Instructions

Potential Applicants for the BEAD program should submit their preregistration response form through ACA's preregistration portal. To support the exchange of information for the BEAD program, ACA has established a portal for the secure upload of files to private folders that are only accessible to the broadband provider to which they are assigned. Potential Applicants will be able to work on the response forms and save draft progress on the portal over time before final submission.

No other submission method is allowed. Applications must be complete, and attachments clearly labeled. Completed application, attachments, and supporting documentation must be received by ACA by the date and time listed above, to be considered for preregistration. Potential Applicants will receive an email confirmation for the receipt of their submission within 24 hours of completing the online preregistration application. It is the Potential Applicant's responsibility to ensure the application is received by the ACA prior to the submission deadline.

If any Potential Applicants previously did not qualify for preregistration applications submitted prior to June 6, 2025, they will have the opportunity to update their submission before June 30<sup>th</sup>, 2025. Such Potential Applicants can send a written request to the ACA to reopen their rejected preregistration applications on the portal.

A Potential Applicant that fails to submit a complete preregistration application by the deadline will not be able to proceed with a subgrant program project application. Official preregistration submission date and time will be determined by the time stamp accompanying the application within the online submission system. Preregistration applications dated and time stamped in any other way will be rejected. If a confirmation receipt is not received within two business days, applicants must contact the ACA Office as noted below. Potential Applicants are responsible for not only submitting complete preregistration applications on a timely basis, but for ensuring that they monitor the process and determine that their applications are complete. Failure by a Potential Applicant to monitor the ACA BEAD program website or obtain appropriate updates related to their submission will be at the Potential Applicant's responsibility.

## **1.5. Contact Information**

If Potential Applicants have any questions related to this guidance document and supporting documentation, please refer to the Frequently Asked Questions (FAQs) document made available by ACA or contact ACA at [broadband@azcommerce.com](mailto:broadband@azcommerce.com).

## **2. Program Background**

### **2.1. Arizona Commerce Authority**

#### **2.1.1. Overview**

The ACA was established to facilitate the beneficial economic growth and development of the State and to promote prosperity through the development and protection of the legitimate interests of Arizona business, industry, and commerce within and outside the State. ACA actively collaborates with State and local government stakeholders, as well as the private sector, to streamline regulatory barriers and maximize funding for broadband development in Arizona.

In 2022, the State Broadband Office (SBO) was established in the ACA under HB 2678. The Arizona Commerce Authority, led by the State Broadband Director within ACA, coordinates local, State, and federal broadband programs, executes federal broadband grant applications, and works with partners and telecommunication providers to develop internet connectivity and enhance resiliency plans.

#### **2.1.2. Vision**

The Arizona Commerce Authority and Governor Hobbs are committed to working diligently to advance the development of broadband infrastructure across the State to provide high-speed and affordable Broadband Services to every resident in Arizona. Arizona's vision is to provide dependable and affordable high-speed internet services to every community and access to the necessary digital skills, so every resident can fully participate in a digital world.

ACA is committed to:

- Engage and coordinate with stakeholders – Working collaboratively with partnering State agencies as well as local governments, Tribal Nations, and community stakeholders;
- Maximize and optimize the use of available resources;
- Ensure equity in program design and implementation; and
- Promote sustainable and equitable solutions for all Arizona communities.

### **2.2. Broadband Equity, Access, and Deployment Program**

The BEAD Program is authorized by the Infrastructure Investment and Jobs Act (IIJA) and provides funding of \$42.45 billion, of which the State of Arizona has been allocated \$993.1 million. The main objective of the BEAD program is to achieve universal connectivity by establishing the necessary groundwork for widespread access, affordability, equity, and adoption of broadband. Additionally, the program aims to create well-paying job opportunities and address long-standing equity gaps. BEAD's primary focus is on deploying broadband services, prioritizing the provision of infrastructure to Unserved Locations, followed by Underserved Locations, and then serving Community Anchor Institutions ("CAIs").

#### **2.2.1. Broadband Deployment**

The BEAD program focuses on deploying infrastructure and expanding high speed internet access to Unserved, Underserved and CAI locations, via Broadband service that is accessible to a location via:



- Fiber-optic technology Broadband Data Collection (BDC) (technology code 50)
- Cable modem/hybrid fiber coaxial (HFC) technology (technology code 40)
- Digital Subscriber Line (DSL) (technology code 12)
- Terrestrial fixed wireless technology utilizing entirely licensed spectrum (includes spectrum licensed by rule – technology code 71), entirely unlicensed spectrum (technology code 70) or using a hybrid of licensed and unlicensed spectrum (technology code 72)
- Low Earth Order (LEO) Satellite services
- Unserved Locations: Locations without access to a Broadband Service at all or with a broadband service offering speeds below 25 Mbps download and 3 Mbps upload
- Underserved Locations: Locations without access to Broadband Service offering speeds of at least 100 Mbps download and 20 Mbps upload
- Community Anchor Institutions (CAIs): A school, library, health clinic, health center, hospital or other medical provider, public safety entity, institution of higher education, public housing organization (including any public housing agency and HUD-assisted housing organization, or Tribal housing organization), or community support organization that facilitates greater use of broadband service by vulnerable populations, including, but not limited to, low-income individuals, unemployed individuals, children, the incarcerated, and aged individuals

### **2.2.2. Non-Deployment**

The ACA's highest priority is to utilize BEAD Program funds to provide affordable, reliable, and scalable broadband infrastructure to every Unserved and Underserved Location in Arizona, followed by equipping eligible CAIs lacking symmetrical gigabit access. Based on the BEAD RPN, the Arizona Commerce Authority is not planning to allocate any funding to non-deployment activities.

### **2.2.3. Eligible Project Areas Criteria**

Criteria Related to Project Areas:

- **Individual Project Areas:** Applicants are required to submit separate Project Applications for each individual Project Area they propose to serve. Applicants can submit multiple applications.
  - Each Project Area will be evaluated individually and scored accordingly. Tentative selection of applications will be followed by tentative awards.
  - Applicants planning to apply for adjoining Project Areas are required to apply for these Project Areas separately in individual Applications.
  - Any efficiencies that the Applicants are expecting to apply for adjoining Project Areas should be incorporated in the Application separately for each proposed Project Area. Each Application will be considered valid for each Project Area, irrespective of their location.
- **Partnerships:** Applicants are encouraged to identify partners as needed to ensure that eligible BSL within the proposed project area will be served. Applicants must identify which entity will serve as the lead Subgrantee for the project and will be responsible for executing the project agreement and for

ensuring that the project is completed in accordance with the terms and conditions specified in the agreement.

A public facing interactive mapping tool will be made available to all Potential Applicants through the Arizona Commerce Authority website. Geospatial files for project areas will also be made available to Potential Applicants. It will track every broadband serviceable location (BSL) in Arizona with the National Broadband Map and include changes to the location status from the Challenge Process and deduplication of each BSL. This process will ensure the Unserved and Underserved BSLs are the priority for BEAD funds.

### **3. BEAD Deployment Subprogram Application**

Arizona's BEAD Subgrantee selection process consists of two distinct phases, as outlined below.

#### **3.1. Phase 1 – Market Sounding and Preregistration Phase**

To streamline the Subgrantee selection process for the BEAD Program, the Arizona Commerce Authority will implement a market sounding and preregistration phase that involves preregistration of Potential Applicants. This phase is designed to save time and reduce redundancies in the application process.

During market sounding, Potential Applicants will be encouraged to provide input to the predefined project areas. The Arizona Commerce Authority will use this information to assess the demand for broadband deployment projects across different regions in Arizona, prioritize deployment areas where the need is greatest, and identify challenges or gaps in the existing broadband infrastructure.

The preregistration process is intended to expedite the application process for BEAD deployment projects and assist the Potential Applicants to ensure that they have adequate financial, managerial, and technical capabilities necessary. By expediting the application process and focusing on effective data collection, the market sounding, and preregistration phase can help improve the BEAD Program's efficiency and effectiveness.

#### **3.2. Phase 2 – Project Applications**

After completing preregistration, Potential Applicants will proceed to submit project applications under the BEAD deployment project application window which will primarily involve applicants submitting their applications through the grant portal, utilizing data from an interactive public mapping tool.

The outcome will include preliminary project allocations and start of negotiations. In this round, applicants must provide essential details gathered via the online mapping tool, facilitated by the Arizona Commerce Authority for all Potential Applicants. These applications will be scored to determine the BEAD subgrant awards. The information provided during the preregistration phase will apply to all project applications submitted by the applicant. Applicants who have not completed preregistration will not be able to submit a project application.

#### **3.3. Preregistration Background**

Preregistration is an important step in the application process detailed in the Arizona Commerce Authority's Initial Proposal and will serve as the first phase in the selection of Subgrantees. Its primary objective is to assess the eligibility of Potential Applicants for BEAD funding at the organizational level, ensuring that they meet the minimum requirements.

As part of preregistration, the Arizona Commerce Authority is requesting Potential Applicants to provide necessary information that can be used for all future BEAD infrastructure deployment project applications. This preregistration is mandatory for the Potential Applicant's participation of the BEAD program. The information collected during preregistration can apply to all future applications, including multiple project applications, as it is intended to collect information that applies at an applicant/organization level. Only the primary applicant will need to preregister. Preregistration is intended to streamline the application process, serving as a gating stage to ensure applicants meet the program's minimum and mandatory requirements.

To facilitate this process, the Arizona Commerce Authority has developed comprehensive guidelines for the preregistration process based on the BEAD NOFO, which are outlined in this document. Informational webinars and documents will also be shared to provide further assistance. Additionally, all relevant information regarding the preregistration process will be shared and promoted on Arizona's website.

Preregistration submissions will be reviewed and evaluated by the Arizona Commerce Authority. Additionally, the Arizona Commerce Authority will notify the outcome of its review of the preregistration documents to the Potential Applicants.



The Arizona Commerce Authority will ensure that notices are made available for at least a 30-calendar days period to encourage a wide variety of applicants to participate and allow Potential Applicants sufficient time to prepare and submit their preregistration applications.

This document includes guidelines regarding applicant requirements and compliance measures mandated by the National Telecommunications and Information Administration (NTIA), as well as any additional requirements specified by Arizona for participation in the BEAD program. The document outlines each prerequisite and provides instructions on the necessary documentation to be submitted as part of preregistration.

### **3.4. Assessment of Submissions**

Preregistration submissions will be reviewed and evaluated by ACA. ACA will notify the outcome of its review of the preregistration documents to Potential Applicants. The assessment will be based on the submission of required information documenting financial stability, operational capacity, and technical capacity, among other requirements, to design, deploy, operate, and sustain a broadband network for end users. Components of this preregistration submission will be assessed by ACA for the purpose of conducting risk analysis of Potential Applicants.

Potential Applicants that provide the necessary documentation and explanation to demonstrate they possess the required capacity to participate in the project application process will be considered prequalified. Inability to provide the necessary documentation and explanation will result in an incomplete preregistration response. ACA may seek clarifications from Potential Applicants based on submitted information, as necessary.

During the evaluation of a Potential Applicant's capabilities, the Arizona Commerce Authority will consider the size and nature of the Potential Applicant, ensuring that the assessment is appropriate and fair. The purpose of this evaluation process is not to exclude any type of entity from applying for project(s), but rather to ensure all Potential Applicants have the necessary capabilities to fulfill the obligations of the program.



## **4. Preregistration Application Submission Requirements**

This preregistration guidance focuses on specific qualifications as summarized below. Each component is further comprised of questions or requests for certain information. Potential Applicants shall submit required information for each element to document that they meet the requirements and demonstrate the ability to successfully deploy and sustain any future broadband infrastructure projects awarded under ACA's BEAD program.

### **4.1. General Requirements (Section IV,D,1 of the BEAD NOFO)**

Before entering into any broadband deployment Subgrantee agreement, Potential Applicants must fulfill the following conditions:

- Confirm ability to carry out activities funded by the subgrant in a competent manner while complying with all relevant federal, State, and local laws and requirements.
- Possession of financial and managerial capacity to meet the obligations of Subgrantee under the subgrant, as well as the requirements of the BEAD Program and any additional criteria set by the Assistant Secretary or the Arizona Commerce Authority.
- Possession of necessary technical and operational capability to deliver the services specified in the subgrant according to the terms outlined in the award.

During the evaluation of these capabilities, ACA will consider the size and nature of the Potential Applicant, ensuring that the assessment is appropriate and fair. The purpose of this evaluation process is not to exclude any type of entity from applying for project(s), but rather to ensure all project Applicants have the necessary capabilities to fulfill the subgrantee obligations of the program. Furthermore, ACA will allow Potential Applicants to demonstrate their capabilities in various ways. For example:

- A consortium or partnership consisting of multiple members may highlight the individual strengths of each member to demonstrate that the consortium/partnership collectively meets the subgrantee qualifications.
- Potential Applicants with expertise in broadband deployment but without operational experience may partner with an experienced entity to demonstrate their financial and managerial qualifications.
- Different types of entities, such as municipalities and traditional ISPs, may provide evidence of their capabilities in different manners, depending on their unique circumstances.

### **4.2. Specific Qualifications**

#### **4.2.1. Financial Capability (Section IV,D,2.a of the BEAD NOFO)**

##### **4.2.1.1. Certifications**

To demonstrate financial capability, Potential Applicants must certify that they:

- Are financially qualified to meet the obligations associated with the BEAD projects;
- Have available funds for all project costs that exceed the amount of the grant;

- Comply with all BEAD Program requirements, including any service milestones and reporting requirements;
- Will comply with uniform administrative requirements, cost principles (where applicable), and audit requirements to complete and operate the project;
- Have sufficient financial resources to cover project costs until further disbursements are authorized.

Additionally, Potential Applicants must submit a statement signed by an executive with the authority to bind the organization to certify and guarantee that the Potential Applicant has the necessary financial capacity to successfully implement the project.

#### **4.2.1.2. Audited Financial Statements (Three Years)**

If the Potential Applicant is not a publicly traded company, they must submit audited financial statements for the three most recent fiscal years including Balance Sheet, Income Statement and Statement of Changes in Financial Position or Statement of Cash Flows, and footnotes to the financial statements. The BEAD program requires audited financial statements. As such, tax returns such as Form 1040 Schedule C, Form 1120 (all variants), Form 1165, or a partnership statement (Form K-1) will not be accepted in lieu of Financial Statements.

If the Potential Applicant has not been audited during the ordinary course of business, they should submit unaudited financial statements for the prior three fiscal years. In addition, they must certify that audited financial statements prepared by an independent certified public accountant from the prior fiscal year will be provided prior to receiving any subgrants. This requirement applies to all Potential Applicants that are not publicly held, including those that have solely operated an electric transmission or distribution service.

If Potential Applicant's financial history is less than three years, include quarterly or semi-annual statements for partial years including the current year.

If the Potential Applicant is publicly held, provide direct links to 10-K statements for the three most recent fiscal years.

#### **4.2.1.3. Material Changes in Financial Condition (If Applicable)**

If applicable, Potential Applicants will provide a detailed summary of any changes in financial conditions that has occurred or is projected to occur, during the three most recent completed fiscal years and during the next fiscal year not yet captured in financial statements. This includes:

- A description of any material change, actual and projected, and any related changes or disruptions in ownership or the executive management;
- Actual and projected impacts on the Potential Applicant's organizational and financial capacity and its ability to remain engaged in the BEAD program and submit a project application; and
- A detailed description of any other projected impacts, positive and negative, of the changes experienced and anticipated to be experienced in the periods ahead, including the likelihood that the circumstances of the change or impacts thereof will continue during the period of performance of the potential grant award.

Estimates of the impact on revenues, expenses and the change in equity should be provided separately for each material change. References to the notes in the financial statements are not sufficient to address the

requirement to discuss the impact of material changes. Where a material change will have a negative financial impact, the affected entity should describe measures that would be undertaken to insulate the BEAD project(s) from any recent material changes and those currently in progress or reasonably anticipated in the future. If its financial statements indicate that expenses and losses exceed income in each of the three completed fiscal years (even if there has not been a material change), the affected entity should describe measures that will be undertaken to make the entity profitable in the future and an estimate of when the entity will be profitable.

Please find below the list of examples of what may be considered to be a material change in financial condition:

- A change in the tangible net worth of 10% or more of net assets;
- A sale, merger or acquisition exceeding 10% of the value of net assets prior to the sale, merger or acquisition which in any way involves the affected entity or its parent company;
- A change in credit rating for the affected entity or its parent company;
- Inability to meet material conditions of loan or debt covenants by the affected entity or its parent company, that has required or will require a waiver or modification of agreed financial ratios, coverage factors or other loan stipulations or additional credit support from shareholders or other third parties;
- In the current and three most recent completed fiscal years, the affected entity or its parent company (i) incurred a net operating loss; (ii) sustained charges exceeding 5% of the then net assets due to claims, changes in accounting, write-offs or business restructuring; or (iii) implemented a restructuring/reduction in labor force exceeding 5% of employees or involved the disposition of assets exceeding 10% of the then-net assets; and
- Other events known to the affected entity that represent a material change in financial condition over the past three years, or which may be pending for the next reporting period.

#### **4.2.1.4. Credit Rating (If Applicable)**

If available, Potential Applicants will provide a copy of their latest corporate credit rating from certified credit rating agencies including but not limited to S&P Global, Moody's, and Fitch Ratings.

#### **4.2.1.5. Bankruptcy/Insolvency Proceeding**

Potential Applicants will provide summary information on any current and prior insolvency events within the last three fiscal years relating to the Potential Applicant or any person or entity which directly or indirectly through one or more intermediaries' controls, or is controlled by, or is under common control with, the Potential Applicant. For the purposes of this preregistration, insolvency event means any voluntary or involuntary bankruptcy, insolvency, liquidation, restructuring, suspension of payments, scheme of arrangement, appointment of provisional liquidator, receiver or administrative receiver, resolution or petition for winding-up or similar proceeding, under any applicable law, in any jurisdiction. If Potential Applicant is a sole proprietorship, include personal bankruptcy filings.

Include information about dates, type, court and jurisdiction, and operating restrictions (if any) imposed by the court post-bankruptcy and whether such restrictions have been lifted.



#### **4.2.1.6. Failure to Perform**

The Potential Applicant will provide a list of grant projects where the Potential Applicant defaulted on the completion of a broadband deployment grant (with an executed grant agreement) funded with local, State or Federal Funds, from January 1, 2019, up to the date of submitting the preregistration application. The word default, as used in this context, is defined as the omission or failure to fulfill a duty, observe a promise, discharge an obligation, or perform an agreement; and is specific to instances where the Potential Applicant may be deemed to be at fault for the failure to perform the grant project(s).

#### **4.2.1.7. Performance Security**

Potential Applicants are required to provide a certification that they understand that if awarded a project under the BEAD program, they will have to provide the required performance security at the project application phase to demonstrate financial strength and capability. Potential Applicants will need to submit at least one of the following options below at the project application phase:

Option 1:

Commitment letter from a bank that meets the eligibility requirements set forth in 47 C.F.R. § 54.804(c)(2) showing an indicative amount for the letter of credit (LOC) equal to 25% of the total expected subawards for the Potential Applicant programmatically.

Option 2:

Surety letter from an acceptable surety on federal bonds as identified in the Department of Treasury Circular 570 committing to issue a performance bond up to a capacity equal to the cumulative total of expected subawards for the Potential Applicant programmatically.

#### **4.2.1.8. Letter of Credit**

*Please note this requirement is not required as part of preregistration but will be required prior to signing a subgrant agreement. It has been included in this guidance for the awareness of Potential Applicants.*

The Arizona Commerce Authority will utilize guidance from NTIA on the letter of credit (LOC) requirements and will model the LOC for the BEAD Program based on the Rural Digital Opportunity Fund (RDOF) LOC model. Applicants must submit the model letter signed from an eligible bank committing to issue an irrevocable standby LOC to the Applicant. The LOC amount must be at least 25% of the subaward amount (each project/subaward will require a LOC). Additionally, Applicants must provide an opinion letter from legal counsel stating that the bankruptcy court would not consider the LOC as part of the Subgrantee's bankruptcy estate. A Conditional Programmatic Waiver of the LOC is granted only to the extent to and as described below:

##### Subgrantee Option to Use Credit Unions

The LOC Requirement that requires the use of a bank that meets the eligibility requirements of 47 C.F.R. § 54.804(c)(2) is waived if the Subgrantee is using any United States credit union that (a) is insured by the National Credit Union Administration; and (b) has a credit union safety rating issued by Weiss of B- or better.

##### Subgrantee Option to Use Performance Bonds

As part of the updated guidance, the Arizona Commerce Authority will permit Subgrantees to use performance bonds. As such, the LOC requirement is waived where:

- During the application process, Potential Subgrantees are required to 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 570 committing to issue a performance bond to the Potential Subgrantees. The letter shall at a minimum provide the dollar amount of the performance bond.
- Prior to entering into any Subgrantee agreement, each Potential Subgrantee obtains a performance bond, acceptable in all respects to the Arizona Commerce Authority and in a value of no less than 100% of the subaward amount.

Where a Subgrantee chooses to exercise the option to obtain a performance bond under this waiver, the requirement that the Subgrantee “provide with its letter of credit an opinion letter from legal counsel clearly 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 letter of credit or proceeds of the letter of credit as property of the winning Subgrantee’s bankruptcy estate under Section 541 of the Bankruptcy Code” is waived.

#### Subgrantee Option for Reduction of LOC/Performance Bonds Upon Completion of Milestones

The initial requirement of providing a LOC with a value of at least 25% of the subaward amount is waived, conditioned on the requirement that the subgrantee obtain a new LOC/Performance bond in a reduced amount upon achievement of specific deployment milestones that are publicly specified by the ACA and applicable to all subgrantees subject to the LOC Requirement. The ACA reserves the right to reduce the amount of the performance bond by a commensurate amount as grantees meet the same service milestones.

#### Subgrantee Option for Alternative Initial LOC or Performance Bond Percentage

The requirement that the initial letter of credit be for 25% of the subaward amount, or in the case where a Subgrantee chooses to utilize a performance bond, allow the initial amount of the performance bond to be lower than 100% of the subaward amount, where:

- The Arizona Commerce Authority issues funding on a reimbursable basis consistent with Section IV.C.1.b of the BEAD NOFO;
- Reimbursement is for periods of no more than six months; and
- The Subgrantee commits to maintain a letter of credit or performance bond in the amount of 10% of the subaward until it has demonstrated to the satisfaction of the Arizona Commerce Authority that it has completed the buildout of 100% of locations to be served by the project or until the period of performance of the subaward has ended, whichever occurs first.

### **4.2.2. Managerial Capability (Section IV,D,2.b of the BEAD NOFO)**

#### **4.2.2.1. Corporate Organizational Chart(s)/Baseline Company Profile**

Potential Applicants must provide a corporate organizational chart identifying the parent company and any subsidiaries or affiliates that will be performing work in Arizona and identifying the company serving as the Potential Applicant to the BEAD Program. The Potential Applicant should be the part of the company able to contract, receive, and implement grant awards in Arizona. Within the organizational chart, describe the

Potential Applicants' business type in relation to tax filings (for-profit, not-for-profit, etc.) and whether the company is publicly traded.

#### **4.2.2.2. Applicant Organizational Chart**

Potential Applicants to submit an organizational chart that includes all relevant personnel within the organization who are likely to have a role on a potential broadband project to be funded by this grant award in state of Arizona. Additionally, Potential Applicants to certify that they have employed personnel with relevant certifications for deployment projects as mandated by State and federal law and reflective of industry practices. Relevant personnel should include a chief technology officer, project engineer, and contractor oversight team, among other relevant personnel. Potential Applicants are further required to provide a narrative that describes how your organization employs personnel with relevant certifications for deployment projects as mandated by state and federal law and reflective of industry practices.

#### **4.2.2.3. Resumes for Key Management Personnel**

Potential Applicants are required to provide one-page resumes of all relevant financial, technical, and managerial key personnel that would be involved in a BEAD broadband deployment project. One of the key personnel must fill the role of Project Manager who will serve as the main point of contact for the project. All key personnel should be employees of the organization, rather than contractors. Each resume should demonstrate relevant experience with broadband projects of similar scope and scale.

#### **4.2.2.4. Explanation of Roles and Responsibilities**

Potential Applicants are required to provide a detailed narrative explaining the specific roles and responsibilities of all key personnel who will be involved in the BEAD broadband deployment projects in Arizona. This narrative should comprehensively outline the functions and tasks assigned to individuals in the financial, technical, and managerial domains.

#### **4.2.2.1. Qualifications**

Potential Applicants to submit organizational qualifications detailing prior experience with broadband/telecommunications deployment projects, as well as other projects of comparable size and scope to the project(s) the Potential Applicant intends to develop through the BEAD Program.

Prior project experiences with a comparable scope should be accompanied by a narrative to illustrate experience completing successful projects. Each description of project experience should include details such as the construction cost, start and completion dates of the project, any teaming partners and the use of contractors and subcontractors, and the value that the Potential Applicants contributed to the project. Potential Applicants should also indicate the network types that they have deployed or operated in the past (Fiber-to-the-Premise (FTTP), Hybrid Fiber-Coaxial (HFC), Coaxial, Copper/DSL, Fixed Wireless, Mobile Wireless, etc.).

#### **4.2.2.2. Organizational Readiness**

Potential Applicants are required to provide a narrative that highlights the organization's readiness, including emphasizing any relevant experience or successful track record in managing similar projects and showcasing the team's ability to handle the complexities and challenges that may arise during the proposed broadband project. Additionally, the Potential Applicants must provide details of any resources,

partnerships, or technological infrastructure that will contribute to the efficient and effective execution of the project, demonstrating the organization's capacity to deliver tangible results.

#### **4.2.2.3. Narrative on Managerial Readiness**

Potential Applicants are required to provide a narrative describing their readiness to manage a broadband network. This includes providing a comprehensive overview of the experience and qualifications of key management personnel, as well as highlighting any recent and upcoming organizational changes, such as mergers and acquisitions. Additionally, Potential Applicants should outline relevant organizational policies that contribute to their readiness in effectively managing a broadband network.

### **4.2.3. Technical Capability (Section IV,D,2.c of the BEAD NOFO)**

#### **4.2.3.1. Certification**

Potential Applicants applying for funding to develop or enhance a broadband network must certify that they are:

- Technically qualified to complete and operate BEAD projects
- Capable of carrying out the funded activities in a competent manner, including that it will use an appropriately skilled and credentialed workforce
- Employed personnel with relevant certifications for deployment projects as mandated by State and federal law and reflective of industry best practices. The relevant personnel should include a chief technology officer, project engineer, and contractor oversight team
- Organization and workforce deployed on projects remain current on all required credentials and licenses for the duration of the project period

#### **4.2.3.2. Project Experience**

Please reference the 4.2.2.1 Qualifications subsection for the required technical project experience that must be included in the preregistration application.

### **4.2.4. Compliance with Applicable Laws (Section IV,D,2.d of the BEAD NOFO)**

#### **4.2.4.1. Compliance with Laws Commitment**

It is essential to ensure that Potential Applicants for Arizona's BEAD program have the capability to effectively carry out the activities funded by the subgrant while adhering to all relevant federal, state, territorial, and local laws. For preregistration, Potential Applicants will be required to provide:

- An attestation confirming an understanding and commitment to comply with all federal, state, and local laws
- A comprehensive overview of previous records or compliance checks demonstrating compliance with all federal, state, and local laws for previous broadband projects, including those funded by other broadband related programs in Arizona (such as ABDG)

- A description of established processes, procedures, or protocols that in place to ensure continued compliance during broadband deployment projects

If the Potential Applicant is unable to certify the above statement, they should provide an explanation. This explanation should offer context for the violation and demonstrate the adoption of procedures to prevent future violations.

#### **4.2.4.2. Safety and Health Requirements Commitment**

Potential Applicants seeking to deploy network facilities in Arizona must provide a statement confirming their commitment towards compliance with occupational safety and health requirements, highlighting the permission for employees to create worker-led health and safety committees that management will engage with upon reasonable request. Potential Applicants are also required to submit evidence of training programs or initiatives aimed at informing and ensuring that your team understands and adheres to safety and legal standards. Examples of evidence may include a description, training schedules, modules, or materials.

Potential Applicants must provide an attestation that certifies that the Potential Applicant permits workers to create worker-led health and safety committees that management will meet with upon reasonable request.

### **4.2.5. Operational Capability (Section IV,D,2.e of the BEAD NOFO)**

#### **4.2.5.1. For Existing Providers Only**

##### **History of Operations**

Potential Applicants must demonstrate a consistent service history in providing voice, broadband, and/or electric transmission or distribution over the past two consecutive years leading up to the date of their application submission. If the Potential Applicant is a wholly owned subsidiary of a larger entity that meets these service requirements, they can be considered eligible. Potential Applicants must provide:

- Evidence of successful past operations, including years of operation in the state of Arizona. Any entity that has provided voice, broadband, and/or electric transmission or distribution service for at least two consecutive years prior to application submission or is a wholly owned subsidiary of such an entity must provide a certification attesting to these facts and specifying the number of years they have been operating.
- Current subscriber counts and their geographical locations for household, businesses, and community anchor institutions in the state of Arizona and the state level outside of Arizona
- Details of completed and on-going broadband deployment projects in the state of Arizona
- Details and evidence on any penalties paid, any subsidiaries or affiliates, or the holding company relative to deployment projects. Additionally, include any relevant details of prior criminal proceedings or civil litigation in Arizona and the number of times Potential Applicant have been a defendant.

##### **Certification of Compliance with the FCC Regulations**

Potential Applicants must certify that they have filed FCC Form 477s and the Broadband DATA Act submission, as applicable and required and complied with the FCC's rules and regulations.

Potential Applicants should certify their compliance has been consistent throughout the period of their operation, showing compliance with the Commission's rules and regulations. In the instance of any deviations or failure to adhere to the Commission's rules and regulations, an explanation is required. The explanation should detail the circumstances, whether there are any related (pending or completed) enforcement actions, civil litigation, or other matters. It should be noted that companies who have not filed timely submissions of Broadband Data Collection and FCC Form 477 data will be ineligible for BEAD program subgrants.<sup>1</sup>

#### **4.2.5.2. For New Entrants to the Broadband Market**

New entrants seeking to deploy broadband infrastructure must provide evidence to demonstrate that they have obtained, through internal or external resources, sufficient operational capabilities. This includes but not limited to:

- Years in existence and nature of business;
- Length of time providing broadband service, if any;
- Resumes of key personnel;
- Description of relevant ongoing or completed projects, and
- Narratives from contractors, subcontractors, or other partners with relevant operational experience, or other comparable evidence.

*Note: If resumes and project descriptions have already been submitted in earlier sections of the preregistration application to meet requirements of those earlier sections, this does not need to be submitted again.*

#### **4.2.6. Ownership Information (Section IV,D,2.f of the BEAD NOFO)**

Potential Applicants must provide a comprehensive disclosure of their ownership information, adhering to the specifics laid out in 47 CFR part 1.2112(a)(1)-(7). This regulation mandates the full disclosure of direct and indirect ownership interests, including details of any parties with a 10% or more stake, the nature of the interest, and the inter-relationships with any FCC-regulated entities. Each Potential Applicant shall fully disclose the following:

##### **4.2.6.1. Potential Applicant Information**

List the real party or parties with interest in the Potential Applicant, including a complete disclosure of the identity and relationship of those persons or entities directly or indirectly owning or controlling (or both) the Potential Applicant.

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<sup>1</sup>[https://broadbandusa.ntia.gov/sites/default/files/2023-07/FCC\\_Mapping\\_and\\_Challenge\\_Presentation.pdf](https://broadbandusa.ntia.gov/sites/default/files/2023-07/FCC_Mapping_and_Challenge_Presentation.pdf)

#### **4.2.6.2. Stockholders Information**

List the name, address, and citizenship of any party holding 10% or more of stock in the Potential Applicant, whether voting or nonvoting, common, or preferred, including the specific amount of the interest or percentage held.

#### **4.2.6.3. Limited Partners Information**

List, in the case of a limited partnership, the name, address and citizenship of each limited partner whose interest in the Potential Applicant is 10% or greater (as calculated according to the percentage of equity paid in or the percentage of distribution of profits and losses).

#### **4.2.6.4. General Partners Information**

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.

#### **4.2.6.5. Limited Liability Company Information**

List, in the case of a limited liability company, the name, address, and citizenship of each of its members whose interest in the Potential Applicant is 10% or greater.

#### **4.2.6.6. Indirect Ownership Interest Information**

List all parties holding indirect ownership interests in the Potential Applicant as determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain, that equals 10% or more of the Potential Applicant, 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.

#### **4.2.6.7. FCC-Regulated Entity Information**

List any FCC-regulated entity or applicant for an FCC license, in which the Potential Applicant or any of the parties identified in sections above, 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 Potential Applicant (e.g., Company A owns 10% of Company B (the Potential Applicant) 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 applicant).

#### **4.2.7. Public Funding Information (Section IV,D,2.g of the BEAD NOFO)**

Potential Applicants are required to submit a list of all publicly funded State and federal broadband deployment projects other than Arizona's BEAD Program for which they, or their affiliates, have submitted or plan to apply for, along with any publicly funded broadband deployment project they are undertaking or planning to undertake. This includes detailing aspects like sources of public funding/funding agency, award date, award amount, expected end date of the project, service speed, coverage area, commitment to serve unserved/underserved areas, the amount of public funding used, consumer service costs, and matching fund requirement amount.

Publicly funded broadband deployment projects include but are not limited to funds provided under:

- The Families First Coronavirus Response Act



- The CARES Act
- The Consolidated Appropriations Act, 2021
- The American Rescue Plan of 2021
- Any federal Universal Service Fund high-cost program (Rural Digital Opportunity Fund (RDOF) or Connect America Fund (CAF), etc.
- Any Arizona or local universal service or broadband deployment funding program

#### **4.2.8. Fair Labor Practices and Highly Skilled Workforce (Section IV,C.1.e of the BEAD NOFO and the BEAD RPN)**

Potential Applicants must provide the following information related to fair labor practices and use of a highly skilled workforce applicable to all of the Potential Applicant's projects.

1. Potential Applicants are required to submit a signed certificate of compliance with Federal and State labor and employment laws for the past three years by an Officer/Director-level employee of the entity (e.g., President, Chief Executive Officer, Chief Financial Officer, Treasurer, or equivalent position). It should also certify that the Potential Applicant will plan to comply with federal and state labor and employment laws for the BEAD funded projects. If a new provider, the Potential Applicant must commit to robust labor and employment standards and protections, including compliance with federal labor and employment laws for BEAD-funded Projects in the future.
2. In addition to above, Potential Applicants must disclose any non-compliance with Federal and State labor and employment laws for themselves over the past three years, if applicable. This record should also describe the corrective steps taken to avoid similar incidents and ensure future compliance.

##### **4.2.8.1. Certifications**

To demonstrate record of compliance, Potential Applicants must certify that the Potential Applicant has disclosed any instances in which it has been found to have violated laws such as the Occupational Safety and Health Act, the Fair Labor Standards Act, or any other applicable labor and employment laws for the preceding three years, if applicable.

#### **4.2.9. Environmental and National Historical Preservation (Section VII,D,4 of the BEAD NOFO)**

##### **4.2.9.1. Certifications**

To demonstrate intent to comply, Potential Applicants should provide the following certifications:

- Potential Applicant will comply State Historical Preservation Act (SHPA), National Environmental Policy Act (NEPA) (42 U.S.C. §§ 4321 et seq.) and National Historic Preservation Act (NHPA) (54 U.S.C. §§ 300101 et seq.)
- Potential Applicant understands that NEPA analysis will be required for every project funded through the BEAD Program and agrees to provide sufficient information to allow for NEPA analysis such as a detailed project description, including applicable supporting documentation.



- Potential Applicant understands that they are responsible for identifying and obtaining applicable Federal, State and Local Permits (such as easements) required to complete any BEAD projects.
- Potential Applicant will cooperate with NTIA in identifying feasible measures to reduce or avoid any identified adverse environmental impacts of their proposed projects or other eligible activities.

#### **4.2.10. Build America, Buy America Act (BABA) (Section VII,D,6 of the BEAD NOFO)**

All funds allocated for broadband infrastructure under the BEAD Program must adhere to the BABA regulations. This legislation mandates that every component utilized in the project or related activities, such as iron, steel, manufactured goods (which encompasses fiber-optic communication facilities among others), and building materials, must be sourced from the United States, unless an exemption is approved.

During the process of applying for a project, Potential Applicants have the option to seek an exemption from a Federal awarding agency if they believe there is a justified reason for a waiver. Types of waivers include:

- A public interest waiver: Applying the Buy America Preference would be inconsistent with the public interest;
- Nonavailability waiver: Types 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; or
- Unreasonable cost waiver: The inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall infrastructure project by more than 25%

Subgrantees must carefully review and comprehend the BABA requirements and guidance to guarantee adherence. The Notice of Final Waiver can be found at the following link: [BABA Waiver Signed.pdf](#) (commerce.gov). Potential Applicants should recognize the significance of adhering to these guidelines and take appropriate measures to equip themselves accordingly.

##### **4.2.10.1. Certification**

Potential Applicants must certify they understand and commit to comply with the BABA requirements.

##### **4.2.10.2. Compliance Approach**

Potential Applicants must provide detailed plans outlining their approach to remaining compliant with BABA requirements and include details of any waivers, if applicable.

#### **4.2.11. Cybersecurity and Supply Chain Risk Management Compliance (Section IV,C,2.c.vi of the BEAD NOFO)**

##### **4.2.11.1. Cybersecurity Risk Management Plan**

Potential Applicants will be required to submit a cybersecurity management plan. Potential Applicants are required to submit this as part of their preregistration submission or during the project application. The Potential Applicant should certify that they will provide the updated cybersecurity plan before the signing of

the grant agreement. If significant changes are made to the plan, a new version should be promptly submitted to ACA within 30 days (applicable until the end of the period of performance). In the case of prospective subgrantees who are not yet providing service, they must demonstrate readiness to operationalize the cybersecurity risk management plan upon providing service after the grant is awarded.

Applicants must provide their cybersecurity risk management plan that includes the following criteria:

- Operational status: The Potential Applicant must have a cybersecurity risk management plan that is operational before a grant is awarded if the Potential Applicant is already providing services prior to the grant award. In the case of Potential Applicants who are not yet providing service, they must demonstrate readiness to operationalize the cybersecurity risk management plan upon providing service after the grant is awarded.
- NIST Framework and Executive Order Compliance: The cybersecurity risk management plan must be based on the latest available version of the National Institute of Standards and Technology (NIST) Framework for Improving Critical Infrastructure Cybersecurity, which is currently Version 2.
- Security and Privacy Controls: The plan must also adhere to the standards and controls outlined in Executive Order 14028 and must specify the particular security and privacy controls being implemented.
- Evaluation and Updates: Establish a process for periodic evaluation and assessment of the cybersecurity risk management plan. Ensure that the plan will be regularly reviewed and updated to address emerging cybersecurity risks and challenges/significant events.

#### **4.2.11.2. Supply Chain Risk Management Compliance**

Potential Applicants are required to submit a supply chain risk management plan that is being used to safeguard the integrity of their supply chain. Potential Applicants are required to submit this as either part of their preregistration or the project application. The Potential Applicant should certify that they will provide the updated supply chain risk management plan before the signing of the grant agreement. If significant changes are made to the plan, a new version should be promptly submitted to ACA within 30 days (applicable until the end of the period of performance).

Applicants are required to submit a supply chain risk management plan that is being used to safeguard the integrity of their supply chain. The plan should comply with the following:

- Operational status: The Potential Applicant must have a supply chain risk management plan that is operational before the grant is awarded if the Potential Applicant is already providing services prior to the grant award. In the case of Potential Applicants who are not yet providing service, they must demonstrate readiness to operationalize the supply chain risk management plan upon providing service after the grant is awarded.
- Key Practices and Guidance: The supply chain risk management plan must be based on the key practices described in the NIST publication NISTIR 8276, "Key Practices in Cyber Supply Chain Risk Management: Observations from Industry." The plan must also incorporate relevant supply chain risk management guidance from NIST, including NIST 800-161, "Cybersecurity Supply Chain Risk Management Practices for Systems and Organizations." The plan should clearly specify the supply chain risk management controls that will be implemented.

- Evaluation and Updates: The supply chain risk management plan must be reevaluated and updated on a periodic basis. The plan should be regularly reviewed and updated as events warrant to address evolving supply chain risks and challenges/significant events.

In accordance with the BEAD Initial Proposal Volume II guidance, Potential Applicants that rely on network facilities owned or operated by a third party must obtain cybersecurity and supply chain risk management processes and procedures from that network provider and provide the results.

## Appendix A – Definitions

- **Assistant Secretary:** The term “Assistant Secretary” means the Assistant Secretary of Commerce for Communications and Information or the individual who holds any successor position.
- **Broadband; Broadband Service:** The term “broadband” or “broadband service” has the meaning given the term “broadband internet access service” in Section 8.1(b) of title 47, Code of Federal Regulations, or any successor regulation, meaning it is a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up internet access service. This term also encompasses any service that the Commission finds to be providing a functional equivalent of the service described in the previous sentence or that is used to evade the protections set forth in this part.
- **Broadband DATA Maps:** The term “Broadband DATA Maps” means the maps created by the Federal Communications Commission under Section 802(c)(1) of the Communications Act of 1934 (47U.S.C. § 642(c)(1)).
- **Commission:** The term “Commission” means the Federal Communications Commission.
- **Community Anchor Institution (CAI):** The term “community anchor institution” mean a school, library, health clinic, health center, hospital or other medical provider, public safety entity, institution of higher education, public housing organization (including any public housing agency and HUD-assisted housing organization, or Tribal housing organization), or community support organization that facilitates greater use of broadband service by vulnerable populations, including, but not limited to, low-income individuals, unemployed individuals, children, the incarcerated, and aged individuals.
- **Director/Officer Level Employee:** The term “Officer/Director-level employee” of the entity may include roles such as President, Chief Executive Officer, Chief Financial Officer, Treasurer, or equivalent position.
- **Insolvency Event:** As defined in section 4.2.1.5 of this preregistration guidance document
- **Location; Broadband-Serviceable Location:** The terms “location” and “broadband serviceable location” mean “a business or residential location in the United States at which fixed broadband Internet access service is, or can be, installed.”
- **Potential Applicant:** Those entities who may be interested in applying for BEAD broadband deployment projects in Arizona and are submitting preregistration information.
- **Program:** The term “Program” means the Broadband Equity, Access, and Deployment Program.
- **Project:** The term “Project” means an undertaking by a Subgrantee to construct and deploy infrastructure for the provision of broadband service. A “project” may constitute a single Unserved or Underserved broadband-serviceable location, or a grouping of broadband-serviceable locations in which not less than 80 percent of broadband-serviceable locations served by the project are Unserved Locations or Underserved Locations.
- **Qualifying Broadband Service:** To a location that is not a CAI, qualifying broadband is Reliable Broadband Service with (i) a speed of not less than 100 Mbps for downloads; and (ii) a speed of not

less than 20 Mbps for uploads; and (iii) latency less than or equal to 100 milliseconds; “qualifying broadband” to a CAI is Reliable Broadband Service with a speed of not less than 1 Gbps for downloads and uploads alike and latency less than or equal to 100 milliseconds.

- **State:** The term “State” means, for the purposes of the BEAD Program, any State of the United States, the District of Columbia, and Puerto Rico. In this case, the State of Arizona.
- **Subgrantee:** The term “subgrantee” means an entity that receives grant funds from the state of Arizona to carry out eligible activities.
- **Territory:** The term “Territory” means, for the purposes of the BEAD Program, American Samoa, Guam, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.
- **Underserved Location:** The term “Underserved Location” means a broadband-serviceable location that is (a) not an Unserved location, and (b) that the Broadband DATA Maps show as lacking access to Broadband Service offered with—(i) a speed of not less than 100 Mbps for downloads; and (ii) a speed of not less than 20 Mbps for uploads; and (iii) latency less than or equal to 100 milliseconds.
- **Unserved Location:** The term “Unserved Location” means a broadband-serviceable location that the Broadband DATA Maps show as (a) having no access to broadband service, or (b) lacking access to Broadband Service offered with—(i) a speed of not less than 25 Mbps for downloads; and (ii) a speed of not less than 3 Mbps for uploads; and (iii) latency less than or equal to 100 milliseconds.