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NC BEAD GRANT AGREEMENT

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LIST OF EXHIBITS

Exhibit A – Notice of Award

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Exhibit D – Scope of Services: Outlines the description and scope of the construction project, including the Project Budget and Mapping Files

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Article 1. Overview

Section 1.1 Parties. The North Carolina Department of Information Technology ("NCDIT"), an agency of the State of North Carolina ("State"), enters into this grant agreement ("Agreement" or "Contract") with the <<SUBGRANTEE NAME>> (the "Subgrantee" or "Subrecipient"), a <<TYPE OF ENTITY>>. Together, NCDIT and Subgrantee are the "Parties."

WHEREAS, the NCDIT is authorized to make grant funds available to qualified subgrantees under the North Carolina Broadband Equity, Access, and Deployment (BEAD) program, Session Law 2024-55 (S.L. 2024-55), as amended by Session Law 2025-89 (S.L. 2025-89), and governed in accordance with the Infrastructure Investment and Jobs Act (IIJA), Public Law No. 117-58, the BEAD Notice of Funding Opportunity (NOFO), and BEAD Restructuring Policy Notice (RPN), including any additional regulations promulgated by or guidance of the Assistant Secretary of Commerce for Communications and Information and National Telecommunications and Information Administration (NTIA) Administrator may provide;

WHEREAS, the granting of North Carolina BEAD Program funds through this Agreement from NCDIT to Subgrantee for the benefit of end users ("Grant Funds") has been approved by the NCDIT;

WHEREAS, the granting of funds from NCDIT to Subgrantee will enable the development of broadband facilities for end users for the delivery of services, particularly the increased availability of telemedicine services, distance learning, and telework;

WHEREAS, NCDIT and Subgrantee agree that this award is being provided by the State of North Carolina to Subgrantee for Subgrantee to carry out part of the Federal BEAD award, Notice of Award 37-20-B087, as amended, received by North Carolina, attached hereto as Exhibit A ("Notice of Award"). Specifically, Subgrantee will use award funds for the deployment of a broadband network and the provision of Qualifying Broadband Service to end users;

WHEREAS, NCDIT and Subgrantee agree that the major purpose of this award is a broadband infrastructure project;

WHEREAS, it is the intent of the Parties that this Agreement in all other respects is a "subaward" as that term is defined in 2 C.F.R. § 200.1 and that Subgrantee is a "subrecipient" as that term is defined in 2 C.F.R. § 200.1 and as evaluated under 2 C.F.R. § 200.331; and

WHEREAS, this award is a "fixed amount award" ("fixed amount subaward") as defined in 2 C.F.R. § 200.1 and provided for in 2 C.F.R. § 200.201, where the major purpose of the subaward is a broadband infrastructure project, and will be administered by NCDIT pursuant to the BEAD General Terms and Conditions Section 52 (as included in Exhibit A, the Notice of Award) and NTIA's Uniform Guidance Policy Notice (UGPN).

WHEREAS, Capitalized terms not otherwise defined herein shall have the same meaning ascribed thereto in the BEAD NOFO, as modified by the RPN.

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NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties hereby agree as mentioned in the below sections.

Section 1.2 Roles. For the purposes of this Agreement, NCDIT is a recipient and a pass-through entity for the U.S. Department of Commerce, National Telecommunications and Information Administration Broadband Equity, Access and Deployment (BEAD) program, and Subgrantee is a subrecipient as defined by 2 C.F.R. § 200.1.

Section 1.3 Purpose. The purpose of this Agreement is to establish the terms and conditions for the use of funds that NCDIT has awarded to the Subgrantee to carry out the State's BEAD program. NCDIT awarded this funding: (1) based on the final Application filed by the Subgrantee as accepted by NCDIT and approved by NTIA, attached hereto as Exhibit B ("Application"), and any subsequent materials supporting the Application; (2) based on BEAD Program guidelines and other federal and state requirements and guidelines; and (3) for the deployment of broadband infrastructure to provide the locations identified in this Agreement (the "Project").

Section 1.4 Source of Funding. The State received Broadband Equity, Access and Deployment (BEAD) program funding from the U.S. Department of Commerce, National Telecommunications and Information Administration pursuant to the Infrastructure Investment and Jobs Act (IIJA), Public Law No. 117-58, and NCDIT intends to compensate the Subgrantee in the amount of the awarded subgrant funds for the deployment of a broadband network and the provision of Qualifying Broadband Service to end users from the $1.53 billion in funds allocated to NCDIT by the North Carolina General Assembly for the State's BEAD program, as authorized and appropriated in S.L. 2022-69, S.L. 2022-74, S.L. 2023-134, S.L. 2024-55, and S.L. 2025-89.

Section 1.5 General Compliance Requirements, Order of Precedence, and Terminology. Subgrantee must perform its obligations under this Agreement in a manner that complies, and enables the NCDIT to comply, with all requirements contained in the following, listed in the order of precedence:

a. IIJA, including Sec. 60102, codified as 47 U.S.C. § 1702, Grants for Broadband Deployment;

b. Specific Award Conditions applicable to North Carolina's BEAD award, Notice of Award 37-20-B087, attached here to as Exhibit A, as amended (Notice of Award);

c. General Terms and Conditions for the NTIA BEAD Program Funds, updated November 2025, included in Exhibit A Notice of Award;

d. NTIA BEAD Restructuring Policy Notice (RPN);

e. NTIA BEAD Notice of Funding Opportunity (NOFO), as modified by the BEAD Restructuring Policy Notice;

f. Department of Commerce Financial Assistance General Terms and Conditions (dated September 22, 2025), including 2 C.F.R. Part 200 (DOC GT&Cs);

g. Applicable North Carolina state law, including S.L. 2024-55, as amended by S.L. 2025-89;

h. North Carolina Administrative Code 09 N.C.A.C. .03M Uniform Administration of State Awards of Grants;

i. North Carolina BEAD Program Initial Proposal, as amended, and Final Proposal;

j. This Agreement (including Attachments hereto);

k. Subgrantee's Application as accepted by NCDIT, attached hereto as Exhibit B.

The foregoing BEAD Program requirements are incorporated by reference as if fully set forth herein and are deemed to be Agreement obligations of the Subgrantee, which clarify and provide guidance as to the applicable regulatory provisions relating to internal controls, subgrantee monitoring and management, and audit requirements that apply to the NCDIT and thereby to Subgrantee or subcontractors receiving such funds through this Agreement. These requirements are legally binding and enforceable under this Agreement.

In any case where language among two or more authorities appears inconsistent, the relevant authorities should be read and interpreted in a manner that emphasizes consistency and harmonization across all relevant authorities, and to maintain consistency with the NCDIT approved Initial Proposal and Final Proposal. Where harmonization is not reasonably possible, the Parties agree to prioritize following the language contained in these authorities in the enumerated order or precedence (a.-k.), from highest to lowest priority, and in a manner that will maintain the integrity of the underlying Agreement. NCDIT shall have final interpretive authority, subject to NTIA review and approval, if required, to apply these provisions in a manner that maintains the integrity of the underlying Agreement.

Section 1.6 Disclosures. Federal regulations, specifically 2 C.F.R. § 200.211(b), require NCDIT to provide the Subgrantee with specific information about this award. All required information, along with state disclosures required by 09 N.C.A.C. 03M, is listed in Exhibit C, "NCDIT Disclosures," attached hereto.

Section 1.7 Term of Agreement. The effective period of this Agreement shall commence on the date this Agreement is fully executed ("Effective Date") and shall terminate ten (10) years thereafter, unless terminated on an earlier date by either Party in accordance with the terms of this Agreement (either one of which dates shall constitute the "Termination Date").

Section 1.8 Period of Performance and Project Completion.

a. **Period of Performance.** The Period of Performance for this award is four (4) years, during which period Subgrantee shall begin providing services to each end user that desires broadband service within the Project area not later than four (4) years after the Effective Date.

b. **Project Timeline**. Subgrantee shall develop and submit to NCDIT for written approval, with Subgrantee's Application or such other time as NCDIT shall require, a Project Timeline in such form and detail to implement the scope of the funded activities as detailed in Article 2 and certain activities shall be incorporated into agreed upon milestone dates, as required by NCDIT. Once approved in writing by NCDIT, the Project Timeline shall not be changed without the prior written approval of NCDIT.

c. **Federal Interest Period.** The Federal interest in all real property or equipment acquired or improved as part of a subgrant for which the major purpose is a broadband infrastructure project will continue for ten (10) years after the year in which that subgrant has been closed out in accordance with 2 C.F.R. § 200.344. This Federal interest shall apply regardless of whether the asset is acquired or improved with Federal funds or non-Federal matching funds. For example, for all subgrants closed out in 2027, regardless of the month, the Federal interest will last until December 31, 2037. The Federal interest described herein applies to BEAD subgrants for which the major purpose of the subgrant is a broadband infrastructure project(s).

d. **Extension of Period of Performance.** NCDIT may, in its sole discretion, and subject to NTIA review and prior approval, extend the Period of Performance by up to one (1) year if Subgrantee demonstrates to NCDIT that: (i) Subgrantee has a specific plan for use of the Grant Funds, with Project completion expected by a specific date not more than five (5) years after the Effective Date; (ii) construction on the Project is underway; or (iii) extenuating circumstances require an extension of time to allow the Project to be completed. See Section 2.4 Change Requests.

e. **Project Completion.**

(1) **Project Completion Report and Final Inspection.** When (i) all construction has been completed, Subgrantee's architect/engineer has conducted its own final inspection, and any deficiencies have been corrected and approved in writing by the NCDIT, and (ii) all Project Completion Criteria have been met, Subgrantee shall submit a written certification ("Project Completion Report") to NCDIT that the Project was placed into service, as defined in 47 U.S.C. § 1702(h)(4)(C) for last-mile broadband deployment projects, by the end of the Period of Performance and request that NCDIT certify completion of the Project and initiate closeout per Section 4.6. Within thirty (30) business days of receiving the Project Completion Report, NCDIT shall either schedule a final inspection or request Subgrantee to produce any additional data NCDIT requires to confirm the completion of the Project. Within thirty (30) business days of receipt of any requested data or other information, NCDIT will schedule the final inspection to be attended by representatives of NCDIT, Subgrantee's architect/engineer, and Subgrantee or subcontractor(s). NCDIT will provide NTIA reasonable advance notice of the final inspection so that a representative of NTIA may participate.

(2) **Acceptance and Rejection of Project.** Subgrantee's failure to meet any of the Project Completion Criteria or failure to meet any material obligation under this agreement shall be cause for rejection of the Project by NCDIT. If a Project is rejected, NCDIT will notify Subgrantee in writing (i) that the Project is rejected, (ii) specify the items that, if modified or added and approved, will cause the Project to be accepted, and (iii) specify a timeline

for resubmission of the Project Completion Report under this Section 1.8. Subgrantee shall promptly remedy any defect which prevents the work performed on the Project from satisfying the Project Completion Criteria or meeting any material obligation under this Agreement. Subgrantee's failure to promptly remedy any defects may be considered noncompliance with the terms of this Agreement and NCDIT may seek appropriate remedies under Article 7.

(3) **Certificate of Completion.** NCDIT will provide Subgrantee written certification of Project completion within ten (10) business days of final acceptance of the Project.

Article 2. Scope of Funded Activities

Section 2.1 Scope of Project. All work on the Project shall materially conform to the plans set forth in the Application submitted by Subgrantee, which is attached hereto as Exhibit B, and the Scope of Services, attached hereto as Exhibit D, unless NCDIT approves a change to the Project, in which case the work shall conform to the Application plans and the change, as applicable. Any changes to the Project or key personnel must be approved in advance by the NCDIT, consistent with Sections 2.4 and 5.6, and Exhibit I.

a. **Reliance by NCDIT.** The Application filed by the Subgrantee and any subsequent materials submitted to NCDIT supporting the Application, which have been relied upon by NCDIT in awarding this funding, are incorporated by reference into this Agreement in Exhibit B.

b. **BEAD Program Guidelines.** NCDIT policy related to the performance of this Project is set out in the BEAD Program guidelines, which may be amended, modified, or supplemented and applied accordingly to this Agreement by NCDIT in its sole discretion. Guidelines and other documentation are available at https://www.ncbroadband.gov/BEAD.

Section 2.2 Funding and Administrative Expenses.

a. **BEAD Award.** NCDIT awards to the Subgrantee an amount not to exceed the amount specified in Exhibit D, Scope of Services, attached hereto, for infrastructure costs directly relating to the Project ("BEAD Award").

b. **Total Funding.** The total project costs, including the BEAD Award funding and the Subgrantee-provided share, including the sources of the funds, are set forth in Exhibit D.

c. **Eligible Expenditures.** Pursuant to BEAD NOFO § IV.B.7.a.ii., the NCDIT will fund the Subgrantee's allowable costs, as further detailed in this Agreement, not exceeding the Grant Funds. Allowable costs are determined in accordance with the cost principles identified in 2 C.F.R. Part 200. The NCDIT will compensate Subgrantee for the federal share of properly documented allowable costs after review and approval as noted above. However, any costs incurred by Subgrantee prior to the Effective Date shall not be compensated without specific written allowance from the NCDIT of pre-award costs. The Subgrantee's costs for work performed after the Period of Performance, or after any performance period end date for a respective milestone, shall not be eligible for compensation. The NCDIT will only compensate allowable costs described in this Agreement if those costs are actually incurred in performance of the work, and (i) permitted to be compensated under the terms of this Agreement; and (ii) reasonable and necessary to accomplish the work and for the goods and services provided.

d. **Fixed Amount Subaward.** As authorized by NTIA, and pursuant to exceptions of 2 C.F.R. §§ 200.333 and 200.201(b) approved by the Office of Management and Budget (OMB) and pursuant to S.L. 2024-55, the award is a fixed amount subaward for purposes of the federal requirements within the meaning of the Policy Notice on Tailoring the Application of the Uniform Guidance to the BEAD Program issued by the NTIA. The Grantee (NCDIT) will compensate the Subgrantee based on completed milestones as outlined Exhibit E and as further detailed in this Agreement, not exceeding the Grant Funds. Additionally, as allowed by NTIA, NCDIT may require the Subgrantee to submit evidence of costs upon NCDIT's request. Cost overruns shall be borne by the Subgrantee. The Subgrantee must monitor the relative proportion of costs across key spending areas. See General Terms and Conditions for the NTIA BEAD Program Sections 40 and 51. NCDIT reserves the right to require more rigorous reporting scheduling, as frequent as on a weekly basis, based on risk, repeated non-compliance with terms and conditions, or NCDIT determination that completion of one or more milestones has not occurred in a reasonably expected timeframe.

(1) At the end of a fixed amount award, the recipient or subrecipient must certify in writing to the Federal agency or pass-through entity that the project was completed as agreed to in the Federal award, or identify those activities that were not completed, and that all expenditures were incurred in accordance with § 200.403. When the required activities were not carried out, including fixed amount awards paid on a unit price basis under 200.201(b)(1)(ii), the amount of the Federal award must be reduced by the amount that reflects the activities that were not completed in accordance with the Federal award. When the required activities were completed in accordance with the terms and conditions of the Federal award, the recipient or subrecipient is entitled to any unexpended funds. 2 C.F.R § 200.201(b)(4).

(2) Eligible uses of funding include the following:

(a) Construction, improvement, and/or acquisition of facilities and telecommunications equipment required to provide qualifying broadband service, including infrastructure for backhaul, middle- and last-mile networks, and multi-tenant buildings.

(b) Upfront or one-time costs associated with acquiring Long-term leases (for terms greater than one year) of facilities required to provide qualifying broadband service, including indefeasible right-of-use (IRU) agreements.

(c) Deployment of internet and Wi-Fi infrastructure within an eligible multi-family residential building.

(d) Engineering design, permitting, and work related to environmental, historical and cultural reviews.

(e) Personnel costs, including salaries and fringe benefits for staff and consultants providing services directly connected to the implementation of the BEAD Program (such as project managers, program directors, and subject matter experts).

(f) Network software upgrades, including, but not limited to, cybersecurity solutions.

(g) Training for cybersecurity professionals who will be working on BEAD-funded networks.

(3) Award Funds shall be used solely for allowable costs incurred for implementation of the Project and for no other purpose.

(4) The use of Award Funds will adhere to the terms of this Agreement, the authorities identified in Article 1 of this Agreement, and the restrictions on pre-implementation activities set forth in Section 6.12 Environmental and National Historical Preservation. The Parties understand and agree that the NCDIT may not compensate Subgrantee for costs that the Federal Grant Officer determines are not eligible for compensation pursuant to North Carolina's BEAD Program award.

(5) Subgrantee acknowledges that for a cost to be eligible for compensation under this agreement, it must "be reasonable, necessary, allocable, and allowable for the proposed Project or other eligible activity and conform to generally accepted accounting principles." (BEAD NOFO at 81, § V.H.1) and is subject to 2 C.F.R. Part 200. Subgrantee further acknowledges that while the federal cost principles do not govern fixed amount subawards, NCDIT will look to those principles as a guide when reviewing evidence of the reasonableness of costs submitted by Subgrantee upon NCDIT's request.

(6) Subgrantee shall be responsible for all Project costs that exceed the amount of the Award Funds. In the event the available Award Funds are insufficient to satisfy all Project costs, Subgrantee shall nevertheless be responsible for fulfilling all of its obligations under this Agreement.

(7) Subgrantee is responsible for reimbursing the NCDIT for any Grant Funds that are determined by NCDIT to be ineligible, misused, misappropriated, or inadequately documented under this Agreement. If NCDIT determines that any provision of this Agreement has been breached by Subgrantee, in addition to any other remedies available under this Agreement, the NCDIT may require and be entitled to reimbursement of any or all such Grant Funds under Section 7.6. Any reimbursement required by NCDIT, with or without termination of this Agreement, shall be due within thirty (30) calendar days after giving written notice to the Subgrantee. NCDIT also reserves the right to recover such Grant Funds by any other legal means, including litigation and drawing the funds in any letter of credit, performance or payment bond. The Subgrantee must indemnify, defend and

hold harmless the NCDIT for all suits, actions, claims and the reasonable attorneys' fees and legal expenses incurred in recovering such funds, irrespective of whether the funds are recovered.

e. **Non-Eligible Expenditures.** In addition to any other use of Award Funds prohibited or made ineligible by state or federal law, regulation, or policy, the following are prohibited as uses of Award Funds (whether by Subgrantee or Subgrantee's lower tier subgrantees or subcontractors), and are not eligible for compensation as an allowable cost under this Agreement:

(1) Prohibition Against Payment of Bonus or Commissions: Payment of any bonus or commission for the purpose of obtaining approval or concurrence under this Agreement.

(2) Political Activity: Any partisan political activity or to further the election or defeat of any candidate for public office or influence the approval or defeat of any ballot issue.

(3) Prohibited Equipment and Services: Purchase or support of (i) any covered communications equipment or service (as defined in Section 9 of the Secure and Trusted Communications Networks Act of 2019 (47 U.S.C. § 1608)), and (ii) fiber optic cable and optical transmission equipment manufactured in the People's Republic of China.

(4) Incremental Profits and Fees: A profit, fee, or other incremental charge above actual cost. The Parties expressly acknowledge that this prohibition does not extend to program income, which Subgrantee may retain without restriction, including retaining program income for profit.

(5) Collective Bargaining: Direct or indirect support of or opposition to collective bargaining.

Section 2.3 Subgrantee Duties. Subgrantee explicitly acknowledges the following obligations:

a. **Standard of Work.** Subgrantee shall ensure that all work associated with the Project is performed in a workman like fashion and in keeping with prevailing industry standards.

b. **Subgrantee Responsibilities of Work.** Notwithstanding any other provision of this Agreement, the Parties agree that Subgrantee is solely responsible for:

(1) Meeting all deadlines in approved plans and specifications;

(2) Inspecting the Project and all grant funded activities; however, NCDIT shall have a right at any time to inspect work-in-progress, or test and analyze all work purchased or constructed in whole or in part using funds provided by NCDIT, including inspections by a professional engineer, to determine whether in NCDIT's opinion the work is being performed in accordance with the provisions of this Agreement;

(3) Using the funds in an equitable and nondiscriminatory manner;

(4) Providing for required construction licensing, safety training, permits, and adequate construction inspection so as to comply with all local, state, and federal laws, including the Environmental and National Historic Preservation requirements in Section 6.12;

(5) Promptly paying costs incurred for the Project, including but not limited to all grant funded activities, and ensuring that all parts of the Project remain encumbrance free and in good standing from a financial perspective;

(6) Monitoring and ensuring compliance of subcontractor compliance with federal, state, and local requirements;

(7) Complying with its approved Low-Cost Service Option (LCSO); and,

(8) Constructing and maintaining in good condition throughout the construction period a sign or signs, at the site of grant funded activities in a conspicuous place indicating that the Federal Government is participating in the activities.

(9) Once the network has been deployed, shall provide public notice, online and through other means, of that fact to the locations and areas to which broadband service has been provided and share the public notice with the eligible entity that awarded the subgrant; and, shall carry out public awareness campaigns in service areas that are designed to highlight the value and benefits of broadband service in order to increase the adoption of broadband service by consumers.

(10) Providing access to broadband service to each customer served by the project that desires broadband service on terms and conditions that are reasonable and non-discriminatory.

c. **Service Obligations for Period of Performance and Federal Interest Period**

(1) **Broadband Access and Speeds.**

(a) The Subgrantee shall deploy infrastructure to the approved locations required by this Grant Agreement and, upon completion of construction, shall offer to those Locations no less than the minimum download, upload and latency speeds identified in the Subgrantee's Application.

(b) At a minimum, the Project shall deliver reliable broadband service to each of the end users with speeds of not less than one hundred (100) Mbps for downloads and twenty (20) Mbps for uploads. In addition, ninety-five percent (95%) of latency measurements during testing windows must fall at or below one hundred (100) milliseconds round-trip time. Connections to eligible Community Anchor Institutions, as defined in the

BEAD Guidelines, shall be capable of delivering service at speeds not less than one (1) Gigabit per second for downloads and one (1) Gigabit per second for uploads. Subgrantee shall ensure that such connections can be used to provide business data services.

(c) The Subgrantee shall provide to NCDIT evidence in accordance with the terms of the NOFO and the testing methodology outlined in Performance Measures for BEAD Last Mile Networks Policy Notice, and any amendments made therein, that the Subgrantee is providing access and making available the proposed speed, or a faster speed, to the targeted address points ("Locations") as described in Exhibit D, Scope of Services. For the purposes of this Agreement, broadband access is considered available if the Internet carrier can provide broadband service to a Location immediately or within ten (10) business days upon request and without cost to the customer other than standard connection fees.

(d) Each Project network's outages shall not exceed, on average, forty-eight (48) hours over any three-hundred sixty-five (365) day period except in the case of natural disasters or other force majeure occurrence. Subgrantee shall ensure a prospective network is designed to meet this requirement and shall develop metrics for measuring outages to be utilized in connection with this requirement once the network is operational.

(2) **Access to Service.** For the purposes of this Agreement, broadband access is considered available if the Subgrantee can provide Qualifying Broadband Service to an end user immediately or within ten (10) business days upon request and without cost to the customer other than standard connection fees.

(3) **Low-Cost Service Option.** Subgrantee must offer the Low-Cost Service Option ("LCSO") to Eligible Subscribers as set forth in Section 6.9 of this Agreement.

(4) **Conduit Access Points**. Any project related work that involves laying fiber-optic cables or conduit underground or along a roadway must include interspersed conduit access points at regular and short intervals. Conduit access points must be identified and certified by a Professional Engineer in Subgrantee's engineering design and as-built network and route information.

(5) **Wholesale Obligation on Default.** The Parties agree that if Subgrantee at any time during the Federal Interest Period is no longer able to provide Broadband Service to the end users at any time on a retail basis, remedial action will be taken to ensure continuity of service. Subgrantee shall, after consultation with and as approved in writing by the NCDIT and NTIA, either (i) sell Project network capacity at a reasonable, wholesale rate on a nondiscriminatory basis to one or more other broadband service providers or public-sector entities; (ii) sell the network in its entirety to a new provider who commits to providing services under the terms of the BEAD Program; or, if applicable, (iii) obtain comparable

satellite or similar service. The NCDIT may require Subgrantee to take the appropriate remedial action so long as such action results in continued retail service to end users in the grant area.

d. **Project Milestones.** Subgrantee shall meet the Project Milestones in Exhibit E and provide required documents as specified in Article 3.

e. **Reporting Requirements.** Subgrantee will adhere to the conditions and regulations for reporting, as outlined in this Agreement.

Subgrantee shall regularly file reports with NCDIT, NIST, and/or NTIA as specified in Exhibit F, Reporting Schedule for Progress Reports, attached hereto. Subgrantee acknowledges that the reporting requirements set forth in this Agreement (including Exhibit F) may be updated from time to time, and Subgrantee shall comply with any other reasonable reporting requirements determined by NCDIT to meet the reporting requirements established by the NTIA Assistant Secretary and certify that the information in the report is accurate. Subgrantee further acknowledges that NCDIT must make all Subgrantee reports available to NTIA upon request.

Subgrantee shall maintain sufficient records to substantiate all information submitted in reports under this Agreement.

NCDIT will conduct an implementation meeting with Subgrantee within thirty (30) calendar days of Effective Date and will make reporting templates and instructions available at or shortly after the implementation meeting. NCDIT and Subgrantee agree to work in good faith to identify and implement any changes to reporting requirements and protocols in a reasonable and timely manner.

f. **Matching Funds.** Subgrantee shall provide total Matching Funds in the amount set forth in the approved project plan and budget specified in Exhibit D to this Agreement and as committed in Exhibit B, the Application. Contributions made under this Agreement shall be consistent with the schedule provided in Exhibit E Project Milestones.

Subgrantee shall have substantially secured the full amount of Matching Funds prior to the Effective Date. Subgrantee shall provide evidence, reasonably satisfactory to NCDIT, that the full amount of Matching Funds is, or will be available to Subgrantee for use in connection with the Project. Match funds must meet the requirements set forth in Section III.B of the BEAD NOFO and 2 C.F.R. § 200.306**.**

Matching Funds may be provided in the form of either cash or in-kind contributions, so long as such contributions are made consistent with the requirements set forth in 2 C.F.R. Part 200. NCDIT may at any time verify Matching Funds, including but not limited to comparing facility in-kind matches with current mortgage statements or rental rates, or time keeping for services spent on BEAD Program work. All Matching Funds must meet the requirements for reasonable allowable costs under this Agreement.

(1) **In-Kind Contributions.** For in-kind contributions, the value shall be determined based on their documented Fair Market Value (FMV). The Subgrantee must establish and maintain a clear, written methodology for determining the FMV of all donated goods, services, and use of property, must comply with 2 C.F.R. § 200.306(b), and follow the NTIA's Understanding In-Kind Match guidance available at https://broadbandusa.ntia.gov/sites/default/files/2026-03/NTIA_Understanding_In-Kind_Match.pdf.

All in-kind contributions proposed as part of the Subgrantee's match must be:

(a) Verifiable from the Subgrantee's records;

(b) Necessary and reasonable for the accomplishment of Project objectives;

(c) Allowable under the federal cost principles (2 C.F.R. Part 200, Subpart E);

(d) Identified and included in the approved Project Budget (in Exhibit D); and

(e) Not paid for by another Federal award or used to meet the match requirement of another federal grant.

g. **Letter Of Credit/Performance Bond Requirements.** Prior to entering into this Agreement, upon request by NCDIT the Subgrantee shall obtain an irrevocable standby letter of credit, or a performance and/or payment bond(s) using the model(s) provided by NCDIT, equal to or exceeding twenty-five (25) percent of the total award amount for a letter of credit from a bank or a credit union or 100% of the subaward amount in case of a performance bond from an acceptable surety. The Subgrantee must retain the letter of credit or bond(s) until the final milestone in the disbursement is achieved and confirmed complete by NCDIT. Any letter of credit shall include a legal opinion, satisfactory to NCDIT, addressing bankruptcy considerations.

(1) **Conditional Programmatic Waivers.** The Subgrantee may request a waiver of the primary letter of credit requirement by demonstrating compliance with one of the waiver options provided in the NTIA Notice of Programmatic Waiver regarding Letters of Credit. https://broadbandusa.ntia.gov/sites/default/files/2026-01/BEAD_LOC_Waiver_Notice_10.23.23_0.pdf:

If Subgrantee requests one of the Waiver Options, and NCDIT approves the waiver, Subgrantee shall meet the specific requirements in the NTIA Notice of Programmatic Waiver regarding Letters of Credit for the approved Waiver Option as set forth in Exhibit G.

(2) **Documentation Requirements.** All letters of credit, performance bonds, and related documentation must:

(a) Substantially conform to the model(s) provided by NCDIT;

(b) Be acceptable in all respects to NCDIT;

(c) Be maintained in good standing throughout the required period;

(d) Be updated as required for any approved reductions or modifications; and

(e) Performance Bonds and Letters of Credit must be issued from an entity that is licensed in North Carolina to issue such documents.

If the Subgrantee has been granted the option of submitting the Performance Bond within 60 days of the execution of this Agreement, failure to submit it as agreed may result in the termination of this agreement in accordance with Section 2.2b of NTIA Notice of Programmatic Waiver regarding Letters of Credit and Article 7 of this Agreement.

h. **Recordkeeping and Audits.** Subgrantee shall comply with monitoring and evaluation requirements detailed in Section 4.5. and Article 5 of this Agreement.

i. **Network Resilience.** Subgrantee shall satisfy the statutory requirement to incorporate best practices defined by NTIA for ensuring reliability and resilience of broadband infrastructure by establishing risk management plans that account for technology infrastructure reliability and resilience, including from natural disasters (e.g., wildfires, flooding, tornadoes, hurricanes, etc.), as applicable, as well as cybersecurity best practices.

j. **Cybersecurity and Supply Chain Risk Management.** Subgrantee shall comply with prudent cybersecurity and supply chain risk management practices throughout the period of performance, as specified by the Assistant Secretary, in consultation with the Director of the National Institute of Standards and Technology and the Federal Communications Commission.

(1) **Cybersecurity Requirements.** Subgrantee shall:

(a) Maintain a cybersecurity risk management plan that is:

(i) Operational, if the Subgrantee is currently providing service; or

(ii) Ready to be operationalized upon providing service, if the Subgrantee is not yet providing service;

(b) Ensure the plan reflects the latest version of the NIST Framework for Improving Critical Infrastructure Cybersecurity and implements the standards and controls set forth in Executive Order 14028;

(c) Reevaluate and update the plan on a periodic basis and as events warrant; and

(d) Submit any substantive changes to the plan to NCDIT within thirty (30) calendar days of such changes.

(2) **Supply Chain Risk Management Requirements.** Subgrantee shall:

(a) Maintain a supply chain risk management (SCRM) plan that is:

(i) Operational, if the Subgrantee is currently providing service; or

(ii) Ready to be operationalized upon providing service, if the Subgrantee is not yet providing service;

(b) Base the plan on key practices outlined in NIST publication NIST Internal or Interagency Report (NISTIR) 8276 and related Cyber Supply Chain Risk Management (C-SCRM) guidance from NIST, including NIST Special Publication (SP) 800-161 Rev. 1;

(c) Reevaluate and update the plan on a periodic basis and as events warrant; and

(d) Submit any substantive changes to the plan to NCDIT within thirty (30) calendar days of such changes.

(3) **Third-Party Requirements.** If Subgrantee relies in whole or in part on network facilities owned or operated by a third party, Subgrantee shall obtain attestations from such third parties regarding their compliance with the cybersecurity and supply chain risk management requirements outlined above.

All plans and attestations shall be in the form set forth in Exhibit H. NCDIT may provide these materials to NTIA upon request.

k. **Increasing Seat Belt Use in the United States.** Pursuant to Executive Order 13043, 62 Fed. Reg. 19,216 (Apr. 18, 1997), NCDIT encourages the Subgrantee to adopt and enforce on-the-job seat belt policies and programs for its employees when operating company-owned, rented, or personally owned vehicles.

l. **Reducing Text Messaging While Driving.** Pursuant to Executive Order 13513, 74 Fed. Reg. 51,225 (Oct. 6, 2009), NCDIT encourages the Subgrantee to adopt and enforce policies that ban text messaging while driving.

m. **Energy Efficiency.** All participants in the projects funded hereby shall recognize mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (PL 94-163).

n. **Publications**. Any publications related to the Project must be paid for independently by the Subgrantee (i.e., not with BEAD Award funds) and must display the following language: “This project [is being][was] supported, in whole or in part, by funds awarded to the State of North Carolina by the NTIA."

o. **Federal Seals, Logos, and Flags**. The Subgrantee shall not use the seal(s), logos, crests, or reproductions of flags of the federal funding agency or likenesses of any federal agency officials without specific pre-approval of the relevant federal agency.

Section 2.4 Change Requests.

a. **Change Request Process.** There shall be no changes made to the scope of the Project without written approval by NCDIT. To request any changes to the scope of the Project, Subgrantees are required to submit to NCDIT for approval a formal written request that includes: (i) a detailed description of the proposed change, (ii) a justification for the change, and (iii) an analysis of the change's impact on the project's scope, budget, and timeline. NCDIT will review each request to determine whether the request also requires NTIA's approval. Changes to the Agreement shall not take effect unless and until such amendment is executed pursuant to the terms of this Agreement. Amendments to this Agreement requested by either Party shall only take effect if agreed to in writing by both NCDIT and the Subgrantee.

Any change to the approved scope of grant funded activities proposed after the completion of environmental and historic preservation review that has the potential for altering the nature or extent of environmental or historic preservation impacts, or any change as defined under NTIA's Scope Change and Budget Modification Guidance for Eligible Entities requires written approval from NTIA prior to implementation. (See https://broadbandusa.ntia.gov/sites/default/files/2026-03/BEAD_Eligible_Entity_Guidance_Scope_Change_and_Budget_Modification.pdf.) NCDIT will first review these change requests, and upon NCDIT's approval of such requests, will submit such requests to NTIA on the Subgrantee's behalf, and the Subgrantee shall not proceed with the change until NCDIT provides written confirmation of NTIA's approval.

b. **Reduction in Scope.** In the event of a denial of the Subgrantee's request to reduce the scope of the Project, including without limitation, a reduction of the number of locations and reduction in the eligible project area, in addition to the alternatives provided in Denial of Change Request above, NCDIT may cancel this Agreement pursuant to Article 7 (Termination and Remedies) of this Agreement.

c. **Extensions of Time.** NCDIT has the direct authority to extend subgrant project periods of performance for up to one year at no additional cost if (i) the subgrantee has a specific plan for use of the grant funds, with project completion expected by a specific date not more than one year after the four-year deadline; (ii) the construction project is underway; or (iii) extenuating circumstances require an extension of time to allow the project to be completed.

d. **Budget Changes.** If a change to the Subgrantee's budget has been requested, processing of milestone disbursements may be delayed pending the approval of the change. If changes to the

Subgrantee's budget have been made without the prior approval of NCDIT, no compensation shall be made until the process outlined in Section 2.4 has been completed. Additionally, Subgrantees must maintain detailed internal records of all minor budget modifications and report them to NCDIT as part of its regular quarterly financial reporting.

Consistent with Section 2.2.d., **i**n the event of a cost overrun or an increase in the total Project cost, the amount of NCDIT's BEAD Award to the Subgrantee shall not change. The Subgrantee shall bear sole responsibility for any and all increased costs related to the Project.

e. **Denial of Change Request.** In the event a requested change is denied, the following alternatives would apply: (1) the Project may be completed without changes; (2) the BEAD Award Project funding may be rescinded by NCDIT if the Project cannot be completed; (3) the BEAD Award funding to the current Subgrantee may be rescinded by NCDIT and awarded to an alternate Subgrantee pursuant to the BEAD Statutes; or (4) the Subgrantee may withdraw from the Project and return any Project funds received to date, among other remedies as described herein.

f. **Implementation of Unapproved Changes.** If the Subgrantee implements any change without requesting the approval for the change in writing from NCDIT, or implements any change without prior approval, it may be subject to the clawbacks and remedies set forth in Articles 7 and 8 of this Agreement, unless NCDIT, in its sole discretion, expressly waives this requirement of change review in writing.

Section 2.5 Notice Requirement for Changes that Affect Performance. The Subgrantee shall immediately notify NCDIT of any change in conditions or local law, or any other event, which may significantly affect its ability to oversee, administer or perform this Agreement or the Project.

Article 3. Compensation

Section 3.1 Disbursement of Funds by NCDIT. NCDIT shall make payments to the Subgrantee for approved BEAD Award funds in accordance with Exhibit E, Project Milestones and the Milestone Disbursement Guidance, after receipt of (i) written requests for payment from the Subgrantee utilizing NCDIT's request form and certification that the conditions for such payment under this Agreement have been met and that the Subgrantee is entitled to receive the amount requested, and (ii) any other documentation that may be required by NCDIT.

Section 3.2 Availability of Funds and Maximum Amount.

a. **Availability of Funds.** The obligations of NCDIT to pay any amounts under this Agreement to the Subgrantee are contingent upon the availability and receipt of BEAD funds by NCDIT, the continued appropriation of such funds for the purpose set forth in this Agreement, and the Subgrantee's continued eligibility to receive such funds. If the amount of BEAD funds that NCDIT receives is reduced or BEAD funds for the Project become unavailable, the Subgrantee agrees that NCDIT has the right to reduce the amount of BEAD Award funds awarded to the

Subgrantee under this Agreement or to terminate this Agreement pursuant to Section 7.7 of this Agreement.

b. **Maximum Amount.** Disbursements to Subgrantee are limited to the unpaid, obligated balance of the Grant Funds subject to the agreed-upon match percentage. The NCDIT shall have no obligation to pay Subgrantee any amount under this Agreement that exceeds the Grant Funds available to and received by the NCDIT. Subgrantee acknowledges and agrees that NCDIT can only disburse funds that it has actually received from NTIA for this Project, and that all disbursements must be approved for payment according to the terms of this Agreement. Furthermore, NCDIT's ability to pay Subgrantee is contingent upon NCDIT's receipt of BEAD Program funds allocated for this Project, and no other funding sources are available for disbursement under this Agreement. Subgrantee acknowledges and agrees that the NCDIT is only obligated to pay to Subgrantee the amount of Grant Funds actually received by the NCDIT and approved for payment for the Project work and that the sole source of funding for payments to Subgrantee under this Agreement is payment to the NCDIT of the Grant Funds allocated to the Project.

Section 3.3 Disbursement Milestones. Grant Funds shall be disbursed in the amounts based upon the Project Milestones in Exhibit E, and upon NCDIT's determination that Subgrantee has achieved the milestones and other conditions set forth in Exhibit E to this Agreement. To make this determination, NCDIT will perform a technical and/or compliance review on at least one of the disbursement milestones and reserves the right to perform additional reviews and to withhold payment for a specific milestone until such review is completed to NCDIT's satisfaction. As a condition precedent to the first disbursement, an officer of Subgrantee must make the attestations regarding cybersecurity and supply chain risk management specified in Exhibit H. All payment applications and payments shall be made in compliance with the terms of this Agreement, and as outlined in Exhibit E.

The final milestone payment shall not be paid without an approved Project Completion Report. Subgrantee's request for final payment shall be submitted within ninety (90) calendar days of the date NCDIT issues written certification of Project completion.

Section 3.4 Disbursement Requests. Subgrantee must submit with each request for disbursement the documentation required under Exhibit E and the Milestone Disbursement Guide available online at https://www.ncbroadband.gov/BEAD. Upon request, Subgrantee shall submit any other evidence as NCDIT may require to validate the completion of milestones.

Section 3.5 Disbursement Procedures. Grant Funds shall be disbursed to the Subgrantee via Automated Clearing House ("ACH") transfer or check, provided that Subgrantee has submitted to NCDIT a completed vendor substitute W-9 form and, in the case of ACH transfer, an ACH authorization form or form provided by NCDIT to facilitate an electronic transfer of funds.

Subgrantee agrees that, while compensation by the NCDIT will occur as milestones are achieved as payment for tangible, allowable, and allocable work product that is properly requested for this Project and work is properly documented pursuant to and subject to the other terms of this Agreement, all work must be verified by NCDIT pursuant to the process detailed in Section 1.8.e. of this Agreement. All payments will also be consistent with all local, state and federal laws. Consistent with Article 7, NCDIT may deny payment where documentation is not submitted as specified in this Agreement or for failure of the Subgrantee to comply with the terms and conditions of this Agreement.

The NCDIT will use reasonable best efforts to issue Grant Funds to Subgrantee upon approval of documentation submitted by the Subgrantee for each applicable milestone. Subject to Section 2.2, eligible expenditures may not be incurred prior to the Effective Date or subsequent to the Termination Date of the grant.

Article 4. Financial Accountability and Grant Administration.

Section 4.1 Financial Management. The Subgrantee shall adopt and maintain such financial management procedures as will permit the preparation of reports required by the Federal Funding Accountability and Transparency Act (https://www.congress.gov/109/plaws/publ282/PLAW-109publ282.pdf) and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the relevant statutes, regulations, and terms and conditions herein. The Subgrantee's financial management procedures shall allow it to comply with the requirements of 2 C.F.R. § 200.302. Subgrantee shall expressly designate in Subgrantee's business records and accounting system that the Award Funds originated from this Agreement.

Section 4.2 Limitations on Expenditures. NCDIT shall compensate the Subgrantee for expenditures incurred during the Agreement Term based on milestones completed that are: (i) reasonable and necessary to carry out the scope of work described in Exhibit D; (ii) documented by contracts or other evidence of liability consistent with the established Parties' procedures; and (iii) incurred in accordance with all applicable requirements for the expenditure of funds payable under this Agreement. NCDIT may not compensate the Subgrantee for any expenditures incurred or services provided prior to the Effective Date except as provided in Section 2.2 of this Agreement or following the earlier of the expiration or termination of this Agreement.

Section 4.3 Financial and Other Reports. The Subgrantee shall maintain detailed, itemized documentation and other necessary records of all expenses incurred pursuant to this Agreement. Upon request, the Subgrantee shall submit to NCDIT such reports and back-up data as may be required by the federal government or NCDIT, including such reports which enable NCDIT to submit its own reports to the federal government, in accordance with the schedule set forth in Exhibit F Reporting Schedule for Progress Reports. This Section is consistent with Sections 5.5 and 8.14. This provision shall survive the expiration or termination of this Agreement with respect to any reports which the Subgrantee is required to submit to NCDIT following the expiration or termination of this Agreement.

Section 4.4 Cost Principles. All expenditures by the Subgrantee of funds awarded under this Agreement shall be in accordance with the cost principles outlined in the Code of Federal Regulations, 2 C.F.R. Part 200, Subpart E (2 C.F.R. §§ 200.400-200.476), subject to the exceptions listed in the General Terms and Conditions for the NTIA BEAD Program Funds and UGPN.

Section 4.5 Audits. The Subgrantee shall comply with the provisions of 2 C.F.R. §§ 200.501-200.521, if applicable, and agree to continue to be compliant with these provisions during the Term of this Agreement. A Subgrantee subject to the provisions of Subpart F of 2 C.F.R. Part 200 and expending $1,000,000 or more in a year in federal awards during its fiscal year, must submit a copy of its single or program-specific audit within the earlier of thirty (30) calendar days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period, unless a different period is specified in a program-specific audit guide. A copy of the audit must be submitted electronically to the Federal Audit Clearinghouse (FAC) through the FAC's Internet Data Entry System (IDES) (https://harvester.census.gov/facides/). Pursuant to 09 N.C.A.C. 03M .0205, a Subgrantee that receives, holds, uses, or expends grant funds disbursed by the State of North Carolina in an amount equal to or greater than the dollar amount requiring audit as listed in 2 C.F.R. § 200.501(a) within its fiscal year shall have a single or program-specific audit prepared and completed in accordance with Generally Accepted Government Auditing Standards, also known as the Yellow Book. Pursuant to Term 38 of the General Terms and Conditions of BEAD Program Funds in the Notice of Award, Subgrantees that are not subject to Subpart F of 2 C.F.R. Part 200 (e.g., commercial entities) that expend $1,000,000 or more in grant funds during their fiscal year must submit to NCDIT either: (i) a financial related audit of each grant in accordance with Generally Accepted Government Auditing Standards; or (ii) a program-specific audit for each grant or subgrant in accordance with the requirements contained in 2 C.F.R.§ 200.507. If the Subgrantee is not required to have a single audit or program-specific audit under the Single Audit Act, 09 N.C.A.C. 03M .0205, or Term 38 of the General Terms and Conditions of BEAD Program Funds, the Subgrantee shall have a financial audit performed at least annually by an independent Certified Public Accountant. Within the earlier of thirty (30) calendar days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period, unless a different period is specified in a program-specific audit guide, a copy of the audit must be submitted to the NCDIT. In accordance with 2 C.F.R. § 200.425, Subgrantee may include a line item in the budget for the allowable costs associated with the audit, which is subject to the approval of the NCDIT. The Subgrantee shall provide notice of the completion of any required audits and will provide access to such audits and other financial information related to this Agreement upon request. The Subgrantee shall provide NCDIT with notice of any adverse findings which impact this Agreement. This obligation extends for one (1) year beyond the expiration or termination of this Agreement.

Subgrantee shall perform all necessary efforts to assist NCDIT in verifying for the benefit of NCDIT and federal auditors that Award Funds have been expended in a manner consistent with this Agreement within the timeframe established in Subgrantee's Application, beginning on the Effective Date. Subgrantee shall prepare appropriate audited financial statements, including the schedule of expenditures of Federal Awards in accordance with 2 C.F.R. § 200.510 and provide NCDIT with access to personnel, accounts, books, records, supporting documentation, and other information as needed. If Subgrantee failed to expend Award Funds on eligible Project-related expenses, which includes properly approved changes to the Project, within that timeframe, Subgrantee agrees to immediately return to the NCDIT any Grant Funds that it failed to spend appropriately in accordance with Section 7.6. Those funds, regardless of source, shall be returned to the NCDIT, upon request, within ten (10) business days.

All financial information related to this Agreement shall be subject to audit for three (3) years from date of NCDIT's approval of Subgrantee's Project Completion Report.

See Sections 5.2 and 5.5 for requirements regarding recordkeeping and access to persons and records.

Section 4.6 Closeout. Closeout will be conducted on the timelines and in the manner set forth in 2 C.F.R. § 200.344. NCDIT may request and Subgrantee shall provide supporting information as reasonably necessary to complete closeout. Closeout does not affect (i) any of the rights, requirements and obligations set forth in 2 C.F.R. § 200.345, or (ii) any of Subgrantee's obligations that survive closeout and remain in force during the Federal Interest Period as described in Section 1.8.c. Consistent with Section 5.5, the Subgrantee shall maintain and retain all records and other documents related to this Agreement for a period of five (5) years after Closeout or as necessary for the resolution of any litigation, claim, negotiation, audit, or other inquiry involving this Agreement.

Article 5. Cooperation in Monitoring and Evaluation.

Section 5.1 NCDIT's Responsibilities.

a. **Project Monitoring.** NCDIT will monitor this Project in accordance with 2 C.F.R. § 200.208 and 2 C.F.R. § 200.332 and the provisions of 09 N.C.A.C. 03M .0401 to ensure that adequate progress is being made towards achieving the Project milestones described in Section 2.3.d. and Exhibit E, Project Milestones. Monitoring may include, at NCDIT's discretion, progress reports, site visits, financial reviews, and audits. The frequency and type of monitoring may depend on the Subgrantee's risk level as determined by the risk assessment. At NCDIT's sole discretion, NCDIT may implement or change monitoring and reporting requirements.

b. **Risk Assessment.** NCDIT shall conduct risk assessments in accordance with 2 C.F.R. § 200.332(b) to determine the appropriate monitoring needs of the Project. NCDIT may reassess this risk at any time during this Agreement in accordance with NCDIT's risk assessment process and federal regulations, including but not limited to 2 C.F.R. § 200.332, 2 C.F.R. § 200.206, and 2 C.F.R. § 200.208.

c. **Compliance Audits.** In connection with disbursing funds to the Subgrantee, NCDIT will be subject to periodic audits by the Office of State Budget and Management, the Office of the State Auditor, or NCDIT's internal auditor to ensure compliance with the provisions of 09 N.C.A.C. 03M and may be required to provide documentation in connection with that audit. NCDIT shall develop a compliance supplement report that describes the standards of compliance and audit procedures to give direction to independent auditors, which NCDIT will provide to the State and Local Government Finance Division in the North Carolina Department of State Treasurer for inclusion in the North Carolina State Compliance Supplement.

d. **Streamlining Permitting.** To help ensure that BEAD projects are carried out in a timely and effective manner, NTIA requires NCDIT to take the following actions to streamline permitting processes:

   (1) Consistent with any relevant legal requirements and authorities, NCDIT will establish procedures to ensure that broadband-related permit applications are promptly accepted, and requests are approved or denied within 90 days, including by:

(a) Assisting state and local authorities in establishing a single, dedicated point of contact, which has knowledge of the application and review processes, for broadband-related permits.

(b) Providing technical assistance to permitting agencies to ensure sufficient capacity (e.g., Master Agreement and Consultant Reimbursement Agreement templates, surge support for permit processing, etc.)

(c) Providing deference to the construction techniques chosen by BEAD Subgrantees (without seeking to influence those decisions), absent any identified safety concerns.

(d) Maximizing streamlined processing through permitting by rule; batch processing of substantially similar permit requests; and waiving or expediting duplicative or burdensome broadband permitting requirements where possible.

(e) Following FCC rules regarding timelines, rates, terms, and conditions for access to municipally owned poles and conduit for broadband projects—including provisions in the FCC's rules providing for "one-touch make-ready" and "self-help"—and requiring BEAD Subgrantees that own poles (including cooperatives) to comply with FCC rules across their footprint.

(2) NCDIT will seek to minimize state and local permitting-related costs for broadband deployments and ensure (i) permitting fees are a reasonable approximation of the state or local government's costs, (ii) only objectively reasonable costs are factored into those fees, and (iii) the fees are no higher than the fees charged to similarly situated competitors in similar situations.

(3) NCDIT will establish Permitting Roundtables and/or working groups of relevant federal, state, local, and tribal authorities and representatives of impacted industries—including utility pole owners, railroads, communications providers, and BEAD subgrantees—that will:

(a) Meet regularly to identify and facilitate resolution of any delays or disputes related to deploying BEAD-funded facilities.

(b) Collect complaints (and supporting information) from Subgrantees that are not timely resolved through this process and escalate such complaints through the appropriate Permitting Roundtable or working group.

(4) NCDIT will track, publicly post, and submit to NTIA, as part of its Semi-Annual Report, information on subgrantee compliance with the NEPA milestone schedules and data regarding unresolved complaints from Subgrantees, including: (i) issues escalated through the Permitting Roundtable or working group; (ii) delays in broadband-related projects that Subgrantees attribute to a state or local prohibition on using its preferred construction techniques; and (iii) delays in broadband related projects that Subgrantees attribute to state

and/or local authorities failing to follow FCC rules regarding pole attachment timelines, rates, terms, and conditions for access to municipally owned poles and conduit for broadband projects.

e. **Prohibition on Utility-Style Rate Regulation**. Pursuant to Section 50 of the BEAD General Terms and Conditions included in the Notice of Award, the Grantee (NCDIT), and any agency, instrumentality, or subdivision thereof, agrees not to enforce any law, regulation, executive order, contracting requirement, or other enforceable obligation that directly or indirectly regulates in any way the rates, terms, and conditions of broadband internet service, whether on a retail, wholesale, or network basis, or imposes net neutrality rules, open access, or other utility style rules on broadband internet service, against the Subgrantee or its affiliates anywhere it provides service within the Grantee's jurisdiction, while that Subgrantee has any subgrant that is still within its period of performance, extended period of performance, or federal interest period. For purposes of this provision, a "net neutrality rule" is any law, order, contracting requirement, or other enforceable obligation by the Grantee that prohibits internet service providers from, among other things, blocking content, throttling speeds, imposing data caps, or engaging in paid prioritization, or that imposes a general conduct or similar standard upon internet service providers.

Section 5.2 Subgrantee's Responsibilities

a. **Compliance with 09 N.C.A.C. 03M.** The Subgrantee acknowledges and agrees that as a condition of receiving the award pursuant to this Agreement, the Subgrantee will comply with the provisions of 09 N.C.A.C. 03M;

b. **Use of Funds.** In accordance with 09 N.C.A.C. 03M .0202, the Subgrantee will ensure that any funds received under this Agreement are utilized for their intended purpose and shall expend those funds in compliance with requirements established by 09 N.C.A.C. 03M and this Agreement;

c. **Cooperation in Monitoring.** Monitoring the progress of the Project and all grant funded activities; the Subgrantee hereby agrees to cooperate fully and in a timely fashion with NCDIT's monitoring of the Project and waives any objection to NCDIT's determination of the Project's risk level or monitoring needs. NCDIT shall have the right to notify Subgrantee of any specific areas of concern and may impose specific award conditions or other corrective action as a result of monitoring findings, including but not limited to financial information from Subgrantee or subcontractors;

d. **Reporting Progress and Compliance.** The Subgrantee agrees that it will: (i) provide the information required by NCDIT for NCDIT to comply with the procedures for disbursement of funds as provided in Article 3, Exhibit E Project Milestones, and Milestone Disbursement Guide; (ii) maintain reports and accounting records that support the allowable expenditure of BEAD Award funds and make available all reports and records for inspection for oversight, monitoring, and evaluation purposes as set forth in Section 5.5; and (iii) ensure that any subrecipients comply with all reporting requirements established by 09 N.C.A.C. 03M and this Agreement and report to NCDIT.

e. **Recordkeeping and Audits.** NCDIT and Subgrantee shall support BEAD Program reviews and evaluations by submitting required financial and performance information and data in an accurate and timely manner, and by cooperation with the Department of Commerce and external program evaluators.

(1) **Recordkeeping.** Subgrantee agrees to keep financial records, including budgets, expenses, receipts, financial reports, supporting documents, statistical records, and all other records pertinent to Award Funds, the Project, and this Agreement and make them available to the NCDIT upon request and for not less than a period of five (5) years after the Closeout Date pursuant to 09 N.C.A.C. 03M .0202. This should include all Subgrantee network designs, diagrams, project costs, build-out timelines and milestones for project implementation, and capital investment schedules submitted as a part of the application process.

Subgrantee acknowledges that pursuant to Section 5.5, certain federal and state officials or their authorized representatives, shall have the right of access to any documents, papers, or other records which are pertinent to Award Funds, the Project, and this Agreement, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to Subgrantee's personnel for the purpose of interview and discussion related to such documents.

(2) **Audits.** Subgrantees must maintain adequate financial systems and financial records to accurately account for awarded funds. NCDIT, NTIA, the Department of Commerce Office of Inspector General, or another authorized federal or state agency may conduct an audit of an award at any time, as described in Section 4.5.

(3) **Protected and Proprietary Information.** Notwithstanding any other provision of this Agreement, and consistent with Section 8.14, Subgrantee and the NCDIT agree that all records related to the North Carolina BEAD program are public records as provided by the North Carolina Public Records Law, N.C.G.S. § 132-1 et seq., subject to exceptions to production related thereto including without limitation trade secret and proprietary information; provided, however, that the Subgrantee provide an adequate restrictive legend on each page and for all information that it deems protected and proprietary. NCDIT shall give Subgrantee reasonable written notice of any request for production of public records that may seek production of such materials to allow Subgrantee to seek such appropriate court protection from production as Subgrantee deems appropriate.

In accordance with 2 C.F.R. § 200.303(e), NCDIT and Subgrantee will take reasonable measures to safeguard protected personally identifiable information and other confidential or sensitive personal or business information created or obtained in connection with this Agreement.

Section 5.3 N.C. Administrative Code Reporting. This Agreement incorporates the reporting levels established under 09 N.C.A.C. 03M .0205(a). The Subgrantee shall follow the reporting level requirement applicable as of the end of each reporting period under this Agreement.

a. **Required Reporting.** The Subgrantee shall provide reports pursuant to the reporting requirements specified in 09 N.C.A.C. 03M .0205(b) on an annual basis during the term of this Agreement.

b. **Filing of Reports.** Subgrantee shall file all reports with NCDIT in the format and method provided by NCDIT no later than three (3) months after the end of the Subgrantee's fiscal year, unless the same information is already required through more frequent reporting. Audits must be provided to NCDIT no later than nine (9) months after the end of the Subgrantee's fiscal year.

c. **Copies Acceptable.** Notwithstanding the foregoing provisions, a Subgrantee may satisfy the reporting requirements of Section 5.3.b. by submitting a copy of the report required under federal law with respect to the same funds.

d. **Other Reports.** The Subgrantee shall provide NCDIT with any other reports as required by State or federal law.

Section 5.4 Interventions. If NCDIT determines the Subgrantee is not maintaining adequate progress towards Project milestones or is not engaging in the appropriate expenditure of funds, NCDIT may impose additional reporting requirements and/or award conditions consistent with Article 7.

Section 5.5 Access to Persons and Records. Pursuant to N.C.G.S. § 120-75.1, § 147-64.7 and 2 C.F.R. § 200.337, NCDIT, the Office of State Budget and Management, the Office of the State Auditor, Joint Legislative Commission on Governmental Operations, the United States Department of Commerce, Office of Inspector General, the U.S. Government Accountability Office, the Comptroller General of the United States, and any other appropriate state or federal agency, or any authorized representatives of these entities, are authorized to examine all books, records, papers, and accounts of the Subgrantee insofar as they relate to the performance of this Agreement or to funds disbursed pursuant to this Agreement. Pursuant to 09 N.C.A.C. 03M .0202, the Subgrantee shall maintain and hereby agrees to retain all records, books, papers, and other documents covered by this Section for a period of five years after the Closeout Date, or such longer period as is necessary for the resolution of any litigation, claim, negotiation, audit, or other inquiry involving this Agreement. The Subgrantee shall make all records, books, papers and other documents that relate to this Agreement available at all reasonable times for inspection, review and audit by the authorized representatives of NCDIT, the Office of State Budget and Management, the Office of the State Auditor, Joint Legislative Commission on Governmental Operations, the U.S. Department of Commerce, the U.S. Government Accountability Office, and any other authorized state or federal oversight office. Additional audit or reporting requirements may be required by NCDIT, if in NCDIT's opinion, such requirement is imposed by federal or state law or regulation. This Section is consistent with Section 8.14 Public Records Act Compliance and Confidentiality.

Section 5.6 Personnel. The Subgrantee represents that it has, or will secure at its own expense, all personnel required to monitor, carry out, and perform the scope of services of this Agreement. Such employees shall not be employees of NCDIT. The Subgrantee shall identify all personnel who will be involved in performing the scope of services of this Agreement and otherwise administering this Agreement, including at least one project manager and one fiscal officer ("Key Personnel"). Key Personnel of the Subgrantee is attached hereto as Exhibit I. Such Key Personnel shall be fully qualified and shall be authorized under state and local law to perform such services. The Subgrantee shall notify NCDIT of any changes to Key Personnel within thirty (30) days of the change, and the Subgrantee shall provide written notice within (10) days if the Authorized Representative changes from the individual identified in this Agreement. Notice shall be provided in accordance with Section 8.13.

Article 6. Compliance with Agreement and Applicable Laws

Section 6.1 General Compliance. The Subgrantee shall perform all scope of work funded by this Agreement in accordance with this Agreement, the award agreement between the State of North Carolina and the U.S. Department of Commerce, and all applicable federal, state and local requirements, including all applicable statutes, rules, regulations, executive orders, directives or other requirements consistent with Section 1.5 General Compliance Requirements, Order of Precedence, and Terminology. Such requirements may be different from the Subgrantee's current policies and practices. While NCDIT may assist the Subgrantee in complying with all applicable requirements, the Subgrantee remains responsible for ensuring its compliance with all applicable requirements.

Section 6.2. Expenditure Authority. This Agreement is subject to the laws, regulations, and guidance documents authorizing and implementing the BEAD grant, including, but not limited to, the following:

a. **Authorizing Statute.** Infrastructure Investments and Job Act (IIJA) and North Carolina's S.L. 2024-55, as amended by S.L. 2025-89;

b. **Guidance Documents.** Applicable guidance documents issued from time-to-time by the U.S. Department of Commerce and NTIA, including the BEAD NOFO, RPN and any subsequent guidance; and

c. **Other Regulations, Statutes and Rules.** Applicable provisions of the Uniform Guidance (2 C.F.R. Part 200); S.L. 2024-55, as amended by S.L. 2025-89, and any subsequent amendments and technical changes; 09 N.C. Admin. Code. 03M; and all applicable laws of the State of North Carolina.

d. **Compliance with Executive Orders.** The policies set forth in all applicable Executive Orders (EOs) currently in legal force and effect are incorporated into this Agreement. By accepting this Agreement and expending federal funding hereunder the Subgrantee: (i) agrees to comply with the policies and to further the objectives set forth in all applicable EOs, as well as those that may be issued after the Effective Date hereof; (ii) agrees pursuant to EO 14173, 90 Fed. Reg. 8633 (January 21, 2025), that compliance with Federal antidiscrimination laws is material to payment decisions for purposes 31 U.S.C. § 3729(b)(4); and (iii) certifies that Subgrantee does not operate any programs promoting diversity, equity, and inclusion that violate any applicable Federal antidiscrimination laws. Whenever Subgrantee believes that any of the activities in its approved scope of work may be inconsistent with EO policies, Subgrantee shall immediately stop work on potentially inconsistent activities and contact NCDIT. Performance of activities that violate or that are otherwise inconsistent with EO requirements may be subject to remedies in Article 7.

Section 6.3. Federal Grant Administration Requirements. The Subgrantee shall comply with any applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200 (UG), as adopted by the Department of Commerce and NTIA, subject to the exceptions listed in the General Terms and Conditions for the NTIA BEAD Program Funds and UGPN. These requirements dictate how the Subgrantee must administer the award and how NCDIT must oversee the Subgrantee.

Section 6.4. Property, Exceptions for Supplies, Intangible Property. Subgrantee shall retain ownership interests and rights in the network and in any property, materials, equipment, supplies, and facilities it constructs or purchases for the Project pursuant to this Agreement, including standards set forth in Uniform Guidance subject to the exceptions, adjustments, and clarifications in the UGPN, the requirements in Sections 47 and 52 of the BEAD General Terms and Conditions which is included in Exhibit A Notice of Award, and any additional applicable guidance or regulations issued by the U.S. Department of Commerce or NTIA after the Effective Date of this Agreement.

Section 6.5. Universal Identifier and System for Award Management (SAM). The Subgrantee shall provide and/or obtain and provide to NCDIT, a unique entity identifier assigned by the System for Award Management (SAM), which is accessible at www.sam.gov.

Section 6.6. Federal Funding Accountability and Transparency Act of 2006. The Subgrantee shall provide NCDIT with all information requested by NCDIT to enable NCDIT to comply with the reporting requirements of the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C. 6101 note).

Section 6.7. Licenses, Certifications, Permits, Accreditation. The Subgrantee shall obtain and keep current any license, certification, permit, or accreditation required by federal, state, or local law and shall submit to NCDIT proof of any licensure, certification, permit or accreditation upon request.

Section 6.8 Build America, Buy America Requirements (IIJA Sec 70912(2)). Congress passed the Build America, Buy America Act (BABA) on November 15, 2021 as part of the IIJA. BABA established domestic content procurement preference requirements for federal financial assistance projects for infrastructure, including the BEAD Program, consistent with IIJA § 70912(2).

Subgrantee shall comply with BABA consistent with applicable legal authorities, such as the IIJA, Executive Order 14005, 2 C.F.R. part 184, Office of Management and Budget ("OMB") Memo M-24-02, and any applicable waivers issued by the Department of Commerce or NTIA, to include the NTIA Limited General Applicability Nonavailability Waiver of the Buy America Domestic Content Procurement Preference as Applied to Recipients of Broadband Equity, Access, and Deployment Program (effective Feb.

22, 2024). All waivers applicable to BEAD will be posted on the Build America, Buy America page maintained by the Department of Commerce Office of Acquisition Management at https://www.commerce.gov/oam/build- america-buy-america.

Section 6.9 Low-Cost Service Option Requirements. Pursuant to 48 U.S.C. § 1702(h)(5), Subgrantee must make available a LCSO to Eligible Subscribers. The LCSO must offer speeds of at least 100/20 Mbps and latency performance of no more than 100 milliseconds.

Pursuant to the NTIA Restructuring Policy Notice, the term "Eligible Subscriber" means any household seeking to subscribe to broadband internet access service that is eligible for the FCC's Lifeline Program. The Subgrantee is responsible for verifying LCSO eligibility and may ask potential subscribers to provide the same documentation necessary to confirm eligibility as is required under the Lifeline Program. Subgrantee must offer a LCSO throughout the 10-year federal interest period, or in the case of a low Earth orbit subgrant, the 10-year period of performance. If the Subgrantee seeks to change the cost of the LCSO, then it must state the methodology it will use to set the LCSO in the future (e.g., tied to inflation or changes in the FCC's urban rate benchmark, etc.) consistent with the methodology provided in its application. If no methodology was provided in the application the Subgrantee must provide the methodology to NCDIT in writing prior to changing the cost of the LCSO.

Section 6.10 Conduit Access Requirements. Pursuant to 47 U.S.C. § 1702(h)(4)(D), the Subgrantee shall include interspersed conduit access points at regular and short intervals. The Subgrantee shall include the approximate distance and interval length of the access points in its reports to NCDIT.

Section 6.11 Reporting Waste, Fraud and Abuse. Pursuant to the BEAD NOFO Section IX.G., the Subgrantee has an obligation to minimize the opportunity for waste, fraud, and abuse through compliance with the reporting requirements set forth in Section I.E of the BEAD NOFO, the obligations set forth in 2 C.F.R. Part 200 and the Department of Commerce Financial Assistance Standard Terms and Conditions and by publicizing the telephone numbers and email addresses for North Carolina's State Auditor Tipline and Subgrantee's internal ethics office (or comparable entity) for the purpose of reporting waste, fraud or abuse in the program.

Section 6.12 Environmental and National Historical Preservation.

a. **General Environmental and Historic Preservation Review Requirements.** Subgrantee must comply with the requirements of all applicable federal, state, and local environmental statutes, laws, and standards. Subgrantee will provide all information necessary in a timely manner to facilitate NCDIT's use of NTIA's Environmental Screening and Permitting Tracking Tool (ESAPTT) as required by the BEAD Restructuring Policy Notice.

   Subgrantee shall not initiate or allow any grant funded implementation/construction activities—except for the limited permissible activities identified in the Section 6.12.e. Uses Prior to Implementation below—prior to the following:

   (1) The completion of any review required under the National Environmental Policy Act of

1969 (42 U.S.C. § 4321, et seq.) (NEPA), and issuance, as required, of a Categorical Exclusion (Cat Ex) determination, Record of Environmental Consideration (REC), Finding of No Significant Impact (FONSI), Record of Decision (ROD) (hereinafter "decision documents") that meets the requirements of NEPA;

(2) The completion of reviews required under Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. § 470, et seq.) (NHPA), including any consultations required by Federal law, to include consultations with the North Carolina State Historic Preservation Office and Federally recognized Native American tribes;

(3) The completion of consultations with the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS), as applicable, under Section 7 of the Endangered Species Act (16 U.S.C. § 1531, et seq.), and/or consultations with the U.S. Army Corps of Engineers (USACE) under Section 404 of the Clean Water Act (33 U.S.C. § 1251, et seq.), as applicable; and

(4) Demonstration of compliance with all other applicable federal, state, and local environmental laws and regulations.

Subgrantee shall ensure that implementation (site preparation, demolition, construction, ground disturbance, fixed installation, or any other implementation activities) does not begin prior to the completion of the above activities. Subgrantee must comply with all conditions placed on the grant funded activities as the result of NEPA or consultation processes—e.g., best management practices or other measures necessary to reduce environmental impacts. Subgrantee shall provide any related information requested by NCDIT or by NTIA (directly or through NCDIT) to ensure both initial and ongoing compliance with all requirements described above.

b. **NEPA Compliance.** To ensure the timely completion of environmental review for all BEAD-funded activities subject to NEPA review, NCDIT shall:

(1) Serve as a "joint lead agency" in its capacity as the State (or Territory) agency administering the BEAD program in accordance with 42 U.S.C. § 4336a(a)(1)(B) and carry out the duties described in 42 U.S.C. § 4336a(a)(2), consistent with NTIA's Smart Start NEPA guidance for BEAD, including the responsibility to obtain specialized environmental and historic preservation (EHP) expertise by hiring, contracting, or otherwise retaining staff with relevant NEPA qualifications and experience to support NCDIT in the joint lead agency role;

(2) Complete an evaluation of the sufficiency, applicability and accuracy of the analysis in First Responder Network Authority (FirstNet) Regional Programmatic Environmental Impact Statement (PEIS) chapter as it applies to anticipated implementation activities for North Carolina;

(3) The Parties agree that:

(a) Subgrantee will not commence implementation, and funds will not be disbursed until any necessary environmental review is complete and NTIA has approved any necessary decision document, except for the limited permissible activities identified Section 6.12.e.;

(b) Subgrantee must prepare any required NEPA documents in a timely manner and obtain any required permits, and must adhere to any applicable statutory deadlines as described in 42 U.S.C. § 4336g(a); and

(c) Subgrantee must provide a milestone schedule identifying specific deadlines and describing how Subgrantee proposes to meet these timing requirements including, as required, the completion of consultations, the completion of NEPA and NHPA Section 106 reviews, and the submission of Environmental Assessments (EAs) or Environmental Impact Statements (EISs).

(4) NCDIT will certify the sufficiency of all Subgrantee decision documents either by:

(a) preparing such documents; or

(b) by supervising Subgrantees' preparation of draft documents, independently reviewing those drafts, and verifying that decision documents meet the requirements of NEPA prior to transmittal to NTIA;

(5) Subgrantee shall, as directed by NCDIT:

(a) Submit all decision documents—including any supporting environmental documentation required or requested by NTIA for review.

c. **NHPA Compliance.** To ensure the timely completion of historic preservation review for all BEAD-funded activities, Subgrantee shall provide all such information as NCDIT requires to:

(1) At the earliest possible time, provide the NTIA-assigned Environmental Program Officer sufficient information to initiate Tribal notification via the FCC's Tower Construction Notification System (TCNS) when required for grant funded activities;

(2) Provide notified Tribes with information regarding grant-funded activities via their preferred communication means, as identified in TCNS;

(3) Apply the Advisory on Historic Preservation (ACHP) Program Comment to Avoid Duplicative Reviews for Wireless Communications Facilities or any other applicable

program comment or program alternative developed to address the Section 106 review of communications facilities;

(4) Notify NTIA of any Tribal request for government-to-government consultation or any identification that a grant funded activity may impact a historic property of religious or cultural significance to a Tribe; and

(5) Provide all consulting parties with the statutorily required time to respond to its determination of a grant funded activity's effect on historic properties.

d. **Further Environmental and Historic Preservation Review Guidance**. The Parties acknowledge that NTIA may issue further implementation guidance regarding NCDIT's and Subgrantee's responsibilities under this condition.

e. **Uses of Award Funds Prior to Implementation.** Subject to Section 2.2.c. of this Agreement, the allowable use of Award Funds prior to beginning implementation includes, but is not limited to, activities necessary for the completion of the following:

(1) Pre-construction planning, including collecting information necessary to complete environmental reviews;

(2) Applications for environmental permits;

(3) Studies including, but not limited to, Environmental Assessments (EA), wetland delineations, biological assessments, archaeological surveys, and other environmental reviews and analyses;

(4) Administrative costs;

(5) Pre-award application costs incurred solely by the Subgrantee that receives this Subgrant award.

(6) Activities supporting consultations required under the NHPA, the Endangered Species Act, and the Clean Water Act; and/or

(7) Limited, preliminary procurement, including the purchase or lease of equipment, or entering into binding contracts or agreements to do so; the purchase of applicable or conditional insurance; and/or funds used to secure land or building leases (including right-of-way easements)

Grant funded activities with significant impacts to environmental or historic resources may face de-obligation of funding if impacts cannot be avoided, minimized, or mitigated. Subgrantee shall notify NCDIT within 24 hours upon receipt of any Section 106 notices of foreclosure; notices requesting continuing or supplemental consultation received from the

SHPO, Tribal Historic Preservation Office (THPO), or other consulting party or the USFWS; or notices of noncompliance received from consulting authorities or regulatory agencies.

The Parties acknowledge that any change to the approved scope of grant funded activities proposed after the completion of environmental and historic preservation review that has the potential for altering the nature or extent of environmental or historic preservation impacts must be brought to the attention of NTIA and will be re-evaluated for compliance with applicable requirements

f. **Archaeological Resources.** Burial sites, human remains, and funerary objects are subject to the requirements of all applicable federal, tribal, state, and local laws and protocols, such as the Native American Graves Protection and Repatriation Act (NAGPRA), in addition to Section 106 of the NHPA. Subgrantee must notify NCDIT of inadvertent discoveries and potential impacts to these resources and identify and follow all applicable laws or protocols. Subgrantees should have an archaeologist who meets the Secretary of the Interior's Professional Qualification Standards monitor ground disturbance for grant funded activities proposed in the vicinity of National Register eligible archaeological sites and suspected or known burials. If any potential archeological resources or buried human remains are discovered during construction, Subgrantee must immediately stop work in that area, secure that area, and keep information about the discovery confidential, except to notify NCDIT, NTIA and the interested SHPO, THPO, and potentially affected Tribes. Such construction activities may then only continue with the written approval of the NCDIT and NTIA.

Section 6.13 Clean Air Act. The Subgrantee agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Subgrantee agrees to report each violation to NCDIT and understands and agrees that NCDIT will, in turn, report each violation as required to the federal awarding agency and the appropriate Environmental Protection Agency Regional Office. The Subgrantee agrees to include these requirements in any subcontract exceeding $150,000 funded, in whole or in part, with funds provided by NCDIT pursuant to this Agreement.

Section 6.14 Federal Water Pollution Control Act. The Subgrantee agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 et seq. The Subgrantee agrees to report each violation to NCDIT and understands and agrees that NCDIT will, in turn, report each violation as required to assure notification to the federal awarding agency and the appropriate Environmental Protection Agency Regional Office. The Subgrantee agrees to include these requirements in any subcontract exceeding $150,000 funded, in whole or in part, with funds provided by NCDIT pursuant to this Agreement.

Section 6.15 Debarment and Suspension. Due to its receipt of IIJA funds, NCDIT is a participant in a non-procurement transaction (defined at 2 C.F.R. § 180.970) that is a covered transaction pursuant to 2 C.F.R. § 180.210 and 31 C.F.R. § 19.210. Therefore, this Agreement is a lower-Tier covered transaction for purposes of 2 C.F.R. Part 180 and 31 C.F.R. Part 19 if the amount of this Agreement is greater than or equal to $25,000.

a. **Non-Exclusion Certification.** The Subgrantee hereby certifies as of the date hereof, that the Subgrantee, the Subgrantee's principals (defined at 2 C.F.R. § 180.995), and the affiliates (defined at 2 C.F.R. § 180.905) of both the Subgrantee and the Subgrantee's principals are not excluded individuals (defined at 2 C.F.R. § 180.935) and are not disqualified (defined at 2 C.F.R. § 180.935), or otherwise determined ineligible to participate in federal assistance awards or contracts. If any of the foregoing persons are excluded or disqualified and the federal awarding agency has not granted an exception pursuant to 31 C.F.R. § 19.120(a), then: (i) this Agreement shall be void, (ii) NCDIT shall not make any payments of federal financial assistance to the Subgrantee, and (iii) NCDIT shall have no obligations to the Subgrantee under this Agreement.

b. **Compliance with 2 C.F.R. Part 180, Subpart C and 31 C.F.R. Part 19.** The Subgrantee must comply with the Office of Management and Budget (OMB) Guidelines to Agencies on Governmentwide Debarment and Suspension (non-procurement) in 2 C.F.R. Part 180, Subpart C, and as adopted by the U.S. Department of the Treasury at 31 C.F.R. Part 19, and must include a requirement to comply with these regulations in any lower-Tier covered transaction into which it enters. The Subgrantee hereby certifies that it will comply with 2 C.F.R. Part 180, Subpart C and 31 C.F.R. Part 19. This certification is a material representation of fact relied upon by NCDIT, and all liability arising from an erroneous representation shall be borne solely by the Subgrantee.

c. **Remedies for Non-Compliance**. If it is later determined that the Subgrantee did not comply with 2 C.F.R. Part 180, Subpart C and 31 C.F.R. Part 19, in addition to remedies available to NCDIT, the federal government may pursue available remedies, including but not limited to, suspension and/or debarment.

d. **Subcontractor Certification.** The Subgrantee hereby certifies that none of the subcontractors it has proposed to perform work under this Agreement are listed under the State Debarred Vendors listing (https://ncadmin.nc.gov/documents/nc-debarred-vendors), or in the past five (5) years have been suspended or debarred from doing business with the federal or any state government. The Subgrantee agrees that it will notify NCDIT immediately if it or any of its principals is placed on the list of parties excluded from federal procurement or non-procurement programs available at www.sam.gov.

Section 6.16 Byrd Anti-Lobbying Amendment. The Subgrantee shall comply with the restrictions on lobbying in 31 C.F.R. Part 21.

The Subgrantee certifies to NCDIT, and the Subgrantee shall cause each Tier below it to certify to the Tier directly above such Tier, that it has not used and will not use federally appropriated funds to pay any person or organization to influence or attempt to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. The Subgrantee shall, and shall cause each Tier below it, to disclose any lobbying with non–federally appropriated funds that takes place in connection with obtaining any federal award. Such disclosures (to be set forth on Standard Form-LLL, contained in 31 C.F.R. Part 21, Appendix B) shall be forwarded from Tier to Tier up to NCDIT, which will, in turn, forward the certification(s) to the federal awarding agency. The Subgrantee shall cause the language of this Section to be included in all subcontracts. This certification is a material representation of fact upon which NCDIT has relied when entering into this Agreement, and all liability arising from an erroneous representation shall be borne solely by the Subgrantee.

If this Agreement exceeds $100,000, the Subgrantee also must file with NCDIT the certification in Exhibit J, "Byrd Anti-Lobbying Certification", which is attached hereto and incorporated herein. Any subcontractor with a subcontract (at any Tier) exceeding $100,000 must also file with the Tier above it the certification in Exhibit J.

Section 6.17 Copeland Anti-Kickback Act. In accordance with the Copeland Anti-Kickback Act, as supplemented by the Department of Labor regulations at 29 C.F.R Part 3, the Subgrantee understands and agrees that it is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. NCDIT shall report any and all suspected or reported violations of this Section to the Federal awarding Agency.

Section 6.18 Contract Work Hours and Safety Standards Act. Contracts awarded by NCDIT in excess of one-hundred thousand dollars ($100,000.00) that involve the employment of mechanics or laborers are required to comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor Regulations at 29 C.F.R. Part 5. The Subgrantee understands and agrees that it will compute the wages of every mechanic and laborer on the basis of a standard work week of forty (40) hours, and that work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The Subgrantee further understands and agrees that no mechanic or laborer is required to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous.

Section 6.19 Prohibition on Contracting for Covered Telecommunications Equipment or Services. Pursuant to 2 C.F.R. § 200.216, the Subgrantee agrees not to expend funds it receives pursuant to this Agreement to procure or obtain, or to enter into, extend, or renew a contract to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Covered telecommunications equipment is defined in 2 C.F.R. § 200.216.

Section 6.20 Program Fraud and False or Fraudulent Statements or Related Acts. The Subgrantee acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to this Agreement. Making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in state or federal awards or contracts, and/or any other remedy available by law.

Section 6.21 Protections for Whistleblowers. In accordance with 41 U.S.C. § 4712, the Subgrantee may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing, to any of the list of persons in 41 U.S.C. § 4712(a)(2), information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant. The Subgrantee is hereby notified that it is required to: (i) inform its employees that they are subject to the whistleblower rights and remedies of the program; (ii) inform its employees in writing of employee whistleblower protections under 41 U.S.C §4712 in the predominant native language of the workforce; and (iii) include such requirements in any agreement made with a subcontractor or subgrantee.

Section 6.22 Equal Opportunity & Other Requirements. The Subgrantee shall adopt and enact a nondiscrimination policy consistent with the requirements in this Section and in Section 6.1.d., Compliance with Executive Orders. The Subgrantee acknowledges that NCDIT is bound by and agrees, to the extent applicable to the Subgrantee, to abide by the provisions contained in the federal statutes enumerated below and any other federal statutes and regulations that may be applicable to the expenditure of IIJA funds:

a. **Assurances of Compliance with Title VI of the Civil Rights Act of 1964.** The Subgrantee and any subcontractor, or the successor, transferee, or assignee of the Subgrantee or any subcontractor, shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. §§ 2000d et seq.), as implemented by the U.S. Department of the Treasury's Title VI regulations, 31 C.F.R. Part 22, which are herein incorporated by reference and made a part of this Agreement. Title VI also provides protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. §§ 2000d et seq., as implemented by Treasury's Title VI regulations, 31 C.F.R. Part 22, and herein incorporated by reference and made a part of this Agreement.

b. **Disability Protections.** Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance.

c. **Age Discrimination.** The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance

d. **Americans with Disabilities.** Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability in programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies there

e. **Fair Housing Laws.** The Subgrantee shall comply with the Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability.

Section 6.23 Use of Name. Neither party to this Agreement shall use the other party's name, trademarks, or other logos in any publicity, advertising, or news release without the prior written approval of an authorized representative of that party. The parties agree that each party may use factual information regarding the existence and purpose of the relationship that is the subject of this Agreement for legitimate business purposes, to satisfy any reporting and funding obligations, or as required by applicable law or regulation without written permission from the other party. In any such statement, the relationship of the parties shall be accurately and appropriately described.

Section 6.24 Other State Requirements. In addition to the federal requirements listed herein, Subgrantee shall perform its obligations in accordance with the following State of North Carolina requirements:

a. Subgrantee certifies that it is not listed on the *Final Divestment and Do-Not-Contract List — Restricted Companies Boycotting Israel* created by the North Carolina State Treasurer pursuant to N.C.G.S. § 147-86.81, and that Subgrantee will not utilize any subcontractor that is identified on such list in the performance of this agreement.

b. Subgrantee hereby certifies that it is not on the North Carolina State Treasurer's list of persons engaging in business activities in Iran prepared pursuant to N.C.G.S. § 147-86.58. Subgrantee further certifies that it will not utilize any subcontractor listed on such list in the performance of this agreement.

c. E-Verify. Subgrantee and its subcontractors must comply with the E-Verify requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

Section 6.25 Conflicts of Interest; Gifts and Favors

a. **Disclosure of Potential Conflicts.** The Subgrantee understands that (i) NCDIT will use BEAD Program funds under the Infrastructure Investment and Jobs Act (IIJA) to pay for the cost of this Agreement and (ii) the expenditure of IIJA funds is governed by the Conflict of Interest Policy of NCDIT, the federal requirements (including, without limitation, 2 C.F.R. § 200.112 and 2 C.F.R. § 200.318(c)), Department of Commerce Financial Assistance Standard Terms and Conditions Section F, and North Carolina law (including, without limitation, N.C.G.S. §§ 14-234(a)(1) and -234.3(a)). The Subgrantee must disclose in writing to NCDIT any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112 and the BEAD Notice of Funding Opportunity requirements.

b. **Conflict Certification.** The Subgrantee certifies to NCDIT that as of the date hereof, to the best of its knowledge after reasonable inquiry, no employee, officer, or agent of NCDIT involved in the selection, award, or administration of this Agreement (each a "Covered Individual"); no member of a Covered Individual's immediate family; no partner of a Covered Individual; and no organization (including the Subgrantee) which employs or is about to employ a Covered Individual; has a financial or other interest in, or has received a tangible personal benefit from, the Subgrantee. Should the Subgrantee obtain knowledge of any such interest or any tangible personal benefit described in the preceding sentence after the date hereof, it shall promptly disclose the same to NCDIT in writing.

c. **Value Certification.** The Subgrantee certifies to NCDIT that it has not provided, nor offered to provide, any gratuities, favors, or anything of value to an officer, employee, or agent of NCDIT. Should the Subgrantee obtain knowledge of the provision, or offer of any provision, of any gratuity, favor, or anything of value to an officer, employee, or agent described in the preceding sentence after the date hereof, it shall promptly disclose the same to NCDIT in writing. This includes compliance with N.C.G.S. § 133-32.

d. **Conflict of Interest Policy.** Pursuant to N.C.G.S. § 143C-6-23(b), every Subgrantee shall file with NCDIT a copy of Subgrantee's policy addressing conflicts of interest that may arise involving the Subgrantee's management employees and the members of its board of directors or other governing body. The policy shall address situations in which any of these individuals may directly or indirectly benefit, except as the Subgrantee's employees or members of its board or other governing body, from the Subgrantee's disbursing of State funds, and shall include actions to be taken by the Subgrantee or the individual, or both, to avoid conflicts of interest and the appearance of impropriety. The policy shall be filed before the disbursing State agency may disburse the grant funds.

Article 7. Termination and Other Remedies. NCDIT and NTIA may enforce applicable rules and laws by imposing administrative measures or damages for nonperformance, or penalties for failure to meet statutory obligations, BEAD Program policies, or for wasteful, fraudulent, or abusive expenditure of Award Funds. Such administrative sanctions, damages, or penalties include, but are not limited to, imposition of additional award conditions, payment suspension, award suspension, grant termination, de-obligation and clawback of funds, and suspension and debarment of organizations or personnel. Non-performance, termination, including without limitation 2 C.F.R. § 200.339 and other remedies for non-performance will be handled consistently with the authorities set forth in Article 1 of this Agreement. When a determination or decision regarding non-performance is to be made, NCDIT will make such determination or decision by exercising good faith and reasonable discretion.

Section 7.1 Termination by NCDIT for Default. If the Subgrantee fails to fulfill in a timely and proper manner its obligations required under this Agreement or violates or fails to comply with any of the covenants or stipulations under this Agreement or any applicable laws, rules, and regulations, including 09 N.C.A.C. 03M, and such default is not cured within sixty (60) calendar days of the receipt of written notice of such default, then NCDIT shall have the right to terminate this Agreement on any future date after giving the Subgrantee written notice of termination of this Agreement at least ten (10) calendar days in advance of the Termination Date. Any termination notice under this Section shall specify the Termination Date and this Agreement shall terminate automatically upon such Termination Date. Upon termination of this Agreement under this Section, (i) NCDIT shall have no responsibility to make additional payments to the Subgrantee; and (ii) the Subgrantee shall not expend any additional funds for which it will seek compensation without NCDIT's prior and express written authorization and shall return all funds received to NCDIT upon demand. 2 C.F.R. § 200, app. II(B).

Section 7.2 Immediate Termination by NCDIT. NCDIT may terminate this Agreement immediately upon discovery of the Subgrantee's commission of fraud of BEAD Award funds, notwithstanding the ten (10) calendar day minimum notice requirement in Section 7.1.

Section 7.3 Termination by Mutual Consent. In accordance with 09 N.C.A.C. 3M. 0703(11), this Agreement may be terminated at any time upon the mutual consent of NCDIT and the Subgrantee upon sixty (60) days prior written notice to the other Party.

Section 7.4 Termination Procedures. All notices of termination shall be given in accordance with the notice provisions in Section 8.13 of this Agreement. If this Agreement is terminated under this Article 7, the Subgrantee may not incur new obligations for the terminated portion of this Agreement after the Subgrantee has received the notification of termination. The Subgrantee must cancel as many outstanding obligations as possible. Costs incurred after receipt of the termination notice will be disallowed. The Subgrantee shall not be relieved of liability to NCDIT because of any breach of Agreement by the Subgrantee. NCDIT may, to the extent authorized by law, withhold payments to the Subgrantee for the purpose of set-off until the exact amount of damages due NCDIT from the Subgrantee is determined. Termination of duties of performance do not terminate the Subgrantee's duties with respect to closeout reporting, record retention, access to records, and compliance with government audits.

Section 7.5 Sanctions for Noncompliance. Upon NCDIT's determination that the Subgrantee is noncompliant with 09 N.C.A.C. 03M and/or the terms of this Agreement, NCDIT shall take all appropriate action in accordance with 09 N.C.A.C. 03M .0800 as follows:

a. **Subgrantee Noncompliance.** When the Subgrantee does not comply with the terms and requirements of this Agreement, NCDIT shall: (i) communicate the requirements to the Subgrantee; (ii) require a response from the Subgrantee upon a determination of noncompliance; (iii) suspend payments to the Subgrantee until the Subgrantee comes in compliance.

b. **Misuse of Funds.** When NCDIT discovers evidence of management deficiencies or criminal activity leading to the misuse of funds, NCDIT shall notify the Office of State Budget and Management and take the appropriate action or actions, including without limitation: (i) suspending payments until the matter has been fully investigated and corrective action has been taken; (ii) terminating this Agreement and taking action to retrieve unexpended funds or unauthorized expenditures; (iii) reporting possible violations of criminal statutes involving misuse of State property to the Attorney General and the State Bureau of Investigation, in accordance with N.C.G.S. § 143B-1208; and/or (iv) reporting possible violations of federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations or possible violations of the civil False Claims Act to the U.S. DOC OIG and NTIA..

c. **Notice Period.** Upon determination of noncompliance with requirements of this Agreement that are not indicative of management deficiencies or criminal activity, NCDIT shall give the Subgrantee sixty (60) days written notice to take corrective action. If the Subgrantee has not taken the appropriate corrective action after the 60-day period, NCDIT shall notify the Office of State Budget and Management and take the appropriate action or actions, as listed below and in Section 7.6.

d. **Additional Conditions.** Administrative sanctions or damages for non-performance by Subgrantee may include the imposition of additional conditions, as described in 2 C.F.R. § 200.208 and 09 N.C.A.C. 03M .0801. These additional requirements and/or conditions may include: withholding authority to proceed to the next phase until receipt of evidence of acceptable performance and/or progress within a given period; requiring additional, more detailed financial reports; requiring additional Project monitoring; requiring the Subgrantee to obtain technical or management assistance; and establishing prior approvals. NCDIT will notify the Subgrantee of these additional requirements and/or conditions in accordance with 2 C.F.R. § 200.208(d) and 09 N.C.A.C. 03M .0801(d).

e. **Remedies When Additional Conditions are Insufficient**. If NCDIT or NTIA determines that non-performance cannot be remedied by imposing additional conditions, the NCDIT or NTIA may take one or more of the following actions, as appropriate in the circumstances:

(1) Temporarily withhold cash payments pending correction of the deficiency by Subgrantee or more severe enforcement action by the NCDIT or NTIA.

(2) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.

(3) Wholly or partly suspend or terminate this Agreement Article 7.

(4) In the case where the funded network fails to meet a required speed or latency network standards the Subgrantee will be required to improve the network until the minimum performance standards are met or up to the entire award will be forfeited.

(5) Recommend the initiation of suspension or debarment proceedings by the Department of Commerce as authorized under 2 C.F.R. part 180 and implementing regulations.

(6) Withhold further North Carolina BEAD Program awards.

(7) Submit a claim on any applicable bonds and/or collect from any letters of credits or certificates of deposits.

(8) Take other legal or equitable remedies that may be available.

Section 7.6 Repayment Requirements and Remedies.

a. **Repayment or Clawbacks.** The Subgrantee acknowledges that the BEAD Award funding by NCDIT is predicated upon the deployment of broadband infrastructure during the Period of Performance and the Federal Interest Period. Further, in accordance with 09 N.C.A.C. 03M .0802, NCDIT is required to take appropriate administrative action to recover from the Subgrantee all BEAD Award funds disbursed in connection with this Agreement in the event that the Subgrantee: (i) is unable to fulfill the obligations of this Agreement; (ii) is unable to accomplish the purposes of the award; (iii) is noncompliant with the reporting requirements set forth in this Agreement and in 09 N.C.A.C. 03M; or (iv) has inappropriately used BEAD Award funds disbursed in connection with this Agreement. If NCDIT or NTIA determine that Subgrantee has failed to comply with any material requirement under applicable law or this Agreement, and Subgrantee cannot or will not remedy such failure, Subgrantee agrees that NCDIT may require Subgrantee to return up to the entire amount of the Grant Funds to NCDIT, at the discretion of NCDIT. If the Subgrantee fails to timely return all Grant Funds, NCDIT will initiate collection efforts which include, but are not limited to, withdrawing funds from the letter of credit or performance bond.

(1) If the Subgrantee fails to make service available to the number of Locations identified in Exhibit D, the amount of the clawback related to the locations the Subgrantee failed to serve will be determined by NCDIT based on the estimated costs attributable for service to such BSL(s), cost-per-BSL, or other similar allocation as NCDIT, in its reasonable discretion, otherwise determines. At NCDIT's discretion, NCDIT may calculate the estimated cost-per-BSL as follows: an amount equal to the product of (i) the amount of funds divided by the number of Locations, and (ii) the number of Locations, minus the number of Locations actually created. Interest will be added at the rate set out by N.C.G.S. §24-1 for the period beginning upon the demand until paid.

(2) Additionally, in the event that the Subgrantee fails to maintain its Locations as required under the Period of Performance and the Federal Interest Period, it shall lose credit for any qualifying Location under this Agreement by the same number of Locations that it is short. For example, if the Subgrantee fails to maintain service by three (3) Locations, the number of Locations shall be reduced by three (3). The amount the Subgrantee must repay shall then be calculated in accordance with this Subsection.

(3) If Subgrantee fails to provide the minimum advertised connection speed and cost at the advertised rate described in Exhibit D to this Agreement, Subgrantee shall forfeit any Grant Funds, up to the entire amount received through the North Carolina BEAD Program. NCDIT will use its discretion to determine the amount forfeited. If Subgrantee is required to forfeit Grant Funds under this provision, Subgrantee is liable for up to the amount disbursed plus interest. The number of subscribers that subscribe to Broadband Service offered by Subgrantee in the Project area shall not be a measure of performance under this Agreement for the purposes of this provision.

(4) NCDIT shall notify the Subgrantee in writing of the amount to be repaid and direct the Subgrantee to repay such amount directly to NCDIT. All such amounts shall be due immediately upon demand by NCDIT. If not paid within thirty (30) days following demand, the unpaid amount due shall continue to bear interest at the rate set out by N.C.G.S. §24-1 for the period beginning upon the demand until paid. Upon default in such payment, NCDIT may employ an attorney to enforce its rights and remedies, and the Subgrantee hereby agrees to pay the legal costs and reasonable attorneys' fees of NCDIT plus all other reasonable expenses incurred by NCDIT in exercising any of its rights and remedies upon such default.

b. **Non-Exclusive Remedy.** No remedy conferred or reserved by or to the State in this Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy existing at law, in equity, or by statute, and any such right or power may be exercised from time to time and as often as may be deemed expedient.

c. **Improper or Ineligible Payments.** Notwithstanding the provisions in Section 7.6.a, Any item of expenditure by the Subgrantee under the terms of this Agreement which is found by auditors, investigators, and other authorized representatives of NCDIT, the US Department of Commerce, the NC Department of State Treasurer, or other federal or state instrumentality to be improper, ineligible, in violation of federal or state law, or the terms of this Agreement, or involving any fraudulent, deceptive, or misleading representations or activities of the Subgrantee, shall become the Subgrantee's liability, and shall be paid solely by the Subgrantee, immediately upon notification of such, from funds other than those provided by NCDIT under this Agreement. This provision shall survive the expiration or termination of this Agreement.

d. **Clawback by NTIA.** The Parties acknowledge that NTIA may pursue clawback of funds directly from the NCDIT if the NCDIT fails to ensure Subgrantee accountability to the fullest extent of the law. To the extent NTIA successfully pursues clawback from the NCDIT on these grounds, Subgrantee shall reimburse the NCDIT in an amount equal to the clawback, including being obligated to indemnify, defend, and hold harmless NCDIT for any costs, expenses, collection fees, attorneys' fees or other damages that NCDIT sees fit to seek as a result of Subgrantees' failure to comply with the terms of this Agreement. The extent of this duty to indemnify, defend and hold NCDIT harmless for all costs associated with a material default of this nature by the Subgrantee shall be upheld to the fullest extent allowed by North Carolina and federal law. Subgrantee agrees, acknowledges and understands that any default under this provision shall require payment of all of these costs and expenses, as requested by NCDIT at NCDIT's discretion, and shall be due and payable upon written demand by NCDIT. If not paid within thirty (30) days following demand, the unpaid amount due shall continue to bear interest at the rate set out by N.C.G.S. §24-1 for the period beginning upon the demand until paid.

e. **Reversion.** Subject to the exception set forth in Section 8.17 below, if Subgrantee fails to perform and fails to return the full forfeited amount required pursuant to this Section, the ownership and use of the broadband infrastructure funded by the North Carolina BEAD

Program shall revert to NCDIT. Subgrantee shall be obligated to indemnify, defend, and hold harmless NCDIT for any costs, expenses, collection fees, attorneys' fees or other damages that NCDIT sees fit to seek as a result of Subgrantees' failure to comply with the terms of its Grant Award. The extent of this duty to indemnify, defend and hold NCDIT harmless for all costs associated with a material default of this nature by the Subgrantee shall be upheld to the fullest extent allowed by North Carolina and federal law. Subgrantee agrees, acknowledges and understands that any default under this provision shall require payment of all of these costs and expenses, as requested by NCDIT at NCDIT's discretion, and shall be due and payable upon written demand by NCDIT. If not paid within thirty (30) days following demand, the unpaid amount due shall continue to bear interest at the rate set out by N.C.G.S. §24-1 for the period beginning upon the demand until paid.

f. **Make Whole.** Notwithstanding any other provision of this Agreement, if Subgrantee fails to complete the Project in any respect, Subgrantee, at the discretion of NCDIT, may be required to reimburse the NCDIT the actual cost to finish the Project. The actual cost to finish the Project shall be determined by NCDIT. If NCDIT determines that Subgrantee has made a good faith effort to complete the Project, NCDIT, in its sole discretion, will not require Subgrantee to reimburse the NCDIT an amount greater than the remaining North Carolina BEAD Program cost per end user as set forth in Exhibit D to this Agreement. Subgrantee shall be obligated to indemnify, defend, and hold harmless NCDIT for any costs, expenses, collection fees, attorneys' fees or other damages that NCDIT sees fit to seek as a result of Subgrantees' failure to comply with the terms of its Grant Award. The extent of this duty to indemnify, defend and hold NCDIT harmless for all costs associated with a material default of this nature by the Subgrantee shall be upheld to the fullest extent allowed by North Carolina and federal law. Subgrantee agrees, acknowledges, and understands that any default under this provision shall require payment of all of these costs and expenses, as requested by NCDIT at NCDIT's discretion, and shall be due and payable upon written demand by NCDIT. If not paid within thirty (30) days following demand, the unpaid amount due shall continue to bear interest at the rate set out by N.C.G.S. §24-1 for the period beginning upon the demand until paid.

Section 7.7 Termination Due to Unavailability of Funds. If BEAD funds for the Project become unavailable for any reason, including without limitation, a change in the State or federal laws and the termination of the Federal award by the Federal agency, NCDIT shall have the right to terminate this Agreement after giving the Subgrantee written notice of termination of this Agreement at least twenty (20) calendar days in advance of the Termination Date. The notice of termination shall contain the effective Termination Date of this Agreement. Upon notice, the Subgrantee shall not expend any BEAD Award funds without NCDIT's express written authorization. Upon termination of this Agreement, the State shall have no responsibility to make additional payments to the Subgrantee.

Section 7.8 Termination for Convenience. The NCDIT may terminate this Agreement, in whole or in part, at any time it determines that such termination is in the best interest of the NCDIT or the State of North Carolina. If the NCDIT wishes to terminate this Agreement under this Section, it shall deliver a termination notice to the Subgrantee stating that this Agreement will terminate on the date specified which must be a minimum of thirty (30) calendar days after the date the Subgrantee receives such termination notice. This Agreement will terminate on the date specified in the termination notice. Within ninety (90) calendar days after such termination for convenience, the Subgrantee may submit a termination settlement proposal to the NCDIT for reasonable and documented allowable costs for which the Subgrantee has not been previously compensated. The cost principles and cost payment procedures under 2 C.F.R. Part 200 shall apply to any such termination for convenience.

Article 8. General Conditions

Section 8.1 Representations and Warranties

a. **The Parties' Representations and Warranties.** The Parties acknowledge that each has been represented in negotiations for, and the preparation of, this Agreement by counsel of its own choosing (or has had the opportunity to retain counsel for those purposes), that each has read this Agreement or has had it read to them and explained by counsel, that each understands and is fully aware of its contents and of its legal effect, that each is knowingly and voluntarily entering into this Agreement. The execution and performance of this Agreement have been duly authorized by all necessary laws, resolutions and entity action, and this Agreement constitutes the valid and enforceable obligations of the Parties in accordance with its terms. Each Party and its respective signatory hereto avers that its signatory is authorized, empowered, and directed on behalf of the Party to execute this Agreement and thereby bind the Party and others as set forth in Section 8.5 of this Agreement.

b. **Subgrantee's Representations and Warranties.** The Subgrantee hereby represents and warrants that:

(1) The execution and delivery of this Agreement has been duly authorized by all necessary Subgrantee action and are not in contravention of law or in contravention of the provisions of any indenture agreement or undertaking to which the Subgrantee is a party or by which it is bound.

(2) There is no action, suit proceeding, or investigation at law or in equity or before any court, public board or body pending, or to the knowledge of the Subgrantee, threatened against or affecting it, that could or might adversely affect the Project or any of the transactions contemplated by this Agreement, the validity or enforceability of this Agreement, or the abilities of the Subgrantee to discharge their obligations under this Agreement. If it is subsequently found that an action, suit, proceeding, or investigation did or could threaten or affect the development of the Project, NCDIT may require repayment from the Subgrantee based on Article 7, and Section 8.4 of this Agreement, and this Agreement may be terminated by NCDIT effective upon notice.

(3) No consent or approval is necessary from any governmental authority as a condition to the execution and delivery of this Agreement by the Subgrantee or the performance of any of its obligations hereunder, or all such requisite governmental consents or approvals have been obtained. The Subgrantee shall provide NCDIT with evidence of the existence of any such necessary consents or approvals at the time of the execution of this Agreement.

(4) The Subgrantee is solvent, is financially capable of performing the Project responsibilities, is a going concern, is duly authorized to do business under North Carolina law, and is not delinquent on any federal, state, or local taxes, licenses, or fees. If it is subsequently found that the Subgrantee was not solvent, was not financially capable of performing its Project responsibilities, was delinquent on its federal, state or local taxes, licenses or fees or, if applicable, was not a going concern or was not duly authorized to do business under North Carolina law, NCDIT may require repayment from the Subgrantee based on Article 7, and Section 8.4 of this Agreement.

(5) Subgrantee has a continuing duty to promptly disclose to NCDIT, in writing, any legal, administrative, or other proceeding that is initiated by or against the Subgrantee during the term of the Agreement which could have a material impact on the Subgrantee's ability to perform its obligations under this Agreement.

(6) Subgrantee and any of its affiliates will not require or accept any additional Federal funds to support a BEAD project during the BEAD subgrant agreement's period of performance, extended period of performance, or federal interest period; and Subgrantee and any of its affiliates will not require or accept any additional Federal broadband service subsidies for the project(s) and/or Broadband Serviceable Location(s) (BSL(s)) to be served by the subgrant during the BEAD subgrant agreement's period of performance, extended period of performance, or federal interest period, other than any such subsidies that were committed prior to the BEAD subgrant agreement. (This includes, but is not limited to, new operating expenses for any BEAD project(s) or BSL(s)). Subgrantee will certify the above in Exhibit K, Protecting the BEAD Program from Defaults Certification, attached hereto. The certification may be published publicly. The certification is a prerequisite to NCDIT releasing any BEAD funds to the Subgrantee.

(7) Subgrantee represents that, as of the Effective Date, unless other sources of funding are disclosed herein, it has no knowledge of any other federal, state, or local funding commitments for the Project or service area, and that it has not applied for – or, if applied for, will immediately withdraw – funding from any other federal, state, or local government body for the Project or service area.

Section 8.2 Indemnification. The Subgrantee assumes all liability for any and all injuries, damages, or claims in any way associated with this Agreement or the Project. Subgrantee must defend, indemnify and hold harmless the NCDIT and all its officers, agents, and employees from all suits, actions or claims of any character brought for or on account of any injuries or damages received by related to the Project, including reasonable attorneys' fees and costs for enforcement. Subgrantee must defend, indemnify and hold harmless the NCDIT and all its officers, agents and employees from all suits, actions or claims of any character brought for or on account of any obligations arising out of agreements between itself and lower tier subgrantees, subcontractors, suppliers, vendors, materialmen, and Subgrantee personnel to perform services or otherwise supply products or services. Subgrantee must, if any claim is submitted that subjects it or NCDIT to any claim for injuries, damages or injury, defend, indemnify and hold NCDIT harmless for those injuries, including paying for any legal defense with a law firm of NCDIT's choosing. Subgrantee shall pay all reasonable legal expenses, including all attorneys' fees and costs associated with any potential defense of any claim that may be brought against NCDIT.

The Subgrantee must also hold the NCDIT harmless for any audit disallowance irrespective of whether the audit is ordered by federal or state agencies or by the courts. If an audit is required by federal law and if the Subgrantee is also the recipient of funds by or through NCDIT under the same or a separate grant or contract program, then NCDIT-funded programs must also be included in the scope of the federally required audit.

Section 8.3 Insurance. The Subgrantee must provide the equivalent insurance coverage for real property and equipment acquired or improved with this award as provided to property owned by the Subgrantee.

The Subgrantee's insurance coverage shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the NC Commissioner of Insurance to do business in North Carolina. The Subgrantee shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this Agreement. If the Subgrantee fails at any time to maintain and keep in force the required insurance, and such default is not cured within ten (10) calendar days of the receipt of written notice of such default, then NCDIT may cancel and terminate this Agreement on any future date after giving the Subgrantee written notice of termination of this Agreement. The limits of coverage under each insurance policy maintained by the Subgrantee shall not be interpreted as limiting the Subgrantee's liability and obligations or the indemnification requirements under this Agreement.

The insurer must provide NCDIT with a Certificate of Insurance reflecting the coverages required in this Section. All Certificates of Insurance shall reflect thirty (30) days written notice by the insurer in the event of cancellation, reduction, or other modification of coverage. In addition to this notice requirement, the Subgrantee must provide NCDIT prompt written notice of cancellation, reduction, or material modification of coverage of insurance. If the Subgrantee fails to provide such notice, the Subgrantee assumes sole responsibility for all losses incurred by NCDIT for which insurance would have provided coverage. Updated Certificates of Insurance shall be provided to NCDIT upon annual renewal of Subgrantee's relevant insurance policies.

In addition, the Subgrantee, must, at a minimum, provide and maintain during the term of this Agreement insurance coverage that meets the following coverage and limit requirements:

a. **Small Purchases Requirements.** For Small Purchases as defined under 01 N.C.A.C. 05A .0112(35) and 05B .0301(1), the minimum applicable insurance requirements for Worker's Compensation and Automobile Liability will apply as required by North Carolina law. The

Purchasing Agency may require Commercial General Liability coverage consistent with the assessed risks involved in the procurement.

b. **Requirements for Contracts Between Small Purchase and $1,000,000.00.** For Contracts valued in excess of the Small Purchase threshold, but up to $1,000,000.00 the following limits shall apply:

(1) Worker's Compensation - The Subgrantee shall provide and maintain Worker's Compensation Insurance, as may be required by the laws of North Carolina, as well as employer's liability coverage, with minimum limits of $250,000.00, covering all of Subgrantee's employees who are engaged in any work under the Contract in North Carolina. If any work is sub-Contracted, the Subgrantee shall require the sub-contractor to provide the same coverage for any of its employees engaged in any work under the Contract within the State.

(2) Commercial General Liability - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of $500,000.00 Combined Single Limit. Defense costs shall be in excess of the limit of liability.

(3) Automobile - Automobile Liability Insurance, to include liability coverage covering all owned, hired, and non-owned vehicles, used within North Carolina in connection with the Contract. The minimum combined single limit shall be $250,000.00 bodily injury and property damage; $250,000.00 uninsured/under insured motorist; and $2,500.00 medical payment.

c. **Requirements for Contracts in Excess of $1,000,000.00.** For Contracts valued in excess of $1,000,000.00 the following limits shall apply:

(1) Worker's Compensation - The Subgrantee shall provide and maintain Worker's Compensation Insurance, as may be required by the laws of North Carolina, as well as employer's liability coverage, with minimum limits of $500,000.00, covering all of Subgrantee's employees who are engaged in any work under the Contract in North Carolina. If any work is sub-Contracted, the Subgrantee shall require the sub-contractor to provide the same coverage for any of its employees engaged in any work under the Contract within the State.

(2) Commercial General Liability - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of $1,000,000.00 Combined Single Limit. Defense costs shall be in excess of the limit of liability.

(3) Automobile - Automobile Liability Insurance, to include liability coverage covering all owned, hired and non-owned vehicles, used within North Carolina in connection with the Contract. The minimum combined single limit shall be $500,000.00 bodily injury and

property damage; $500,000.00 uninsured/under insured motorist; and $5,000.00 medical payment.

Section 8.4 Cessation, Bankruptcy, Dissolution, or Insolvency.

a. **Mergers, Consolidation, or Sale.** The Subgrantee agrees at all times to preserve its legal existence, except that it may merge or consolidate with or into, or sell all or substantially all of its assets to, any entity that expressly undertakes, assumes for itself and agrees in writing to be bound by all of the obligations and undertakings of the Subgrantee contained in this Agreement, subject to the prior written consent of NCDIT if such action constitutes an assignment of the Subgrantee's obligations under this Agreement. If the Subgrantee so merges, consolidates, or sells its assets without such an undertaking being provided, it agrees under Article 7, and this Section of this Agreement to make that payment due under this Agreement to NCDIT, upon request and as directed. Further, a merger, consolidation or sale without such an undertaking shall constitute a material default under this Agreement, and NCDIT may terminate this Agreement upon written notice to the Subgrantee and hold the Subgrantee liable for any such payment provided for under Article 7, and this Section of this Agreement.

b. **Notice of Cessation, Bankruptcy, Dissolution or Insolvency.** Other than as provided for in this Section, if the Subgrantee ceases to do business or becomes the subject of any bankruptcy, dissolution or insolvency proceeding prior to the Termination Date, the Subgrantee shall give NCDIT immediate notice of the event, and shall pay the amount provided under Article 7 to NCDIT, upon request.

c. **Remedies on Failure to Provide Notice.** If the Subgrantee fails to provide NCDIT notice of ceasing to do business or becoming the subject of any bankruptcy, dissolution or insolvency proceeding prior to the Termination Date, it shall constitute a material breach under this Agreement. If there is such a cessation or such a proceeding, NCDIT may terminate this Agreement upon written notice to the Subgrantee pursuant to Section 7.1. Upon such termination, the Subgrantee shall pay the applicable clawback amount to NCDIT upon request, as directed and without regard to whether the effective period in Section 3.1 has yet to expire, but only if to make such payment is permissible under applicable bankruptcy, dissolution or insolvency law and, if the matter is under the jurisdiction of a Bankruptcy Court, with approval of the Bankruptcy Court.

Section 8.5 Binding Effect. The Terms of this Agreement are and shall be binding upon each of the Parties hereto, their heirs, executives, representatives, agents, attorneys, partners, successors, predecessors-in-interest, members, managers, member-managers, and assigns, and upon all other persons claiming any interest in the subject matter hereto through any of the Parties. The Subgrantee must disclose this Agreement to any such person or entity described in this Section.

Section 8.6 Entire Agreement. This Agreement contains the entire agreement between the parties pertaining to the subject matter of this Agreement. This Agreement supersedes all prior agreements between or among NCDIT and the Subgrantee with regard to the Project and expresses the parties' entire understanding with respect to the transactions contemplated herein, and shall not be amended, modified or altered except pursuant to the provisions set forth in Section 2.5, and as modified and required by federal or state law, policy or guidance.

Section 8.7 Titles, Headings, and Hyperlinks. Titles and Headings in this Contract are used for convenience only and do not define, limit, or proscribe the language of terms identified by such Titles and Headings. Hyperlinks provided in this Agreement are offered for informational purposes only. The accuracy or functionality of the hyperlinks provided in this Agreement do not limit the Parties' responsibility to comply with the applicable requirements therein. NCDIT is not responsible for and does not control the content of third-party websites.

Section 8.8 Severability. Each provision of this Agreement is intended to be severable and, if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect or impair any other provision of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein and the remainder of this Agreement shall remain in full force and effect to the extent permitted by law.

Section 8.9 Independent Status of the State, the Subgrantee, and Any Third Parties.

a. **Independent Entities.** The State (including, without limitation, NCDIT) and the Subgrantee are independent entities from one another and from any third party. This Agreement, the Project, and any actions taken pursuant to them shall not be deemed to create a partnership or joint venture between the State and the Subgrantee or between or among either of them or any third party. Nor shall this Agreement or the Project be construed to make any employees, agents or members of the Subgrantee or any third party into employees, agents, members or officials of the State or to make employees, agents, members or officials of the Subgrantee into employees, agents, members or officials of the State. Neither the Subgrantee nor any third party shall have the ability to bind the State to any agreement for payment of goods or services or represent to any person that they have such ability. Nor shall the Subgrantee have the ability to bind the State to any agreement for payment of goods or services or represent to any person that it has such ability.

b. **Subgrantee's Responsibility for Expenses and Insurance.** The Subgrantee and any third party shall be responsible for payment of all their expenses, including rent, office expenses and all forms of compensation to their employees. The Subgrantee and any third parties shall provide worker's compensation insurance to the extent required for their operations and shall accept full responsibility for payments of unemployment tax or compensation, social security, income taxes, and any other charges, taxes or payroll deductions required by law in connection with their operations, for themselves and their employees who are performing work pursuant to this Project. All expenses incurred by the Subgrantee, or any third party are their sole responsibilities, and neither the State (including, without limitation, NCDIT) shall be liable for the payment of any obligations incurred in the performance of the Project.

Section 8.10 Non-Assignability. The Subgrantee shall not assign or transfer any interest in this Agreement without the prior written consent of NCDIT. Claims for money due to the Subgrantee from NCDIT under this Agreement may be assigned to any commercial bank or other financial institution with NCDIT prior written approval. To the extent that NCDIT provides written approval to the Subgrantee to assign or transfer any interest in this Agreement, the Subgrantee is not relieved of any of the duties and responsibilities of this Agreement and shall obtain agreement from the assignee to abide by the standards contained in 09 N.C.A.C. 03M. Unless NCDIT otherwise agrees in writing, the Subgrantee and all assigns are subject to all NCDIT's defenses and are liable for all the Subgrantee's duties that arise from this Agreement and all NCDIT's claims that arise from this Agreement.

Section 8.11 Subcontracting. The Subgrantee shall provide, upon request by NCDIT, copies of any agreements made by and between the Subgrantee and any subcontractors for the purpose of performing services to fulfill the Subgrantee's obligations under this Agreement. The Subgrantee remains responsible for and is not relieved of any of the duties and responsibilities of this Agreement. The Subgrantee remains solely responsible for the performance of its subcontractors. Subcontractors, if any, shall adhere to the same standards required of the selected Subgrantee, including those in 09 N.C.A.C. 03M, and shall provide information in their possession that is needed by the Subgrantee to comply with these standards consistent with Section 5.5 of this Agreement. NCDIT is indemnified by the Subgrantee for any claim presented by a subcontractor, and any contracts made by the Subgrantee with a subcontractor after the Effective Date of this Agreement for performance of work under this Agreement shall include an affirmative statement that the State is an intended third-party beneficiary of the contract; that the subcontractor has no agreement with the State; and that the State shall be indemnified by the Subgrantee for any claim presented by the subcontractor. Notwithstanding any other term herein, the Subgrantee shall timely exercise its contractual remedies against any non-performing subcontractor and, when appropriate, substitute another subcontractor.

Section 8.12 No Waiver by the State. Failure of the State (including, without limitation, NCDIT) at any time to require performance of any term or provision of this Agreement shall in no manner affect the rights of the State at a later date to enforce the same or to enforce any future compliance with or performance of any of the terms or provisions hereof. No waiver of the State of any condition or the breach of any term, provision or representation contained in this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such condition or of the breach of that or any other term, provision or representation. No action or failure to act by the State constitutes a waiver of any of its rights or remedies that arise out of this Agreement, nor shall such action or failure to act constitute approval of or acquiescence in a breach of this Agreement, except as specifically agreed in writing.

Section 8.13 Notices. All notices required or permitted by this Agreement shall be in writing and shall be deemed given when (i) sent via electronic mail with delivery confirmation requested; or (ii) when deposited in the United States mail, certified, return receipt requested, first class, postage prepaid. Notices shall be addressed as follows:

If to NCDIT via US mail:

Attn: Director, Broadband Infrastructure Office
North Carolina Department of Information Technology
Broadband Infrastructure Office
P.O. Box 17209
Raleigh, North Carolina 27619-7209

Cc: Christina Strickland, General Counsel to the Division of Broadband and Digital Opportunity
North Carolina Department of Information Technology
Broadband Infrastructure Office
P.O. Box 17209
Raleigh, North Carolina 27619-7209

If to NCDIT via Email:

bead@nc.gov
cc: christina.strickland@nc.gov

If to the Subgrantee via US Mail:

Attn: <<Authorized Representative>>
<<SUBGRANTEE NAME>>
<<Address>>
<<City>>, <<State>> <Zip Code>>

If to the Subgrantee via Email:
<<Authorized Representative Email>>

If, at any time during the term of this Agreement, the Subgrantee's Authorized Representative changes from the individual identified in this Agreement, the Subgrantee must provide written notice of such change to NCDIT pursuant to this Section within ten (10) calendar days of any such change.

Communications may be exchanged by e-mail upon the written agreement of the Parties, but e-mail communications are not binding upon the NCDIT and cannot change the terms of this Agreement, the scope of work, exhibit, schedule or any other Agreement document, nor effectuate any change that requires a written amendment, approval, or change. The use of e-mails is for information only. A separate written formal notice, amendment, or document, in complete and appropriate form, may be attached to an e-mail. By typing its name or inserting an electronic signature on this Agreement or any formal notice, amendment, or document and sending same to the NCDIT electronically, the Subgrantee is signing electronically. The Subgrantee agrees its electronic signature ("E-Signature") is the legal and binding equivalent of its manual or handwritten signature and that no certification authority or other third-party verification is necessary to validate its E-Signature.

Section 8.14 Public Records Act Compliance and Confidentiality. The Subgrantee may designate appropriate portions of documents or information provided to NCDIT as confidential, consistent with and only to the extent permitted under N.C.G.S. § 132-1, et seq. or other applicable law, by marking the top and bottom of each page containing confidential information with the following legend in boldface type: "CONFIDENTIAL". By so marking any page, the Subgrantee warrants that it has formed a good faith belief that the portions marked "CONFIDENTIAL" meet the requirements of the applicable law. NCDIT may serve as custodian of Subgrantee's confidential information and not as arbiter of claims against its assertion of confidentiality. In the event that NCDIT is served with a subpoena, discovery request, or public record request for information that has been designated by the Subgrantee as confidential information, NCDIT shall forward written notification thereof to the Subgrantee, along with the subpoena or other request. NCDIT shall not, pursuant to the subpoena or other request, produce documents or information designated by the Subgrantee as confidential information without Subgrantee's written consent or unless ordered to do so by a court of competent jurisdiction. See Section 5.5 Access to Persons and Records for provisions regarding records retention and disclosure requirements for oversight authorities.

Section 8.15 Dispute Resolution. The Parties agree that it is in their mutual interest to resolve disputes informally. The Parties shall negotiate in good faith and use all reasonable efforts to resolve such dispute(s). During the time the Parties are attempting to resolve any dispute, each shall proceed diligently to perform their respective duties and responsibilities under this Contract. If a dispute cannot be resolved between the Parties after a reasonable period, either Party may elect to exercise any other remedies available under this Contract, or at law. This term shall not constitute an agreement by either party to mediate or arbitrate any dispute.

Section 8.16 Waiver of Objections to Timeliness of Legal Action. The Subgrantee knowingly waives any objections it has or may have to timeliness of any legal action (including any administrative petition or civil action) by the State (including, without limitation, NCDIT) to enforce its rights under this Agreement. This waiver includes any objections the Subgrantee may possess based on the statutes of limitations or repose and the doctrines of estoppel or laches.

Section 8.17 Force Majeure. Neither the NCDIT nor Subgrantee shall be liable to the other or be deemed to be in breach of this Agreement for any failure or delay in rendering performance arising out unforeseeable causes beyond the Parties' reasonable control. Such causes may include Acts of God or of a public enemy, fires, floods, epidemics, pandemics, and quarantine restrictions. The Parties shall use reasonable efforts to eliminate or minimize the effect of such events upon performance of their respective duties under this Agreement. Typical weather patterns are foreseeable and shall not constitute cause pursuant to this paragraph. NCDIT shall determine whether a delay or failure results from an Act of God or force majeure based on its review of all facts and circumstances.

Section 8.18 Construction, Jurisdiction and Venue. This Agreement shall be construed and governed by the laws of the State of North Carolina. The Subgrantee agrees and submits, solely for matters concerning this Agreement, to the exclusive jurisdiction of the courts of North Carolina and agrees, solely for such purposes, that the only venue for any legal proceedings shall be Wake County, North Carolina. The place of this Agreement, and all transactions and agreements relating to it, and their situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract, tort, or otherwise, relating to its validity, construction, interpretation, and enforcement, shall be determined.

Section 8.19 Execution. This Agreement may be executed in one or more counterparts, each of which, when executed, shall be deemed an original, and such counterparts, together, shall constitute one and the same Grant Agreement which shall be sufficiently evidenced by one of such original counterparts.

Section 8.20 Governing Law. This Agreement shall be governed under the laws of the State of North Carolina. Nothing in this Agreement is intended to waive, nor shall it act as a waiver of, the sovereign immunity of the State of North Carolina. To the extent there is no applicable state law, the substantive law of federal procurement and non-procurement actions shall apply.

Section 8.21 Amendments and Modifications. This Agreement may only be amended or modified through a written instrument signed by the NCDIT and Subgrantee.

Section 8.22 Acceptance. If the Subgrantee agrees to the conditions as stated, please return the executed Agreement and any other documentation requested by NCDIT. This Agreement may be withdrawn if NCDIT has not received such documents within fifteen (15) days from the date of the cover letter from NCDIT to the Subgrantee accompanying this Agreement and its Exhibits.

IN WITNESSETH WHEREOF, the Parties, intending to be legally bound hereby, have read, signed, and caused this Agreement to be executed.

<<Subgrantee Name>>
Signature:
Printed Name:
Title:
Date:

North Carolina Department of Information Technology
Signature:
Printed Name:
Pryor Gibson
Title: Deputy Secretary for the Division of Broadband and Digital Opportunity
NC Department of Information Technology
Date:

Exhibit A

Notice of Award

This Exhibit reflects the Notice of Award issued to the NC Department of Information Technology on March 24, 2026.

This DRAFT BEAD Grant Contract Agreement is a DRAFT to be used for planning purposes and information for eligible and potential BEAD applicants. NCDIT reserves the right to modify or update this document as necessary to effectuate the goals of the BEAD program and remain compliant with State, Federal or NTIA requirements or for any other reason to administer the BEAD program.

Exhibit A - Notice of Award

Department of Commerce
National Institute of Standards and Technology (NIST)
Broadband Equity Access and Deployment Program (BEA)

Notice of Award (NoA)
37-20-B087

RECIPIENT INFORMATION

1. **Recipient Name**
   Department of Information Technology
   3700 Wake Forest Road
   Raleigh, NC 27609-6833

2. **Congressional District of Recipient**
   NC-2

3. **Employer Identification Number (EIN)**
   562032825

4. **Unique Entity Identifier (UEI)**
   JZW4PGB4KQ39

5. **ASAP ID**
   3719975

6. **Recipient Point of Contact**
   Angie Bailey
   angie.bailey@nc.gov

7. **Authorized Official**
   Annette Taylor
   annette.taylor@nc.gov

FEDERAL AGENCY CONTACT INFORMATION

8. **Program Officer**
   Tom Karst
   tkarst@ntia.gov

9. **Grants Specialist**
   Maxwell Cassity
   maxwell.cassity@nist.gov

10. **Grants Officer**
    Yongming Qiu
    yongming.qiu@nist.gov

STATUTORY AUTHORITY

11. Section 60102, P.L. 117-58, 135 Stat 429

FEDERAL AWARD INFORMATION

12. **Federal Award Identification Number (FAIN) - Amendment #**
    37-20-B087-4

13. **Award Type**
    Grant

14. **Period of Performance Start Date & End Date**
    11/01/2022 - 12/31/2040

15. **Budget Period Start Date & End Date**
    See Specific Award Conditions (SACs)

16. **Federal Funds Obligated by this Action**
    $0.00

17. **Total Amount of Federal Funds Obligated**
    $1,532,999,481.15

18. **Total Approved Cost Share**
    $312,042,554.60

19. **Total Federal Award including approved Cost Share**
    $1,845,042,035.75

20. **Opportunity Number**
    NTIA-BEAD-2022

21. **Project Title**
    State of North Carolina BEAD Project

22. **Assistance Listing Number and Name**
    11.035-Broadband Equity, Access, and Deployment Program

23. **Award Action Type**
    Amendment

24. **Multiyear Award?**
    Yes

25. **R&D Award?**
    No

26. **Grants Officer – Signature and Date**
    Yongming Qiu - Date: 2026.03.24 12:39:46 -04'00'

27. **Authorized Official – Signature and Date***

*The Notice of Award (NoA) must be signed by an authorized representative of the Recipient and returned to the Grants Officer within 30 days, unless otherwise instructed in the "Reason for Amendment" section. The Grants Officer may unilaterally withdraw the Award if a signature is required and not returned within this timeframe. The Recipient agrees to comply with the terms and conditions of the Award.

SECTION I – FEDERAL AWARD DESCRIPTION

The BEAD Program provides federal funding for grants to States and Territories for broadband deployment activities. The Program's principal focus is deploying broadband infrastructure to unserved locations and underserved locations. The proposed project includes the following activities: 1) Last-mile broadband deployment projects; 2) programmatic activities associated with BEAD (e.g., Challenge and Subgrantee Selection Processes), 3) Funds set aside for future broadband-related activities, and 4) administration of the grant.
The intended beneficiaries are the State of North Carolina and principally broadband unserved and underserved communities in the State.
The recipient does intend to subaward funds.

SECTION II - BUDGET INFORMATION

See the attached approved budget

Authorized

	Previous	Change	Cumulative
Federal	$1,532,999,481.15	$0.00	$1,532,999,481.15
Non-Federal	$0.00	$312,042,554.60	$312,042,554.60
Total	$1,532,999,481.15	$312,042,554.60	$1,845,042,035.75

Authorized Fund Codes

Bureau	FCFY	Project-Task	Org Code	Object Class	Obligation Amount
61	2025	4700001-000	06-00-0000-00-00-00-00	41-19-00-00	$0.00

SECTION III – GENERAL TERMS AND CONDITIONS

* SPECIFIC AWARD CONDITIONS

* LINE ITEM BUDGET

* OTHER(S) REFER TO REVISED SPECIFIC AWARD CONDITION #18 (PERIOD OF PERFORMANCE AND FUNDING LIMITATIONS) FOR THE MULTI-YEAR SPECIFIC AWARD CONDITION.GENERAL TERMS AND CONDITIONS FOR THE NTIA BROADBAND, EQUITY, ACCESS & DEPLOYMENT PROGRAM (BEAD) PROGRAM FUNDS, NOVEMBER 2025 (SEE ATTACHED).

REASON FOR AMENDMENT

This award agreement is hereby amended to: (1) release funding associated with the approval of the Final Proposal and the Final Proposal Funding Request; (2) update the Specific Award Conditions and the General Terms and Conditions associated with the award; and (3) extend the period of performance to December 31, 2040 in accordance with SAC #18.

ALL PRIOR TERMS AND CONDITIONS, APPLICABLE LAWS AND REGULATIONS, AND PROGRAMMATIC POLICIES REMAIN IN FULL FORCE AND EFFECT UNLESS EXPLICITLY MODIFIED BY THIS AMENDMENT.

**NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY
BROADBAND EQUITY, ACCESS, AND DEPLOYMENT PROGRAM
FINANCIAL ASSISTANCE
SPECIFIC AWARD CONDITIONS**

1. **REVISED - Introduction:**
The National Institute of Standards and Technology (NIST), servicing for the National Telecommunications and Information Administration (NTIA), hereby amends this Grant number 37-20-B087 with Department of Technology to support the work described in the proposal, to include the final approved versions of the Letter of Intent, Initial Proposal, Initial Proposal Funding Request, Final Proposal, and Final Proposal Funding Request, including any revisions entitled "State of North Carolina BEAD Project" dated August 15, 2022, October, 7 2024, June 30, 2025, September 18, 2025, December 15, 2025, and March 3, 2026 which are hereby incorporated into this award by reference. Where the terms of this award and the proposal differ, the terms of this award shall prevail.

2. **Recipient Contact Information:**
<u>Administrative:</u>
Angie Bailey
Director of the Broadband Infrastructure Office
North Carolina Department of Information Technology
3700 Wake Forest Road
Raleigh, North Carolina 27609-6833
Telephone: 919-817-0541
Email: angie.bailey@nc.gov

3. **REVISED - NTIA Contact Information:**
<u>Federal Program Officer:</u>
Tom Karst
National Telecommunications and Information Administration
1401 Constitution Avenue, NW
Washington, DC 20230
Email: tkarst@ntia.gov

4. **REVISED - NIST Award Contact Information:**
<u>Grants Officer:</u>
Yongming Qiu
National Institute of Standards and Technology
100 Bureau Drive, Mail Stop 1650
Gaithersburg, MD 20899-1650
Email: yongming.qiu@nist.gov

Grants Specialist:
Maxwell Cassity
National Institute of Standards and Technology
100 Bureau Drive, Mail Stop 1650
Gaithersburg, MD 20899-1650
Email: maxwell.cassity@nist.gov

5. REVISED - Award Payments:

This award is hereby funded through advanced payments using the Department of the Treasury's Automated Standard Application for Payments (ASAP) system. Payments will be issued in accordance with 2 CFR § 200.305 and the Department of Commerce Financial Assistance General Terms and Conditions, B.02, (dated September 22, 2025).

Payments for allowable costs may be drawn down as needed by the Grantee enrolled in ASAP. Funds may be requested through ASAP by the authorized *Payment Requestor* who is the individual designated by the Grantee to access Federal funds.

This award has the following control or withdrawal limits set in ASAP:

_____ None
_____ Agency Review required for all withdrawals (see explanation below)
_____ Agency Review required for all withdrawal requests over
$_______ (see explanation below)
__X__ Maximum Draw Amount controls (see explanation below)
$__________ each month
$__________ each quarter
$ 346,475,038.85 Max drawdown amount

Explanation:

The Grantee has requested $1,177,669,730.05 in funding for item(s) identified in the other cost category, which includes $13,050,000.00 in costs for proposed non-deployment middle mile fiber projects and $1,164,619,730.05 in remaining funds to be allocated for eligible activities. The Grantee may not begin work, incur costs or draw-down funds associated with this work until the requirements outlined in Specific Award Condition #37 titled "Consolidated Budget Form" have been satisfied.

The Grantee has requested $8,854,712.25 in funding that requires the Grantee to submit additional documentation of Tribal Consent prior to satisfaction of SAC. The Grantee may not begin work, incur costs or draw-down funds associated with this work until the requirements outlined in Specific Award Condition #36 titled "Extension to Tribal Consent Submission Requirement" have been satisfied.

6. Return Payments for Funds Withdrawn through ASAP:

Funds that have been withdrawn through ASAP may be returned to ASAP via the Automated Clearing House (ACH) or via FEDWIRE. The ACH or FEDWIRE transaction may only be completed by the Recipient's financial institution. Full or partial amounts of payments received by a Payment Requestor/Recipient Organization may be returned to ASAP. All funds returned to the ASAP system will be credited to the ASAP Suspense Account. The Suspense Account allows the Regional Financial Center to monitor returned items and ensure that funds are properly credited to the correct ASAP account. Returned funds that cannot be identified and classified to an ASAP account will be dishonored and returned to the originating depositary financial institution (ODFI). The Payment Requestor/Recipient Organization should notify the NIST Grants Office and provide a reason whenever return payments are made.

It is essential that the Payment Requestor/Recipient Organization provide its financial institution with ASAP account information (ALC, Recipient ID and Account ID) to which the return is to be credited. Additional detailed information is accessible at: https://www.fiscal.treasury.gov/asap/.

7. Notice of Funding Opportunity - Broadband Equity, Access, and Deployment Program:

The Department of Commerce, National Telecommunications and Information Administration (NTIA) Notice of Funding Opportunity (NOFO) No. NTIA-BEAD-2022 dated May 13, 2022, is incorporated by reference into this award.

It is accessible at: https://www.grants.gov/web/grants/view-opportunity.html?oppId=340304 (under the Related Documents tab). If the application period is closed, select "Closed" or "Archived" Opportunity Status to view the NOFO.

8. Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements:

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements as published in the *Federal Register* on December 30, 2014 (79 FR 78390), are incorporated by reference into this award.

They are accessible at: http://www.gpo.gov/fdsys/pkg/FR-2014-12-30/pdf/2014-30297.pdf.

9. REVISED - Department of Commerce Financial Assistance General Terms and Conditions:

As indicated on the Notice of Award, the Department of Commerce Financial Assistance General Terms and Conditions (GT&C), formerly called Standard Terms and Conditions, issued September 22, 2025 are incorporated by reference into this award. The

Department's GT&C, as well as a link to 2 CFR 200, are accessible at: https://www.commerce.gov/oam/policy/financial-assistance-policy

10. REVISED - Uniform Administrative Requirements, Cost Principles and Audit Requirements:

As indicated on the Notice of Award for this award, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR Part 200 are incorporated by reference into this award. Through 2 CFR § 1327.101, the Department of Commerce adopted the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR Part 200, which apply to awards in this program. Refer to https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200 and https://www.ecfr.gov/current/title-2/subtitle-B/chapter-XIII/part-1327. Awards issued pursuant to this program may be subject to specific award conditions as authorized by 2 CFR § 200.208. The Uniform Administrative Requirements, Cost Principles and Audit Requirements issued October 1, 2024, are incorporated by reference into this award. The Uniform Guidance Exceptions, Adjustments, and Clarifications listed in BEAD General Term and Condition 52 are unaffected by this update.

11. REVISED - Department of Commerce Financial Assistance General Terms and Conditions Section B.06 Indirect or Facilities and Administrative Costs:

NIST will reimburse the Grantee for indirect or F&A expenses in accordance with 2 CFR § 200.414, Section B.06 of the Department of Commerce Financial Assistance General Terms and Conditions, and in alignment with allowable administrative expenses subject to the two percent cap as described in SAC #24 Administrative Expenses.

Any Grantee requesting indirect costs that receives more than $35 million in direct Federal funding must submit an indirect cost rate proposal to its cognizant agency for indirect costs and may not use the de minimis indirect cost rate.

If an indirect cost rate has not been established, and NIST is identified as the cognizant agency for indirect expenses in accordance with 2 CFR § 200.1, "Cognizant agency for indirect costs," within 90 calendar days of the award start date, the Grantee must electronically submit to gmdaudit@nist.gov the documentation (indirect cost rate proposal, cost allocation plan, etc.) necessary to allow NIST to perform an indirect cost rate proposal review. Organizations that have previously established indirect cost rates with NIST must submit a new indirect cost rate proposal for indirect costs within six months after the end of the organization's fiscal year.

If your submission includes Personally Identifiable Information (PII) or Business Identifiable Information (BII), please send an email to gmdaudit@nist.gov to request a secure link.

The requirements for determining the relevant cognizant agency and for developing and submitting indirect (F&A) cost rate proposals and cost allocation plans are contained in 2 CFR § 200.414 and in Appendices III – VII to 2 CFR Part 200. For additional guidance on preparing indirect cost proposals, please review the Department of Labor's Guide for Indirect Cost Determination at: https://www.dol.gov/oasam/boc/dcd/np-comm-guide.htm. Section I.B and I.C lists the various types of indirect cost rates and the circumstances under which such rates would apply. The guide also addresses common indirect cost problems and contains useful FAQs.

12. Infrastructure Investment and Jobs Act:

The Recipient must comply with the terms of the Infrastructure Investment and Jobs Act (Infrastructure Act), Public Law 117-58 (Nov. 15, 2021), Division F, Title I – Broadband Grants for States, District of Columbia, Puerto Rico, and Territories, including the terms of section 60102 of that title, which establishes the BEAD Program. The text of the Infrastructure Act is available at: https://www.congress.gov/bill/117th-congress/house-bill/3684/text.

13. REVISED - General Terms and Conditions for the NTIA BEAD Program Funds:

The General Terms and Conditions for the BEAD Program have been revised in accordance with the RPN and are incorporated by reference into this award. This specific award condition was originally titled "General Terms and Conditions for the BEAD Initial Planning Funds" and has been renamed "General Terms and Conditions for the NTIA BEAD Program Funds" to reflect its applicability to all phases of the BEAD award.

14. BEAD Program Sequencing:

As described in the NOFO, the BEAD Program has several application steps and phases to the award, the timing of which are as follows:

(a) Letter of Intent
(b) Request for Initial Planning Funds
(c) Five-Year Action Plan
(d) Program Fund Allocation and Notice of Available Amounts—To be made on or after the date on which the Federal Communications Commission publishes the Broadband DATA Maps, once NTIA determines the BEAD Program allocations
(e) Initial Proposal—Due no later than 180 days from the date of issuance of the Notice of Available Amounts
(f) 20 Percent Funding Release—Upon approval of the Initial Proposal by the Assistant Secretary, NTIA will make available to the Eligible Entity not less than 20 percent of the total grant funds allocated to the Eligible Entity

(g) Final Proposal—Due no later than 365 days from the date the Assistant Secretary approves the Initial Proposal.

Future award actions associated with the release of additional funding to implement other phases of the project will include additional specific award conditions concerning the use of funds and other requirements associated with those phases, such as, but not limited to, environmental and national historical preservation requirements, and provisions implementing the Build America Buy America Act.

15. REVISED - Allowable Uses of BEAD Program Funding:

This SAC was titled as "Allowable Uses of Initial Planning Funds for the BEAD Program" in the initial award and is renamed and revised to account for the next phases of the program.

The purpose and allowable uses of BEAD funding vary throughout the life of the award. Different activities are allowable following the approval of the Initial Planning Funding, the Initial Proposal and the Final Proposal respectively.

Generally, the allowable uses of funds, to include non-Federal cost share contributions, for each stage of the BEAD Program may be found in the following sections of the NOFO:

Section IV.B.2--Initial Planning Funds
Section IV.B.8--Initial Proposal Funds
Section IV.B.7.a.ii to IV.B.7.a.iii--Final Proposal Funds

The Grantee must be aware that there may be information regarding allowability in other sections of the BEAD NOFO and the Grantee shall follow all NOFO requirements.

Entities that wish to request uses of funds other than those specifically addressed in the BEAD NOFO must submit such requests via email to UGAM@nist.gov for consideration by the Assistant Secretary. Work may not begin, nor costs incurred, for requested activities unless and until written approval is provided by the NIST Grants Officer.

Under no circumstances may planning funds be used for any construction or ground disturbing activities, or the build out of any infrastructure.

16. Ineligible Costs:

Regardless of the award phase under the BEAD Program, profits, fees, or other incremental charge above actual cost incurred by the Recipient or Subgrantee(s) are not allowable costs under this Program.

Additionally, the Recipient or Subgrantee(s), including contractors or subcontractors of Subgrantees, may not use funds received under the BEAD Program to:

(a) Purchase Covered Communications Equipment or Services, as defined in Section 9 of the Secure and Trusted Communications Networks Act of 2019 (47 USC § 1608); or
(b) Directly or indirectly support or oppose collective bargaining.

17. SATISFIED - Five Year Action Plan Requirements

18. REVISED - Period of Performance and Funding Limitations:

The period of performance for this award is November 1, 2022 to December 31, 2040. The budget includes $1,532,999,481.15 in Federal funds. This incorporates the extended period of performance to manage LEO capacity subgrants. Non-LEO capacity subgrants will have the original period of performance of four years.

The Recipient may not obligate, incur any expenditure, nor engage in any activity that involves a commitment of Federal funds under this Agreement in excess of the Federal amount presently available. Should such an excess obligation, expenditure, or commitment occur, no legal liability will exist or result on the part of the Federal Government for payment of funds.

The Grantee was previously awarded $5,000,000.00 in federal funds for the initial planning phase of this award. The allowable uses of the Initial Planning Funds are generally limited to those identified in Section IV.B.2 of the BEAD NOFO and must be in alignment with the BEAD Restructuring Policy Notice. Any activities previously approved in the initial planning application or subsequent budget and/or scope modifications are subject to the rules and requirements of the Restructuring Policy Notice.

The Grantee was previously awarded $1,527,999,481.15 in federal funds for the Initial Proposal. As of the date of the publication of the BEAD Restructuring Policy Notice, June 6, 2025, NTIA rescinded approval of any non-deployment activities approved in the Initial Proposal. *See* BEAD Restructuring Policy Notice (June 6, 2025), https://www.ntia.gov/sites/default/files/2025-06/bead-restructuring-policy-notice.pdf. The only allowable costs for Initial Proposal non-deployment projects that may be reimbursed must have been incurred prior to the publication of the BEAD Restructuring Policy Notice on June 6, 2025.

19. REVISED - Deviation from the Department of Commerce Financial Assistance General Terms and Conditions, Section A.01 "Reporting Requirements":

Initial Report

The Grantee submitted an Initial Report.

Semi-Annual Reports

First report due no later than July 30, 2023, for the period ending June 30, 2023. Thereafter, reports are due semi-annually, for the period between January 1 and June 30, which shall be due on July 30, and for the period between July 1 and December 31, which shall be due on January 30, or any portion thereof. The Recipient shall submit a report that includes:

(a) a description of how the Recipient expended the grant funds;
(b) a description of each service provided with the grant funds and the status of projects or other eligible activities supported by such funds;
(c) a description of the locations at which broadband service was made or will be made available using the grant funds, the locations at which broadband service was utilized.
(d) a certification that the Recipient complied with the requirements of Section 60102 of the Infrastructure Act and with any additional reporting requirements prescribed by the Assistant Secretary; and
(e) any additional information as prescribed in 2 C.F.R § 200.329.

Additionally, the Recipient shall submit an SF-425, Federal Financial Report, in conjunction with the semi-annual report described above that meets the requirements described in 2 C.F.R § 200.328 and the Department of Commerce Financial Assistance General Terms and Conditions (dated September 22, 2025).

Final Reports

The Recipient shall submit a final SF-425, Federal Financial Report and final Performance Progress Report within 120 days after the expiration of the period of performance that meets the requirements described in 2 C.F.R § 200.328 and the Department of Commerce Financial Assistance General Terms and Conditions (dated September 22, 2025).

Additionally, no later than one year after the Recipient has expended all grant funds under the BEAD Program (to include all phases of the award, not just the initial planning phase) the Recipient shall submit a report that:
(a) describes how the Eligible Entity expended the funds;
(b) describes each service provided with the grant funds;
(c) describes the locations at which broadband service was made available using the grant funds, the locations at which broadband service was utilized, and the comparative demographics of those served;
(d) includes each report that the Eligible Entity received from a Subgrantee under Section 60102(j) of the Infrastructure Act; and
(e) certifies that the Eligible Entity complied with the requirements of Section 60102 of the Infrastructure Act and with any additional reporting requirements prescribed by the Assistant Secretary.

All reports for the BEAD program must be submitted via the NTIA Grants Portal within the prescribed timeframes identified in the terms and conditions of this award. Reporting forms will be available in the NTIA Grants Portal. All reports for the BEAD program will be posted publicly on NTIA's website. In each report submitted, the Recipient must mark business confidential information, if any, to be removed from the publicly-posted version of the report.

Reports must not be sent directly to NIST or NTIA personnel (*e.g.* Grants Specialist, Grants Officer, Administrative Assistant, Financial Assistance Agreements Management Office, Division Chief, Federal Program Officer, etc.). Any Reports sent directly to grant personnel will be returned to the sender with instructions on how to submit through the NTIA Grants Portal.

20. REVISED - Unfunded Grant Actions Mailbox (UGAM):

Requests for unfunded award actions, which include, but are not limited to, requests for no-cost extension, change in key personnel, change in scope of work, budget revisions, award transfer, and novation, must be submitted to: UGAM@nist.gov, within the prescribed timeframes identified in the terms and conditions of the award.

Unfunded award action requests and related correspondence, including justification to support the request, sent to the mailbox ***must*** contain the following information in the email subject line: (1) Recipient name; (2) NIST award number; (3) Principal Investigator/Project Director; and (4) Action being requested (e.g. no cost extension, change in key personnel, etc.).

Unfunded award action requests must not be sent directly to NIST personnel (*e.g.* Grants Specialist, Grants Officer, Administrative Assistant, FAAMO Division Chief, Federal Program Officer, etc.).

Any requests sent directly to NIST personnel will be returned to the sender with instructions on how to submit through the UGAM@nist.gov mailbox.

No other correspondence may be sent through this mailbox; timely responses to any other inquiries received in this mailbox are not guaranteed. The mailbox will not be used for any other purpose ***except*** for purposes identified above.

Requests that are processed will be authorized via a Notice of Award (NoA) Amendment to the Financial Assistance Award or a Non-Funded Administrative Change Letter.

21. REVISED - Federal and Non-Federal Cost Sharing:

The non-Federal Cost sharing requirements are outlined in Section III.B of the BEAD NOFO.

Non-federal share is required to be paid out at the same general rate as the federal share for the life of the award or before federal fund are expended, unless prior written approval is provided by the NIST Grants Officer based on sufficient documentation provided by the Grantee demonstrating previously determined plans for or later commitment of non-federal share. In any case, the Grantee and their sub-grantees must meet their non-federal share commitments under this award and failure to do so may result in the NIST Grant Officer pursuing one or more of the remedies for non-compliance outlined in 2 CFR § 200.339.

Waivers of the non-federal share requirement may be considered by the Assistant Secretary, but will only be granted in special circumstances, as outlined in Section III.B.5 of the BEAD NOFO. Any waiver approval will be communicated to the Grantee in writing.

22. REVISED - Change in Funded Project Participant:

Any change to the Administering Entity of this award will require a revised Letter of Intent by the Governor and requires prior written approval by NTIA and the Grants Officer.

Any change to a selected deployment project Subgrantee approved under this award requires prior written approval by NTIA and the Grants Officer. Any changes to the selected deployment project Subgrantees with regard to both last-mile broadband deployment projects and other eligible activities must be made in compliance with the Subgrantee selection requirements in the Infrastructure Act, Section IV.B.7 of the BEAD NOFO, and the process described in the Initial Proposal. The Grantee must provide an explanation of the process by which the new Subgrantee was selected (consistent with the requirements cited above) and update project specific information in the format requested by NTIA.

23. Supplanting of Funds:

Grant funds awarded to a Recipient under the BEAD program shall be used to supplement, and not supplant, the amounts of federal or non-Federal funds that the Recipient would otherwise make available for the purposes for which the grant funds may be used.

24. REVISED - Administrative Expenses:

Administrative Expenses Subject to the Two Percent Cap
The Grantee may not use more than two percent of the award amount made available to the Grantee under the BEAD Program for expenses relating (directly or indirectly) to the administration of the award, in accordance with Section 60102(d)(2)(B) of the

Infrastructure Act. This requirement does not apply to the planning phase of funding (Initial Planning Funds).

The two percent cap on expenses related to the administration of the award is only applied to amounts received upon approval of the Initial and Final Proposal – non-federal cost share and BEAD Initial Planning Funds do not constitute expenses relating (directly or indirectly) to the administration of the award. Expenses associated with the administration of the BEAD award may not exceed $30,659,989.62 for the life of the award. Grantees should reference NTIA guidance for additional details on the applicability of this statutory cap to specific costs.

The Grantee is required to rigorously monitor and report on their expenses associated with the administration of the award and ensure that their administrative expenses subject to the statutory cap remain at or under the two percent ceiling imposed by the Infrastructure Act. There is no waiver of this requirement available and any expenses in excess of the cap will be considered non-compliant with the terms and conditions of the award, subject to disallowance of excess expenses and all other remedies available in 2 CFR § 200.339

25. REVISED - Restriction on Human Subjects Research Work and Expenses Incurred:

Deployment projects and activities funded as administrative expenses cannot include Human Subjects Research. The following requirements apply to initial planning fund projects. BEAD award Grantees must comply with Department of Commerce (DOC) regulations relating to the protection of human subjects for all research conducted or supported pursuant to an NTIA award. The DOC regulations related to the protection of human subjects are found in 15 CFR Part 27.

The BEAD Program Human Subjects Research Guidance (dated September 29, 2022) (HSR) is incorporated by reference into this specific award condition and identifies three HSR classification categories: Category 1 – Not Conducting Human Subjects Research, Category 2 – Exempt Human Subjects Research and Category 3 – Human Subject Research Non-Exempt.

For initial planning fund activities subject to HSR Requirements, the Subgrantees must satisfy BEAD HSR requirements by submitting the requisite documentation to the Grantee on a per-project basis no later than 45 calendar days after subgrant date. Grantees must submit BEAD HSR Requirements satisfaction details, on a per-project basis, no later than 90 calendar days after the subgrant date (via email to UGAM@nist.gov with a copy to their BEAD FPO), a letter or memorandum addressed to the Grants Officer that provides the following information:

a. Which HSR classification category, to include IRB review and approval, is applicable; and

b. Full and complete description of the planned BEAD project activities that justify inclusion in that category.

For initial planning fund activities conducted by the Grantee, the Grantee must submit BEAD HSR Requirements satisfaction details, on a per-project basis, no later than 90 calendar days after the allocation of funds for this purpose. The documentation must be submitted via email to UGAM@nist.gov with a copy to their BEAD FPO, and must consist of a letter or memorandum addressed to the Grants Officer that provides the following information:

a. Which HSR classification category is applicable, to include IRB review and approval; and
b. Full and complete description of the planned BEAD project activities that justify inclusion in that category.

No research involving human subjects is permitted under this award unless expressly authorized by specific award condition, or otherwise in writing by the Grants Officer. Further, no work involving human subjects may be undertaken under this award, until the appropriate documentation is approved in writing by the Grants Officer.

Recipients must provide an HSR memo to their NTIA FPO and Grants Office prior to conducting any research or administration of any surveys funded with NTIA funds. To satisfy the NTIA HSR requirements, recipients must state which HSR classification category is applicable and a detailed description project activities that justify inclusion in that category. Recipients must provide final study plans and documents.

If the recipient's institution has an IRB office (or equivalent) the recipient must provide documentation from that office or IRB approval that supports the HSR classification. This documentation may include a determination letter for HSR categories 1 or 2, or an approval letter for HSR categories 3 or 4. In addition, the documents reviewed by the IRB office (or equivalent) or IRB must be provided for review.

The recipient may not conduct any activities in any HSR category until expressly approved in writing by the Grants Officer. If a recipient conducts research before receiving Grants Office approval, recipients will be considered in material non-compliance with award terms and conditions, and any costs incurred to conduct the research could be disallowed.

Notwithstanding the above prohibition on starting human subjects research, work may be initiated, or expenses incurred and/or charged to the project for protocol or instrument development related to human subjects research.

Sample HSR memos are available in the Human Subjects Research Guidance (dated September 29, 2022), *Guidance for Human Subjects Research Protection*.

(https://broadbandusa.ntia.doc.gov/sites/default/files/2022-08/BEAD-Planning-Grant-HSR-Guidance-Final-9-29-2022.pdf).

26. No Duplication of Federal Funding:

No federal funds may be used to duplicate costs, services, connections, facilities, or equipment that have been authorized through another federal program. Grantees must comply with deduplication requirements and project area definitions from NOFO section IV.B.7.a.ii, with special attention to footnote 52 on page 36 of the NOFO. The NIST Grants Office and NTIA reserve the right to disallow any expenses that they determine constitute duplication of federal funds or service and/or to direct the Grantee reallocate the funds to allowable activities within the project or for another project.

27. SATISFIED - Subgrantee Selection Monitoring Meeting with NTIA

28. SATISFIED - Final Proposal

29. REVISED - Deployment Subgrantee Award Start and End Dates:

The Grantee is required to award deployment Subgrantee projects no later than six (6) months after the issuance of the NOA associated with the Final Proposal Funding Request (FPFR). NTIA may, at its discretion, grant an extension when extenuating circumstances demonstrate that additional time will support the overall goals of the BEAD Program. All deployment subgrants must end at least 120 days prior to the end of the Eligible Entity's own period of performance, to allow sufficient time for the Eligible Entity to close out all of its subgrants in an orderly fashion prior to the end of its own period of performance. Deployment subgrants, with the exception of LEO subawards, must have a period of performance end date no later than March 2, 2032.

In accordance with the RPN, LEO Capacity Subgrants must have a period of performance that concludes ten years from the date upon which the Subgrantee certifies to the Eligible Entity that broadband is available to every location covered by the project.

30. REVISED - Monitoring and Compliance:

Pursuant to 2 CFR § 200.329 Monitoring and reporting program performance, the Grantee and Subgrantee are responsible for the oversight of the Federal award. The Grantee and Subgrantee must monitor their activities under Federal awards to ensure they are compliant with all requirements and meeting performance expectations. Monitoring by the Grantee and Subgrantee must cover each program, function, or activity. Additionally, pursuant to the NOFO, Section VIII.G.1, NTIA and Grantees shall develop monitoring plans, which may include site visits or desk reviews, technical assistance, and random sampling of compliance requirements. The Grantee must comply with all monitoring and information requests from NTIA within the timeframe specified by

NTIA. This includes provision of any documents or data in possession of the Grantee or their Subgrantees related to the grant. Reasonable extensions will be granted on a case by case basis. If the Grantee fails to comply with monitoring and information requests, NTIA may determine that the Grantee is non-compliant with award terms and conditions, which may result in the NIST Grant Officer pursuing one or more of the remedies for non-compliance outlined in 2 CFR § 200.339.

31. REVISED - BEAD Restructuring Policy Notice:

The Department of Commerce, National Telecommunications and Information Administration (NTIA) BEAD Restructuring Policy Notice (RPN) and its contents modify certain requirements and replace others outlined in the BEAD Notice of Funding Opportunity. The terms of the RPN are incorporated into this award and the Grantee must comply with the RPN to gain approval of its Final Proposal from NTIA. Specifically, in submitting its IP correction after the publication of the RPN, the Grantee agreed to not enforce the rules removed by the RPN, such as but not limited to rules implemented by now-eliminated NOFO sections on “Affordability and Low-Cost Plans” (e.g., rate regulation), the “Consumer Protections” (e.g., the prohibition on data caps/net neutrality), “Fair Labor Practices and Highly Skilled Workforce,” “Advancing Equitable Workforce Development and Job Quality Objectives,” “Civil Rights and Nondiscrimination Law Compliance,” and any corresponding labor, employment, or workforce reporting requirements

32. Compliance with Executive Orders:

Incorporated by reference into this U.S. Department of Commerce financial assistance award are the policies set forth in all applicable Executive Orders currently in legal force and effect, including Executive Orders issued on or after January 20, 2025. A comprehensive list of Executive Orders may be found at: https://www.federalregister.gov/presidential-documents/executive-orders.

By accepting this financial assistance award and expending federal funding thereunder, the recipient agrees to the following conditions:

A. Compliance with Executive Orders: The recipient agrees to comply with the policies and to further the objectives set forth in all applicable Executive Orders currently in legal effect, including those issued on or after January 20, 2025, as well as Executive Orders that may be issued after the effective date of this award.
B. Executive Order 14173, 90 FR 8633 (Jan. 21, 2025): The recipient:
    a. Agrees that compliance in all respects with all applicable Federal anti-discrimination laws is material to the government’s payment decisions for purposes of section 3729(b)(4) of Title 31 United States Code; and

b. Certifies to the Department that it does not operate any programs promoting diversity, equity, and inclusion that violate any applicable Federal anti-discrimination laws.

C. Affirmative Duty to Monitor for and to Report Potential Inconsistencies: The recipient must actively monitor its administration of this award to ensure that its activities do not violate the requirements of this award, including this SAC. At any time during the period of performance of this award, if the recipient believes that any of the activities in its approved scope of work may be inconsistent with the policies outlined in any applicable Executive Order, the recipient has an affirmative duty to immediately stop work on those potentially inconsistent activities and immediately contact the Grants Officer named in the Notice of Award (NoA) to determine whether the potentially inconsistent activities may proceed under this award. The performance of activities that violate or that are otherwise inconsistent with requirements under any applicable Executive Order will result in appropriate enforcement action pursuant to 2 C.F.R. § 200.339, including the disallowance of costs and possible termination of a portion or all of this award.

33. Deployment Scope Changes:

All scope changes must comply with the terms of 2 CFR 200.308. Consistent with the Infrastructure Act, all deployment projects must be subgranted. Other than the exceptions listed below, a proposed deployment project scope change that results in modification to the approved Final Proposal must be submitted to NTIA and NIST for approval. A proposed deployment project scope change that results in a change in technology used to serve an eligible location must be submitted to NTIA and NIST for approval. Otherwise, the Grantee has the authority to approve or deny a Subgrantee's proposed scope change as defined in the list below. The Grantee may not unilaterally approve or deny any scope changes outside of the list below. The Grantee may always request guidance from NTIA and NIST when determining whether a proposed scope change requires NTIA and NIST approval.

With regard to this Grantee authority, for deployment projects:

1. If the proposed scope change only results in an increase in locations served from what is included in the approved Final Proposal, the Grantee has the authority to approve or deny that scope change, though budget modifications will require NTIA approval;
2. If the proposed scope change does not result in a reduction of locations served by non-satellite service from what is included in the approved Final Proposal, the Grantee has the authority to approve or deny that scope change;
3. If the proposed scope change only consists of location changes that fit within Reason Codes 1-3 as listed in the Final Proposal Guidance (1: Location should not have a broadband connection; 2: Location does not need mass-market broadband service due to the nature of use; 3: Location has been removed from

the latest version of the Fabric by the FCC), the Grantee has the authority to approve or deny that scope change.

For any scope change that the Grantee approves under this condition, the Grantee must retain sufficient evidence to justify the scope change, consistent with the most recent version of the Final Proposal Guidance. Grantees may be required to report on any subgrant scope changes in the semi-annual performance reports and/or closeout reports. NTIA reserves the right to request such evidence at any time as an exercise of its grant oversight responsibilities.

If the Grantee must submit a scope change request as described above (including on behalf of a Subgrantee), such a request must be submitted to: UGAM@nist.gov. Requests and related correspondence sent to the mailbox ***must*** contain the following information in the email subject line: (1) Grantee name; (2) NIST award number; (3) AOR name; and (4) Action being requested (*i.e.*, Scope Change).

Requests that are processed will be authorized via an administrative letter or NOA Amendment to the Financial Assistance Award. The Grantee ***must not*** begin work or incur costs prior to the above review and approval.

Any requests sent directly to NIST personnel will be returned to sender with instructions on how to submit through the UGAM@nist.gov mailbox. No other correspondence may be sent through this mailbox; timely responses to any other inquiries received in this mailbox are not guaranteed. The mailbox will not be used for any other purposes unless identified otherwise.

34. Indirect Cost Rate for Federal Award:

The approved budget for this award does not contain indirect costs.

35. Low Earth Orbit Capacity Subgrant(s):

The Grantee has requested funding for the reservation of capacity on a low earth orbit (“LEO”) satellite network(s) to deliver broadband service to each Broadband Serviceable Location (BSL) in the project area and that meets the BEAD Program’s minimum technical requirements of speeds of not less than 100 Mbps for downloads and 20 Mbps for uploads and latency less than or equal to 100 milliseconds (a “LEO Capacity Subgrant”).

The funding for the LEO Capacity Subgrant is subject to the following requirements.

(a) *Allowable Costs.* Allowable uses of funding in connection with a LEO Capacity Subgrant are limited to reimbursements for the costs of:

(1) The reservation of capacity on a LEO satellite network for each location that meets the BEAD Program’s performance and technical requirements;

(2) Necessary consumer premise equipment provided at no cost to the subscriber for up to 3 CPE provided per-BSL for new subscribers during the period of performance; and
(3) Initial, non-recurring services (e.g., installation service) and equipment (e.g., consumer premise equipment) to ensure that initial non-recurring fees charged to the subscriber at a location covered by the LEO Capacity Subgrant are comparable to those initial non-recurring fees charged to subscribers at locations in the state or territory served by terrestrial broadband technologies subsidized by the BEAD program.

(b) *Required Subgrantee Agreement Provisions.* The Grantee must include, in addition to the other provisions required by the terms and provisions of this award, the following provisions in any agreement with a Subgrantee for a LEO Capacity Subgrant:
(1) Pursuant to 47 U.S.C. § 1702(h)(4)(C), the Grantee shall ensure that the Subgrantee begins providing broadband service to each customer that desires broadband service not later than four years after the date of the LEO Capacity Subgrant agreement. As part of satisfying this requirement, the Grantee shall require the Subgrantee to certify that it can initiate broadband service that meets the BEAD Program's technical requirements to any location covered by the LEO Capacity Subgrant agreement, with no charges or delays attributable to extension of the service, within 10 business days of a request by a subscriber at such location.
(2) The Grantee shall apply a period of performance for the LEO Capacity Subgrant agreement that concludes ten years from date the upon which the Subgrantee makes the certification required in paragraph (b)(1) herein.
(3) The Grantee shall ensure the reasonableness of the Subgrantee costs identified in paragraph (a).
(4) The Grantee shall specify the metric by which it will reimburse the Subgrantee for the reservation of capacity on the LEO network. The Grantee shall reimburse the Subgrantee for the reservation of capacity either (i) for each location where capacity is reserved or (ii) according to subscriber milestones or another metric that creates an incentive for the subgrantee to enroll subscribers in locations covered by the LEO Capacity Subgrant. If the Grantee reimburses the Subgrantee for each location where capacity is reserved, the Grantee shall:
A. Ensure that the Subgrantee agreement accounts for the relative costs of the subgrantee to provide service to locations covered by the LEO Capacity Subgrant as compared to the relative costs of the Subgrantee to provide service to locations in the state or territory not covered by the LEO Capacity Subgrant; and
B. Structure reimbursement payments in equal installments throughout the period of performance, subject to the exception that the Grantee may advance up to 50% of the total amount of the LEO Capacity Subgrant (1) at the time Subgrantee certifies the availability of service as required in paragraph (b)(1), (2) upon the subgrantee meeting subscription milestones established by the Grantee; or (3) a combination thereof. The Grantee shall make clear in the Subgrantee agreement that any advance payment of up

to 50% of the total amount of the LEO Capacity Subgrant is an advancement and not reimbursement for performance rendered. (4) The Grantee shall apply the Letter of Credit requirement established in Section IV.D.2.a.ii., as modified to the extent described in the Letter of Credit Notice of Programmatic Waiver, according to the following schedule:

A. The Subgrantee may reduce its Letter of Credit or performance bond by 50% of the original amount after making the certification required in paragraph (b)(1) herein;

B. The Subgrantee may reduce its Letter of Credit by an additional 25% of the original amount after at least 25% of all locations covered by the LEO Capacity Subgrant are subscribing to the Subgrantee's service;

C. The Subgrantee may close out its Letter of Credit the earlier of (i) the point in time in which at least 50% of all locations covered by the LEO Capacity Subgrant are subscribing to the Subgrantee's service or (ii) four years after the Subgrantee makes the certification required in paragraph (b)(1) herein.

36. **Extension to Tribal Consent Submission Requirement:**

NTIA has issued a limited programmatic waiver of the BEAD NOFO requirement to include Tribal Resolutions of Consent to NTIA at the time of the Final Proposal submission date. *See Programmatic Waiver of Tribal Consent Deadline* https://broadbandusa.ntia.gov/funding-programs/policies-waivers/Programmatic_Waiver_of_Tribal_Consent_Deadline. Consistent with the terms of the waiver, the Grantee must submit Resolutions of Consent for all projects on Tribal Lands within six months of the approval of the Final Proposal.

If all Resolutions of Consent and other supporting documentation, as required by the BEAD NOFO, are not properly submitted to NTIA by this six-month deadline, the SAC on the project funds for these locations will not be lifted. Additionally, if the Grantee fails to comply with this Final Proposal requirement by this extended deadline, NTIA may determine that the Grantee is non-compliant with its award terms and conditions. This can result in the NIST Grant Officer pursuing one or more of the remedies for non-compliance outlined in 2 CFR § 200.339.

The Grantee has requested $8,854,712.25 in subawards projects that have not yet met the Tribal consent requirement at the time of Final Proposal submission.

Requests for the release of funds must be submitted to: UGAM@nist.gov. Requests and related correspondence sent to the mailbox must contain the following information in the email subject line: (1) Grantee name; (2) NIST award number; (3) AOR name; and (4) Action being requested (i.e., Release of Funding for Tribal Consent Requirement).

Within the body of the email, the Grantee must identify each subaward project ID and corresponding funding release amount. The Grantee must attach all Tribal consent documentation to the email as a PDF attachment. Each attachment must clearly identify the subaward project ID and amount requested to be released.

Grantees are encouraged to batch these requests for funding release to the greatest extent possible.

37. Consolidated Budget Form:

The Grantee has requested $1,177,669,730.05 in funding for item(s) identified in the other cost category.

The budget information in the Consolidated Budget Form is not sufficient for NIST to evaluate the allowability of such costs. The Grantee must submit the following documentation for funding to be released for items identified in the Consolidated Budget Form (Tab g. "Other," Rows 11 and 12, Column E):

a. Detailed Budget and Justification (e.g, Request for Proposal (RFP); Pre-executed contract; and/or Bids received and scoring methodology and executed contract); and
b. Other documentation as requested by NTIA

Inasmuch as the Grantee plans to propose non-deployment activities, NTIA will issue updated guidance in the future, per the Restructuring Policy Notice. Once NTIA issues such guidance, requests for the release of funds must be submitted to: UGAM@nist.gov. Requests and related correspondence sent to the mailbox must contain the following information in the email subject line: (1) Grantee name; (2) NIST award number; (3) AOR name; and (4) Action being requested (i.e., Release of Final Proposal Funds for Contract).

Requests that are processed will be authorized via an administrative letter or NOA Amendment to the Financial Assistance Award. Grantee must not begin work or incur costs prior to the above review and approval.

Any requests sent directly to NIST personnel will be returned to sender with instructions on how to submit through the UGAM@nist.gov mailbox. No other correspondence may be sent through this mailbox; timely responses to any other inquiries received in this mailbox are not guaranteed. The mailbox will not be used for any other purposes unless identified otherwise.

The project budget contains costs for other costs. The budget information provided in the budget narrative and justification is not sufficient for NIST to evaluate the allowability of such costs. Recipient must provide, via email to both UGAM@nist.gov and the FPO, a detailed budget and justification for each item listed above to ensure such costs are allowable (*see* 2 CFR §200.403). No funds associated with the above identified item(s) shall be released by NIST until the detailed budget and justification is submitted by the recipient and approved by the NIST Grants Officer via an award amendment or administrative letter.

End of Specific Award Conditions

GENERAL TERMS AND CONDITIONS

for the

NTIA BROADBAND EQUITY, ACCESS & DEPLOYMENT PROGRAM (BEAD) PROGRAM FUNDS

Updated November 2025

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1. **REVISED--Award Compliance Requirements, Prioritization and Terminology**

Grantees must comply with all requirements contained in 47 U.S.C. § 1702, the BEAD NOFO, the Department of Commerce General Terms and Conditions (dated September 22, 2025), the General Terms and Conditions for the BEAD Program, and the Specific Award Conditions applicable to each individual award. In any case where language among two or more authorities appears inconsistent, the relevant authorities should be read and interpreted in a manner which emphasizes consistency and harmonization across all relevant authorities. Where harmonization is impossible, Grantees should prioritize following the language contained in these authorities in the following order (from highest to lowest priority): 47 U.S.C. § 1702; the award's Specific Award Conditions; the General Terms and Conditions for the BEAD Program; the BEAD Restructuring Policy Notice (June 2025); the BEAD NOFO; the Department of Commerce General Terms and Conditions (dated September 22, 2025).

The definitions in the BEAD NOFO shall apply to capitalized terms not otherwise defined herein. Additionally, as used herein, the terms "Grantee" and "Subgrantee" refer to the recipient or subrecipient of a grant as appropriate and as aligned with the updated Uniform Guidance (dated October 1, 2024) and the BEAD NOFO. The Grantee assumes ultimate responsibility for compliance with the requirements of this award.

2. **Management Conference**

After the award start date or the inclusion of an amendment for additional funds, NTIA may contact the Grantee to arrange a management conference. The purpose of the management conference is to explain to the Grantee its responsibilities for administration of the award, including its responsibilities with respect to the Terms and Conditions of the award and applicable Federal requirements.

3. **Grantee, Subgrantee, and Contractor Compliance with Applicable Requirements**

The Grantee shall comply, and must require each Subgrantee or contractor, including lower tier Subgrantees or subcontractors, to comply with all applicable Federal, State, and local laws and regulations, and all applicable terms and conditions of this award. The Grantee and its Subgrantees are responsible for ensuring that all contracts, including those necessary for design and construction of facilities, are implemented in compliance with the Terms and Conditions of this Award. *See also* NOFO Section IX.G.4.

4. **Prevention of Waste, Fraud, and Abuse**

Consistent with the principles in 2 CFR Part 200, at any time(s) during the grant period of performance, NTIA may direct a member or members of the Grantee's key personnel to take a Government-provided training on preventing waste, fraud and abuse. Key personnel include those responsible for managing the Grantee's finances and overseeing any contractors, sub-contractors or Subgrantees (for financial matters and/or general oversight related to the grant). NTIA will provide instructions on when and how to take such training(s), and costs incurred by a Grantee relative to the training (e.g., staff time) are eligible for reimbursement pursuant to the NTIA award.

Further, Grantees must monitor award activities for common fraud schemes, including but not limited to:

- false claims for materials and labor;
- bribes related to the acquisition of materials and labor;

- product substitution;
- mismarking or mislabeling on products and materials; and
- time and materials overcharging.

Should a Grantee detect any fraud schemes or any other suspicious activity, the Grantee must contact its assigned NTIA Federal Program Officer and the Department of Commerce, Office of Inspector General Hotline, as indicated at https://www.oig.doc.gov/Pages/Contact-Us.aspx, as soon as possible. Additionally, in accordance with 2 CFR 200.113, an applicant or Grantee must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Grantees are required to report certain civil, criminal, or administrative proceedings to SAM.gov. Failure to make required disclosures can result in any of the remedies described in 2 CFR 200.339. (*See also* 2 CFR Part 180, 31 USC 3321, and 41 USC 2313.)

5. Protection of Whistleblowers

The Department of Commerce Financial Assistance General Terms and Conditions (dated September 22, 2025) are incorporated into every NTIA grant award. Section F.05 of these Terms and Conditions states that each award is subject to the whistleblower protections afforded by 41 USC 4712 (Enhancement of contractor protection from reprisal for disclosure of certain information).

Generally, this law provides that an employee or contractor (including subcontractors and personal services contractors) of a Grantee, Subgrantee, contractor, subcontractor or personal services contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body information that the employee reasonably believes is evidence of gross mismanagement of a Federal award, subgrant, or a contract under a Federal award or subgrant, a gross waste of Federal funds, an abuse of authority relating to a Federal award or subgrant or contract under a Federal award or subgrant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal award, subgrant, or contract under a Federal award or subgrant

Grantees and contractors under Federal awards and subgrants must inform their employees in writing of the rights and remedies provided under 41 USC 4712, in the predominant native language of the workforce.

A person that believes they have been the subject of retaliation for protected whistleblowing can contact the Department of Commerce, Office of Inspector General Hotline, as indicated at https://www.oig.doc.gov/Pages/Hotline.aspx, or the U.S. Office of Special Counsel, toll free at 1-800-872-9855.

6. REVISED -- Signage and Public Acknowledgements

On February 18, 2025, Controller Alert CA-23-6 entitled Enhancing Transparency Through Use of the Investing in America Emblem on Signs (UPDATED) was rescinded pursuant to Controller Alert 25-01 entitled Recission of Prior Controller Alerts. Existing signs may remain on site. To the extent these signs remain, they should be maintained in good condition throughout the construction period, or until additional instructions are provided.

7. Eminent Domain

In accordance with Executive Order 13406, "*Protecting the Property Rights of the American People*" (June 28, 2006), the Grantee agrees:

- Not to use any power of eminent domain available to the Grantee (including the commencement of eminent domain proceedings) for use in connection with the grant for the purpose of advancing the economic interests of private parties;
- Not to accept title to land, easements, or other interest in land acquired by the use of any power of eminent domain for use in connection with the grant for the purpose of advancing the economic interests of private parties; and
- Any use of the power of eminent domain to acquire land, easements, or interests in land, whether by the Grantee or any other entity that has the power of eminent domain, in connection with the grant requires prior written consent from NTIA. Any use of eminent domain without prior written consent of NTIA constitutes an unauthorized activity and/or use of funds under the award and subjects the Grantee to appropriate enforcement action by the Grants Officer, including but not limited to the disallowance of award costs and the termination of an award.

8. Construction Contract Security Bond

Pursuant to 2 CFR 200.326, for construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold (currently $350,000), the Grantee may submit its bonding policy and requirements to the Grants Officer for a determination of whether the Federal interest is adequately protected. If such a determination has not been made, the minimum bonding requirements of 2 CFR 200.326 (Bonding requirements) shall apply. Separately, the Grantee may elect to place additional bonding requirements on its Subgrantees consistent with the programmatic letter of credit waiver discussed in Term 42 below. Subgrantees of fixed amount subgrants made under the authority of Term 52 below are not required to comply with 2 CFR 200.326.

9. Inspection and Testing of Materials

The Grantee or Subgrantee, as applicable, shall ensure that all materials and equipment used in the completion of the work shall be subject to adequate inspection and testing in accordance with accepted standards. Materials of construction, particularly those upon which the strength and durability of any structure may depend, shall be subject to inspection and testing to establish conformance with specifications and suitability for intended uses. The Grantee or Subgrantee shall ensure that documentation of same is cataloged and retained.

10. Energy Efficiency

The Grantee shall apply, where feasible, design principles for the purpose of reducing pollution and energy costs and optimizing lifecycle costs associated with the construction.

11. Requirements During Construction

During construction, the Grantee or Subgrantee, as applicable, is responsible for:

- Ensuring that it meets all deadlines in approved plans and specifications;
- Monitoring the progress of grant funded activities;
- Reporting progress;
- Providing for required construction permits and adequate construction inspection;
- Promptly paying costs incurred for grant funded activities;

- Monitoring contractors' compliance with Federal, State, and local requirements; and
- Constructing and maintaining in good condition throughout the construction period a sign or signs, at the site of grant funded activities in a conspicuous place indicating that the Federal Government is participating in the activities.

12. Tribal Employment Rights Ordinances

NTIA recognizes Tribal Employment Rights Ordinances (TEROs), which may provide for preferences in contracting and employment, in connection with its financial assistance awards. Tribal ordinances requiring preference in contracting, hiring, and firing and the payment of a TERO fee are allowable provisions under Federal awards and NTIA requires their incorporation when applicable into BEAD Program subgrants to Native American/Alaska Native/Native Hawaiian entities. The payment of the TERO fee, which supports the tribal employment rights office to administer the preferences, should generally be allowable as an expense that is "necessary and reasonable for proper and efficient performance and administration" of an award, as provided under 2 CFR 200.403.

13. REVISED--Environmental and Historic Preservation (EHP) Review

The Grantee must comply with the requirements of all applicable Federal, State, and local environmental laws, regulations, and standards and must ensure that Subgrantees comply with all such requirements as well. Per the BEAD Restructuring Policy Notice, Grantees must use the Environmental Screening and Permitting Tracking tool (ESAPTT) within the NTIA Grants Portal (NGP) to perform environmental screening and obtain NTIA NEPA approvals.

A. EHP Pre-Implementation and Funding Conditions

The Grantee must not initiate or allow a Subgrantee to initiate any grant funded implementation activities—except for the limited permissible activities identified in Section 13.E below—and must not disburse any BEAD funds to a Subgrantee prior to the following:

- The completion of any review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*) (NEPA), and issuance by NTIA and the Grantee, as required, of a Categorical Exclusion (Cat Ex) determination, Record of Environmental Consideration (REC), Finding of No Significant Impact (FONSI), or Record of Decision (ROD) (hereinafter "decision documents") that meets the requirements of NEPA;

- The completion of reviews required under Section 106 of the National Historic Preservation Act of 1966 (54 U.S.C. 300101, *et seq.*) (NHPA), including any consultations required by Federal law, to include consultations with the State Historic Preservation Office (SHPO), and Federally recognized Native American Tribes;

- The completion of consultations with the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS), as applicable, under Section 7 of the Endangered Species Act (16 U.S.C. 1531, *et seq.*), and/or consultations with the U.S. Army Corps of Engineers (USACE) under Section 404 of the Clean Water Act (33 U.S.C. 1251, *et seq.*), as applicable; and

- Demonstration of compliance with all other applicable Federal, State, and local environmental laws and regulations.

B. Grantee Compliance with NEPA as Joint Lead Agency

NEPA Compliance: To ensure the timely completion of environmental review for all BEAD-funded activities subject to NEPA review, the Grantee must:

- Serve as a "joint lead agency" in its capacity as the State (or Territory) agency administering the BEAD program in accordance with 42 U.S.C. 4336a(a)(1)(B) and carry out the duties described in 42 U.S.C. 4336a(a)(2), consistent with NTIA's Smart Start NEPA guidance for BEAD, including the responsibility to obtain specialized environmental and historic preservation (EHP) expertise by hiring, contracting, or otherwise retaining staff with relevant NEPA qualifications and experience to support the Grantee in the joint lead agency role;[1]

- Complete an evaluation of the sufficiency, applicability and accuracy of the analysis in the relevant First Responder Network Authority (FirstNet) Regional Programmatic Environmental Impact Statement (PEIS) chapter as it applies to anticipated implementation activities for the Grantee's State or Territory;

- Include in all awards to Subgrantees conditions stating that:

    1. the Subgrantee will not commence implementation and funds will not be disbursed until any necessary environmental review is complete and NTIA has approved any necessary decision document, except for the limited permissible activities identified in Section 13.E below;

    2. the Subgrantee must timely prepare any required NEPA documents and obtain any required permits, and must adhere to any applicable statutory deadlines as described in 42 U.S.C. 4336a(g); and

    3. the Subgrantee must provide a milestone schedule identifying specific deadlines and describing how the Subgrantee proposes to meet these timing requirements including, as required, the completion of consultations, the completion of NEPA and Section 106 reviews, and the submission of Environmental Assessments (EAs) or Environmental Impact Statements (EISs).

- For grant funded activities carried out by Subgrantees, certify the sufficiency of all Subgrantee NEPA documentation, either by preparing such documentation or by supervising Subgrantees' preparation of draft documents, independently reviewing those drafts, and verifying that draft documents meet the requirements of NEPA prior to transmittal to NTIA;

- Submit all NEPA documentation—including any supporting environmental documentation required or requested by NTIA—to NTIA through ESAPTT for review and approval.

[1] NTIA, *Smart Start: How to Plan and Prepare for National Environmental Policy Act (NEPA) Compliance for BEAD* (Apr. 2024), https://broadbandusa.ntia.doc.gov/sites/default/files/2024-04/Smart_Start_NEPA_Compliance_for_BEAD_04_16_2024.pdf.

C. Grantee Compliance with NHPA Section 106

NHPA Compliance: To ensure the timely completion of historic preservation review for all BEAD- funded activities, the Grantee must:

- Provide notified Tribes with information regarding grant-funded activities via their preferred communication means, as identified to NTIA if applicable;
- Complete Section 106 review of grant-funded activities, applying the Advisory on Historic Preservation (ACHP) Program Comment to Avoid Duplicative Reviews for Wireless Communications Facilities, Program Comment for Federal Communications Projects, and any other applicable program comment or program alternative, or following the ACHP rules at 36 CFR 800 Subpart B;
- Adhere to, and ensure that all Subgrantees adhere to, the provisions of the NTIA memorandum to SHPOs, Tribal Historic Preservation Officers (THPOs), and grant recipients authorizing recipients to initiate Section 106 consultation for NTIA funded projects;
- Notify NTIA of any Tribal request for government-to-government consultation or any identification that a grant funded activity may impact an historic property or a property of religious or cultural significance to a Tribe; and
- Provide all consulting parties with the statutorily required time to respond to its determination of a grant funded activity's effect on historic properties.

D. Grantee Permitting Obligations

Under the Infrastructure, Investment, and Jobs Act (IIJA), NTIA is permitted to issue any "regulations or other guidance, forms, instructions, and publications" necessary to ensure that BEAD projects are carried out in a "timely and effective manner."[2] NTIA has determined that state and local permitting processes may significantly impair the ability of broadband providers to deploy networks in a timely and effective manner. In fact, in March of 2025, prior to the release of NTIA's Restructuring Policy Notice, the Department of Commerce Office of Inspector General released a report noting that state and local permitting "delays affect timely execution and increase deployment costs [of broadband projects], which could impact broadband officials' and industry stakeholders' ability to successfully deploy broadband as required by IIJA."[3] State broadband offices agree.[4] Moreover, the requirements below align with the Federal Communications Commission's (FCC) recent effort to "facilitate the pole attachment process to promote, fast, efficient, and ubiquitous deployment of broadband facilities."[5]

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[2] 47 U.S.C. § 1702(i).
[3] *See* FINAL REPORT NO. OIG-25-014-I MARCH 20, 2025 on challenges affecting broadband deployment, page 5.
[4] Varn, J., *States Work to Address Barriers to Broadband Expansion*, The Pew Charitable Trusts (Apr. 3, 2024) https://www.pew.org/en/research-and-analysis/articles/2024/04/03/states-work-to-address-barriers-to-broadband-expansion ("One issue, however, was mentioned in virtually every [state five-year action] plan, the perennial asterisk on every infrastructure project's timeline: cumbersome permitting processes.").
[5] FCC Fact Sheet, *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, Fifth Report and Order, Fourth Further Notice of Proposed Rulemaking, and Orders on Reconsideration*, WC Docket No. 17-84 (July 3, 2025), *available at* https://docs.fcc.gov/public/attachments/DOC-412690A1.pdf.

To help ensure that Grantee's BEAD projects are carried out in a timely and effective manner, NTIA requires Grantee to take the following actions to streamline permitting processes:

1. Consistent with any relevant legal requirements and authorities, Grantee will establish procedures to ensure that broadband-related permit applications are promptly accepted, and requests are approved or denied within 90 days, including by:
    a. Assisting state and local authorities in establishing a single, dedicated point of contact, which has knowledge of the application and review processes, for broadband-related permits.
    b. Providing technical assistance to permitting agencies to ensure sufficient capacity (e.g., Master Agreement and Consultant Reimbursement Agreement templates, surge support for permit processing, etc.)
    c. Providing deference to the construction techniques chosen by BEAD Subgrantees (without seeking to influence those decisions), absent any identified safety concerns.
    d. Maximizing streamlined processing through permitting by rule; batch processing of substantially similar permit requests; and waiving or expediting duplicative or burdensome broadband permitting requirements where possible.
    e. Following FCC rules regarding timelines, rates, terms, and conditions for access to municipally owned poles and conduit for broadband projects—including provisions in the FCC's rules providing for "one-touch make-ready" and "self-help"—and requiring BEAD Subgrantees that own poles (including cooperatives) to comply with FCC rules across their footprint.

2. Grantee will seek to minimize state and local permitting-related costs for broadband deployments and ensure (1) permitting fees are a reasonable approximation of the state or local government's costs, (2) only objectively reasonable costs are factored into those fees, and (3) the fees are no higher than the fees charged to similarly situated competitors in similar situations.

3. Grantee will establish Permitting Roundtables[6] and/or working groups of relevant federal, state, local, and tribal authorities and representatives of impacted industries—including utility pole owners, railroads, communications providers, and BEAD subgrantees—that will:
    a. Meet regularly to identify and facilitate resolution of any delays or disputes related to deploying BEAD-funded facilities.
    b. Collect complaints (and supporting information) from Subgrantees that are not timely resolved through this process and escalate such complaints through the appropriate Permitting Roundtable or working group.

4. Grantee will track, publicly post, and submit to NTIA, as part of its Semi-Annual Report, information on subgrantee compliance with the NEPA milestone schedules[7] and data regarding unresolved complaints from Subgrantees, including: (1) issues escalated through the Permitting Roundtable or working group; (2) delays in broadband-related projects that Subgrantees attribute to a state or local prohibition on using its preferred construction techniques; and (3) delays in broadband related projects

[6] *See* NTIA's *Permitting Roundtables Implementation Guide*.
[7] *See* BEAD General Terms and Conditions Section 13.B.

that Subgrantees attribute to state and/or local authorities failing to follow FCC rules regarding pole attachment timelines, rates, terms, and conditions for access to municipally owned poles and conduit for broadband projects.[8]

Grantee shall include the language above outlining its commitments to streamline permitting into all agreements between Grantee and its Subgrantees.

E. Limited Permissible Pre-Implementation Activities

The Grantee must ensure that implementation (site preparation, demolition, construction, ground disturbance, fixed installation, or any other implementation activities) does not begin prior to the completion of all EHP requirements as outlined in this Section. The Grantee must comply with all conditions placed on the grant funded activities as the result of NEPA or NHPA consultation or processes under other applicable laws—*e.g.*, mitigation requirements, best management practices, or other measures necessary to reduce environmental impacts—and ensure that Subgrantees comply with such conditions as well. The Grantee must also provide any information requested by NTIA to ensure both initial and ongoing compliance with all requirements described above.

The Grantee may undertake or allow limited permissible activities under NEPA to proceed using award funds prior to the completion of the EHP review process, including the following:

- Pre-construction planning, including collecting information necessary to complete environmental reviews;
- Applications for environmental permits;
- Studies including, but not limited to, Environmental Assessments (EA), wetland delineations, biological assessments, archaeological surveys, and other environmental reviews and analyses;
- Administrative costs;
- Pre-award application costs;
- Activities supporting consultations required under the NHPA, the Endangered Species Act, and the Clean Water Act; and/or
- Limited, preliminary procurement, including the purchase or lease of equipment, or entering into binding contracts to do so; the purchase of applicable or conditional insurance; and/or funds used to secure land or building leases (including right-of-way easements).

Grantees or Subgrantees that undertake unauthorized project activities in contravention of this Section proceed at their own risk and may face de-obligation of funding.

The Grantee shall notify NTIA within 24 hours upon receipt of any Section 106 notices of foreclosure; notices requesting continuing or supplemental consultation received from the SHPO, THPO, or other consulting party or the USFWS or NMFS; or notices of noncompliance received from consulting authorities or regulatory agencies.

Any change to the approved scope of grant funded activities proposed after the completion of

[8] Such reports will be shared with the FCC and Congress to determine whether additional funding rescission, enforcement, legislation to modify 47 U.S.C. § 224 to remove the exemption for poles and conduits owned by municipalities and electric cooperatives, and/or other actions are warranted.

environmental and historic preservation review that has the potential for altering the nature or extent of environmental or historic preservation impacts must be brought to the attention of NTIA and will be re-evaluated for compliance with applicable requirements.

Archaeological Resources: Burial sites, human remains, and funerary objects are subject to the requirements of all applicable Federal, Tribal, State, and local laws and protocols, such as the Native American Graves Protection and Repatriation Act (NAGPRA), in addition to Section 106 of the NHPA.

- Grantees must notify NTIA of inadvertent discoveries and potential impacts to these resources and identify and follow all applicable laws or protocols.
- Grantees should have an archaeologist who meets the Secretary of the Interior's Professional Qualification Standards monitor ground disturbance for grant funded activities proposed in the vicinity of National Register eligible archaeological sites and suspected or known burials.
- If any potential archeological resources or buried human remains are discovered during construction, the Grantee must immediately stop work in that area, secure that area, and keep information about the discovery confidential, except to notify NTIA and the interested SHPO, THPO, and potentially affected Tribes. Construction activities may not resume in the area without the prior written approval of NTIA.

14. Scheduling Inspection for Final Acceptance

The Grantee will schedule a final inspection for each broadband infrastructure project and other construction activities when all construction has been completed, the architect/engineer has conducted its own final inspection, and any deficiencies have been corrected. Representatives of the Grantee, the architect/engineer, and the Subgrantee and/or contractor(s) will attend the Grantee's final inspection for each project. NTIA must be given reasonable advance notice of each final inspection so that a representative of NTIA may participate.

15. Domestic Preference for Procurements (Build America, Buy America)

The Build America, Buy America Act (BABA) was enacted on November 15, 2021, as part of the Infrastructure Investment and Jobs Act, Pub. L. 117-58, 135 Stat. 429, 70901-70927. BABA established domestic content procurement preference requirements for Federal financial assistance projects for infrastructure, including the BEAD Program, consistent with Section 70912(2) of the Infrastructure Act. The Grantee shall comply with BABA consistent with applicable legal authorities, such as the Infrastructure Act, Executive Order 14005, 2 CFR Part 184, OMB Memo M-24-02, and the requirements laid out in the final version of the BEAD BABA waiver. All waivers applicable to BEAD, an FAQ, and a BEAD BABA Self Certification list are posted on the Build America, Buy America page maintained by the Department of Commerce Office of Acquisition Management at https://www.commerce.gov/oam/build-america-buy-america.

16. Prohibition on Use for Covered Communications Equipment or Services

A Grantee or Subgrantee (including contractors and subcontractors of Subgrantees) may not use BEAD grant funds (including non-Federal cost share) to purchase or support any communications equipment or service covered by either the Secure and Trusted Communications Networks Act of 2019 (47 USC 1608) or 2 CFR 200.216 (Prohibition on certain telecommunications and video surveillance services or equipment).

17. **Challenge Process**

Consistent with 47 U.S.C. § 1702(h)(2), a Grantee shall conduct the challenge process, as described in the approved Initial Proposal, subject to any amendments agreed upon by NTIA and the Grantee, before allocating grant funds received from BEAD for the deployment of broadband networks to Subgrantees. After resolving each challenge and at least 60 days before allocating grant funds for network deployment, a Grantee must provide public notice of the final classification of each unserved location, underserved location, or eligible community anchor institution within the jurisdiction of the Grantee. A Grantee must also notify NTIA of any modifications to the Initial Proposal that are necessitated by successful challenges to its initial determinations. Pursuant to the discretionary authority granted to the Assistant Secretary in the Infrastructure Act, NTIA may reverse the determination of a Grantee with respect to the eligibility of a particular location or community anchor institution. *See also* NOFO IV.B.6.

18. **Subgrantee Selection Process**

Consistent with 47 U.S.C. § 1702(e)(3)(A)(i)(IV) and the BEAD Restructuring Policy Notice (June 2025), a Grantee must establish fair, open, and competitive processes for selecting Subgrantees.

19. **Order of Award Priority**

Consistent with 47 U.S.C. § 1702(h)(1)(A)(i), Grantees shall award funding for broadband infrastructure projects in a manner that: (I) prioritizes unserved service projects; (II) after certifying to the Assistant Secretary that the Grantee will ensure coverage of broadband service to all unserved locations within the jurisdiction of the Grantee, prioritizes underserved service projects; and (III) after prioritizing underserved service projects, provides funding to connect eligible community anchor institutions.

20. **Consider All Provider Types**

Consistent with 47 U.S.C. § 1702(h)(1)(A)(iii), a Grantee may not exclude cooperatives, nonprofit organizations, public-private partnerships, private companies, public or private utilities, public utility districts, or local governments ("potential providers") from eligibility for broadband network deployment grant funds.

21. **Prohibition on the Supplantation of Funds**

Consistent with 47 U.S.C. § 1702(l), grant funds awarded to the Grantee under this program shall be used to supplement, and not supplant, the amounts of Federal or non-Federal funds that the Grantee would otherwise make available for the purposes for which the grant funds may be used. *See also* NOFO V.H.2.

22. **Ensure Subgrantee Accountability**

Consistent with 47 U.S.C. § 1702(e)(4)(A)(i)(III), in addition to demonstrating how it expects to satisfy the Subgrantee monitoring and management requirements identified in 2 CFR Part 200 Subpart D, each Grantee must include sufficient accountability procedures within its program to ensure Subgrantee compliance with all applicable Program requirements. The Grantee must, at a minimum, include in any subgrant agreement reasonable provisions allowing for recovery of funds in the event of a Subgrantee's noncompliance with the BEAD Program's requirements, including but not limited to failure to deploy network infrastructure in accordance with mandated deadlines. The Grantee must, at a minimum, employ the following practices: (1) distribution of funding to Subgrantees for, at a minimum, all broadband infrastructure projects on a reimbursable basis (which would allow the Grantee to withhold funds if the Subgrantee fails to take the actions the funds are meant to subsidize); (2) the inclusion of clawback provisions (i.e., provisions allowing recoupment of funds previously disbursed) in agreements between the Grantee and any Subgrantee; (3) timely Subgrantee reporting mandates; and (4) robust Subgrantee monitoring practices. NTIA will pursue clawback of funds directly from Grantee that fail to ensure Subgrantee accountability to the fullest extent of the law. *See also* NOFO IV.C.1.b.

23. REVISED– Local Coordination

Consistent with 47 U.S.C. § 1702(e)(3)(A)(ii), Each Grantee developed a comprehensive local coordination approach to ensure local coordination was captured within each EE's five year action plan. With the publication of the Bead restructuring policy notice, the Grantee may no longer engage in the activities listed in the Local Coordination and Public Notice sections of the NOFO (section IV.C.1.c and IV.C.2.c.iv). All Grantees shall satisfy the statutory requirement to adopt local coordination requirements by certifying that it observed the Final Proposal public comment requirements and received plans submitted by political subdivisions up until submission of the Final Proposal to NTIA.

24. Fair Labor and Highly Skilled Workforce

Consistent with 47 U.S.C. § 1702(h)(1)(A)(iv)(IV), Grantees shall satisfy the statutory requirement to "give priority to projects based on…[a] demonstrated record of and plans to be in compliance with Federal labor and employment laws" by requiring a subgrant applicant to certify compliance with such laws to the Grantee.

25. Civil Rights and Nondiscrimination Law Compliance

Consistent with 47 U.S.C. § 1702(g)(2)(C), the Grantee must distribute funds in an equitable and nondiscriminatory manner.

Consistent with 47 U.S.C. § 1702(g)(2)(C)(ii), through a stipulation in the contract with a Subgrantee for the use of BEAD funds, the Grantee must ensure that each Subgrantee uses the funds in an equitable and nondiscriminatory manner.

26. Network Resilience

The Grantee shall ensure that Subgrantees satisfy the statutory requirement to incorporate best practices defined by NTIA for ensuring reliability and resilience of broadband infrastructure by establishing risk management plans that account for technology infrastructure reliability and resilience, including from natural disasters (e.g., wildfires, flooding, tornadoes, hurricanes, etc.), as applicable, as well as cybersecurity best practices.

27. Network Capabilities

Pursuant to 47 U.S.C. § 1702(g)(1)(A), which directs the Assistant Secretary to establish quality-of-service standards to which each Subgrantee must comply, each Grantee shall ensure that every Funded Network meets the criteria related to speed and latency and network outages outline in the NOFO IV.C.2.a. and in the Performance Measures for BEAD Last Mile Networks Policy Notice (and any future amendments).

28. **Deployment Deadlines and Benchmarks**

Pursuant to 47 U.S.C. § 1702(h)(4)(C), the Grantee shall ensure that each Subgrantee deploys its Funded Networks and begins providing broadband service to each customer that desires broadband service not later than four years after the date on which the Subgrantee receives the subgrant for the applicable network. The Grantee shall establish interim buildout milestones, enforceable as conditions of the subgrant, sufficient to ensure that Subgrantees are making reasonable progress toward meeting the four-year deployment deadline. The Grantee may, following consultation with the NTIA and with the approval of the Assistant Secretary, extend the deadlines under this subparagraph if the Grantee reasonably determines that (i) the Subgrantee has a specific plan for use of the grant funds, with broadband infrastructure project completion expected by a specific date not more than one year after the four-year deadline; (ii) the construction project is underway; or (iii) extenuating circumstances require an extension of time to allow the project to be completed. *See* NOFO IV.C.2.b.i.

29. **Plans**

Pursuant to 47 U.S.C. § 1702(h)(4)(B), the Grantee must ensure that each Subgrantee receiving BEAD funding to deploy network infrastructure must offer at least one low-cost broadband service option. Pursuant to Section 1702(h)(5)(C), NTIA or the Grantee may take corrective action, including recoupment of funds from the Subgrantee, for noncompliance with the statutory low-cost plan requirement. To comply with the low cost plan statutory requirement, all Subgrantees must propose a Low Cost Service Option in their applications for project areas. The low cost service option must over speeds of at least 100/20 Mbps and latency performance of no more than 100 milliseconds. Applicants that already offer a low-cost plan that meets these service requirements may satisfy the low cost service option requirement by proposing, in their application, to offer their existing low-cost plan to eligible subscribers.

30. **Reserved**

31. **Access to Service**

Pursuant to 47 U.S.C. § 1702(g)(2)(C)(ii), operators of Funded Networks shall provide access to broadband service to each customer served by the project that desires broadband service on terms and conditions that are reasonable and non-discriminatory.

32. **Public Notice**

Pursuant to 47 U.S.C. § 1702(h)(4)(G), the Grantee shall require Subgrantees to carry out public awareness campaigns in their service areas that are designed to highlight the value and benefits of broadband service in order to increase the adoption of broadband service by consumers, including information about low-cost broadband service options for eligible subscribers. The Grantee shall require that once a Funded Network has been deployed, each Subgrantee shall provide public notice, online and through other means, of that fact to individuals residing in the locations to which broadband service has been provided and share the public notice with the Grantee that awarded the subgrant. The Grantee shall require each prospective Subgrantee seeking to deploy or upgrade network facilities to explain in its application how it intends to notify relevant populations of the new or newly upgraded offerings available in each area. *See* NOFO IV.C.2.c.iv.

33. <u>Deployment and Provision of Service Requirements</u>

Pursuant to 47 U.S.C. § 1702(h)(4)(D), any Funded Network deployment project that involves laying fiber-optic cables or conduit underground or along a roadway must include interspersed conduit access points at regular and short intervals.

Consistent with 47 U.S.C. § 1702(h)(4)(E) and 47 U.S.C. § 1702(h)(4)(H), the Grantee awarding funds for construction of Middle Mile Infrastructure shall require the Subgrantee, via contract or other binding mandate, to deploy broadband infrastructure in or through any area required to reach interconnection points or otherwise to ensure the technical feasibility and financial sustainability of a project providing broadband service to an unserved location, underserved location, or eligible community anchor institution. The Grantee shall require that if a Subgrantee, at any time, is no longer able to provide broadband service to the end user locations covered by the subgrant at any time on a retail basis remedial action be taken to ensure continuity of service. In consultation with NTIA, if the Subgrantee is no longer able to provide broadband service to the locations covered by the subgrant at any time, the Grantee shall consult with NTIA and shall sell the network capacity at a reasonable, wholesale rate on a nondiscriminatory basis to other broadband service providers or public sector entities.

34. <u>Cybersecurity and Supply Chain Risk Management</u>

Pursuant to 47 U.S.C. § 1702(g)(1)(B), a Subgrantee, in carrying out activities using amounts received from a Grantee, shall comply with prudent cybersecurity and supply chain risk management practices, as specified by the Assistant Secretary, in consultation with the Director of the National Institute of Standards and Technology and the Federal Communications Commission. Prior to allocating any funds to a Subgrantee, the Grantee shall, at a minimum, require a prospective Subgrantee to attest that:

- The prospective Subgrantee has a cybersecurity risk management plan (the plan) in place that is either:
  - operational, if the prospective Subgrantee is providing service prior to the award of the grant; or
  - ready to be operationalized upon providing service, if the prospective Subgrantee is not yet providing service prior to the grant award;
- The plan reflects the latest version of the NIST Framework for Improving Critical Infrastructure Cybersecurity (currently Version 1.1) and the standards and controls set forth in Executive Order 14028 and specifies the security and privacy controls being implemented;
- The plan will be reevaluated and updated on a periodic basis and as events warrant; and
- The plan will be submitted to the Grantee prior to the allocation of funds. If the Subgrantee makes any substantive changes to the plan, a new version will be submitted to the Grantee within 30 days. The Grantee must provide a Subgrantee's plan to NTIA upon NTIA's request.

With respect to supply chain risk management (SCRM), prior to allocating any funds to a Subgrantee, the Grantee shall, at a minimum, require a prospective Subgrantee to attest that:

- The prospective Subgrantee has a SCRM plan in place that is either:
  - operational, if the prospective Subgrantee is already providing service at the time of the grant; or
  - ready to be operationalized, if the prospective Subgrantee is not yet providing service at the time of grant award;
- The plan is based upon the key practices discussed in the NIST publication NISTIR 8276, Key Practices in Cyber Supply Chain Risk Management: Observations from Industry and related

SCRM guidance from NIST, including NIST 800-161, Cybersecurity Supply Chain Risk Management Practices for Systems and Organizations and specifies the supply chain risk management controls being implemented;

- The plan will be reevaluated and updated on a periodic basis and as events warrant; and
- The plan will be submitted to the Grantee prior to the allocation of funds. If the Subgrantee makes any substantive changes to the plan, a new version will be submitted to the Grantee within 30 days. The Grantee must provide a Subgrantee's plan to NTIA upon NTIA's request.

The Grantee also must ensure that, to the extent a BEAD Subgrantee relies in whole or in part on network facilities owned or operated by a third party (e.g., purchases wholesale carriage on such facilities), obtain the above attestations from its network provider with respect to both cybersecurity and supply chain risk management practices. *See* NOFO IV.C.2.c.vi.

35. Prohibition on Profit and Fees

A profit, fee, or other incremental charge above actual cost incurred by a Grantee or Subgrantee is not an allowable cost under this Program. *See* NOFO V.H.2.b.

36. Prohibition on Use of Grant Funds to Support or Oppose Collective Bargaining

A Grantee or a Subgrantee may not use grant funds, whether directly or indirectly, to support or oppose collective bargaining. *See* NOFO V.H.2.c.

37. Grantee Integrity and Performance Matters

In accordance with Section 872 of Public Law 110-417, as amended, *see* 41 USC 2313, if the total value of a Grantee's currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of an award, then the Grantee shall be subject to the requirements specified in Appendix XII to 2 CFR Part 200, for maintaining the currency of information reported to SAM that is made available in the Federal Awardee Performance and Integrity Information System (FAPIIS) about certain civil, criminal, or administrative proceedings involving the Grantee. *See also* NOFO VII.F.

38. Audit Requirements

2 CFR Part 200, Subpart F, adopted by the Department of Commerce through 2 CFR 1327.101, requires any non-Federal entity that expends Federal awards of $1,000,000 or more in the Grantee's fiscal year to conduct a single or program-specific audit in accordance with the requirements set out in the Subpart. Subrecipients that are not subject to Subpart F of 2 CFR Part 200 (e.g., commercial entities) that expend $1,000,000 or more in grant funds during their fiscal year must submit to the Grantees either: (i) a financial related audit of each DOC grant or subgrant in accordance with Generally Accepted Government Auditing Standards; or (ii) a program-specific audit for each grant or subgrant in accordance with the requirements contained in 2 CFR§ 200.507. Subgrantees may batch their audit submission to the Grantee when allowable and/or required by the Grantee. Grantees and its Subgrantees are reminded that NTIA, the Department of Commerce Office of Inspector General, or another authorized Federal agency may request audit documents or conduct an audit of an award at any time.

39. Federal Funding Accountability and Transparency Act of 2006

In accordance with 2 CFR Part 170, the Grantees are required to comply with reporting requirements under the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. No. 109-282). In general, all Grantees are responsible for reporting subgrants of $30,000 or more. In addition, Grantees that meet certain criteria are responsible for reporting executive compensation. Applicants must ensure they have the necessary processes and systems in place to comply with the reporting requirements should they receive funding. *See also* NOFO VII.H.

40. **<u>REVISED--Protected and Proprietary Information</u>**

The Grantee and Subgrantees are expected to support Program reviews and evaluations by submitting required financial and performance information and data in an accurate and timely manner, and by cooperation with the Department of Commerce and external program evaluators. In accordance with 2 CFR 200.303(e), Grantees and Subgrantees are reminded that they must take reasonable measures to safeguard protected personally identifiable information and other confidential or sensitive personal or business information created or obtained in connection with a Department of Commerce financial assistance award. *See also* NOFO IX.B.

41. **<u>Subgrantee Reporting</u>**

Pursuant to 47 U.S.C. § 1702(j)(2)(A), the Subgrantee shall submit to the Grantee a report, at least semiannually, for the duration of the subgrant to track the effectiveness of the use of funds provided. Subgrantees must certify that the information in the report is accurate. Each report shall describe each type of broadband infrastructure project and/or other eligible activities carried out using the subgrant and the duration of the subgrant. Grantees may add additional reporting requirements or increase the frequency of reporting with the approval of the Assistant Secretary and must make all Subgrantee reports available to NTIA upon request.

42. **<u>Programmatic Waiver of the Letter of Credit</u>**

Per NOFO Section IV.D.2.a.ii, the Grantee shall establish a model letter of credit (LOC) substantially similar to the model letter of credit established by the Federal Communications Commission in connection with the Rural Digital Opportunity Fund (RDOF). The LOC requirement is waived to the extent described in the Letter of Credit Waivers published at broadbandusa.gov

43. **<u>Tribal Consent to Deploy on Tribal Land</u>**

Consistent with NOFO Section IV.B.7.a.ii.10 and IV.B.9.b.15, the Grantee may not issue a subgrant to deploy broadband to Unserved Service Projects or Underserved Service Projects that include any locations on Tribal Lands without receiving a Resolution of Consent from each Tribal Government, from the Tribal Council or other governing body, upon whose Tribal Lands the infrastructure will be deployed.

44. **<u>Termination</u>**

This award may be terminated in part or its entirety for those reasons stated in 2 CFR § 200.340(a). This includes termination "[b]y the Federal agency or pass-through entity pursuant to the terms and conditions of the Federal award, including, to the extent authorized by law, if an award no longer effectuates the program goals or agency priorities."

45. **<u>Broadband Infrastructure Projects and the Major Purpose Test</u>**

As used in this document, broadband infrastructure "project" carries the same meaning as the term project is used in NOFO Section I.C.(t). For the sake of clarity, broadband infrastructure projects include:

- last-mile broadband deployment projects, as that term is used in NOFO Section IV.B.7.a.ii, with the exception that projects for which the major purpose is training or workforce development are not considered broadband infrastructure projects for the purposes of the exceptions addressed in Term 50 below;
- projects to deploy Middle Mile Infrastructure, as that term is defined in NOFO Section I.A.(o); and
- projects to deploy internet and Wi-Fi infrastructure within a multi-family residential building.

The "major purpose" of a subgrant is a broadband infrastructure project(s) if more than 50% of the estimated total costs (e.g., labor, permitting expenses, equipment, etc.) under the subgrant are necessitated by the broadband infrastructure project(s) activities of the subgrant. Grantees are responsible for initially determining whether the major purpose of a subgrant is a broadband infrastructure project. Grantees shall identify in their Final Proposals those subgrants whose "major purpose" is a broadband infrastructure project and keep NTIA apprised of any changes to such determinations. NTIA retains the authority to review subgrant agreements and revise determinations regarding the major purpose of a subgrant. For the purposes of the BEAD program, LEO Capacity Subgrants shall be considered projects whose major purpose is broadband infrastructure.

46. Encumbrances

Subject to the exception below, Grantees and Subgrantees must not encumber property without prior disclosure to and approval from NTIA and NIST. Grantees and Subgrantees may not enter into any encumbrances that interfere with the construction, intended use, operation, or maintenance of grant funded property during Federal Interest Period set forth in Term 48.

The following exception applies to subgrants whose major purpose is a broadband infrastructure project. Subgrantees may encumber real property and equipment acquired or improved under such subgrants only after provision of notice to NTIA and to the Grants Officer, and subject to a requirement that the DOC receives either a first priority security interest (preferred) or a shared first priority security interest in the real property and equipment such that, if the real property and equipment were foreclosed upon and liquidated, the DOC would be entitled to receive, on a pari-passu basis with other first position creditors, the portion of the current fair market value of the property that is equal to the DOC's percentage of contribution to the project costs. For example, if the DOC had contributed 50% of the project costs, the DOC would receive, on a pari-passu basis, 50% of the current fair market value of the property when liquidated. NTIA will address the notice requirement for encumbrances in future guidance.

47. REVISED--Recordation of the Federal Interest in BEAD-Funded Property

A. Useful Life and Compliance with 2 CFR 200.311, 200.313. For the purposes of this award, the useful life of the real property or equipment acquired or improved using BEAD funds (inclusive of both Federal funds and non-Federal matching funds) shall coincide with the Federal Interest Period as defined in Term 48 below. During the useful life of the BEAD-funded property, the Grantee must adhere to the requirements contained in the terms and conditions of the award, including adherence to the use, management, and disposition requirements set forth in 2 CFR

200.311 or 200.313, as applicable. NTIA will provide additional information concerning the review and approval process for transactions involving BEAD-funded real property and equipment in subsequent guidance.

B. To document the Federal interest in BEAD-funded real property, the Grantee or Subgrantee must prepare and properly record a "Covenant of Purpose, Use and Ownership" (Covenant). The Covenant differs from a traditional mortgage lien in that it does not establish a traditional creditor relationship requiring the periodic repayment of principal and interest to NTIA. Rather, pursuant to the Covenant, the Grantee or Subgrantee acknowledges that it holds title to the BEAD-funded property in trust for the public purposes of the BEAD financial assistance award and agrees, among other commitments, that it will repay the Federal interest if it disposes of or alienates an interest in the BEAD-funded property, or uses it in a manner inconsistent with the public purposes of the BEAD award, during the useful life of the BEAD-funded property. The Covenant must be properly recorded in the real property records in the jurisdiction in which the real property is located in order to provide public record notice to interested parties that there are certain restrictions on the use and disposition of the BEAD-funded property during its useful life and that NTIA retains an undivided equitable reversionary interest in the BEAD-funded property during the Federal Interest Period. NTIA will provide a suggested sample form to use for the Covenant to record notice of the Federal interest in real property.

C. UCC-1 Filing & Attorney's Certification. Pursuant to 2 CFR § 200.316, after acquiring all or any portion of the equipment under this award, the Grantee or Subgrantee shall properly file a UCC-1 with the appropriate State office where the equipment will be located in accordance with the State's Uniform Commercial Code (UCC). This security interest shall be executed in advance of any sale or lease and not later than closeout of the grant or subgrant, as applicable. The UCC filing(s) must include the below or substantively similar language providing public notice of the Federal interest in the equipment acquired with BEAD funding. Also, a clear and accurate inventory of the subject equipment must be attached to and filed with the UCC-1.

The UCC filing must include the below or substantively similar language:

*The Equipment set forth at Attachment A hereto was acquired with funding under a financial assistance award (Award Number) issued by the National Institute of Standards and Technology, U.S. Department of Commerce. As such, the U.S. Department of Commerce retains an undivided equitable reversionary interest (Federal interest) in the Equipment for **[insert number]** years after the end of the year in which the award is closed out in accordance with 2 CFR 200.344.*

In addition, within 15 calendar days following the required UCC filing(s), the Grantee shall provide the Grants Officer with complete and certified copies of the filed UCC forms and attachments for the equipment acquired with NTIA BEAD funding including all subgrants, along with a certification from legal counsel, licensed by the State within which the filings were made (Attorney's Certification), that the UCC filing was properly executed and filed in accordance with applicable state law. The Attorney's Certification must include the below or substantively similar language:

NIST Award Number: XX-XX-XXXX
Pursuant to 28 USC 1746, I hereby certify as follows:
I am legal counsel at ____.

I am licensed to practice law in the State of ______________ *having been a license holder of said state* *and in good standing since ________.*

Attached hereto is a certified copy of UCC-1 form(s) reflecting that this document was filed in the _____________________on __________, 202x, bearing the following filing information [insert filing data, e.g., instrument number, etc.) and consists of _____recorded pages as certified by the Secretary of State of ____________.

I certify that this UCC-1 form(s) has/have been validly executed and properly recorded as noted above.

I certify under the penalty of perjury that the foregoing is true and correct.

Executed on this ____day of _______.

____
(Attorney name and title)
(Address and phone number)

In addition, during the estimated useful life of the [type of equipment, e.g. robotic equipment], the Grantee or Subgrantee is hereby authorized and directed by the Grants Officer to timely file any necessary UCC-3 continuation statements (or other filings) for the subject equipment consistent with the requirements set forth in this specific award condition. Copies of all filed UCC continuation statements, together with an Attorney's Certification, must be submitted to the Grants Officer within 15 calendar days following each such filing. The UCC filing(s) and the accompanying Attorney's Certification(s) must be acceptable in form and in substance to NTIA and the National Institute of Standards and Technology (NIST) Grants Officer.

48. REVISED--Federal Interest Period

a. BEAD-Funded Broadband Infrastructure Projects: The Federal interest in all real property or equipment acquired or improved as part of a subgrant for which the major purpose is a broadband infrastructure project will continue for ten years after the year in which that subgrant has been closed out in accordance with 2 CFR 200.344. This Federal interest shall apply regardless of whether the asset is acquired or improved with Federal funds or non-Federal matching funds. For example, for all subgrants closed out in 2027, regardless of the month, the Federal interest will last until December 31, 2037. The Federal interest described herein applies to BEAD subgrants for which the major purpose of the subgrant, as defined in Term 45, is a broadband infrastructure project(s).
b. The Grants Officer, in consultation with the Program Office, shall determine the Federal Interest Period for real property or equipment that will be acquired or improved using BEAD funds (inclusive of both Federal funds and non-Federal matching funds) and not captured in provision (a) of this Term. NTIA will issue further implementation guidance regarding the Federal Interest Period for these BEAD assets.
c. Per the BEAD Restructuring Policy Notice, NTIA will not take a Federal interest in equipment or property acquired or improved with a LEO Capacity Subgrant. Additionally, the consumer and taxpayer protections set forth in the NOFO apply to the recipients of such subgrants for the duration of the LEO Capacity Subgrant ten-year Federal interest period.

49. Program Income

In the case of subgrants whose major purpose is a broadband infrastructure project, Subgrantees may retain program income without restriction, including retaining program income for profit. This exception does not alter the prohibition in Term 35 regarding a profit, fee, or other incremental charge above the actual cost incurred by the Subgrantee.

50. <u>NEW-- Ensuring Timely and Effective Deployment of BEAD Projects</u>

Under the Infrastructure, Investment, and Jobs Act (IIJA), NTIA is permitted to issue any "regulations or other guidance, forms, instructions, and publications" necessary to ensure that Broadband Equity Access and Deployment (BEAD) projects are carried out in a "timely and effective manner."[9] NTIA has determined certain state laws and regulations that specifically target broadband internet service—such as rate regulation and net neutrality laws[10]—undermine the financial viability of BEAD projects, particularly high-cost projects and those in high-cost areas. These laws and regulations deter investment[11] and increase operating costs,[12] thereby impeding the ability of BEAD Subgrantees to deploy broadband in a timely and effective manner.[13]

Moreover, NTIA has determined that states may not apply such laws to any Subgrantee anywhere it provides service in the state (i.e., neither BEAD-funded nor non-BEAD locations). Applying such laws at non-BEAD locations could raise compliance costs and threaten the overall financial viability of the Subgrantee, increasing the risk of default for the Subgrantee at BEAD locations and jeopardizing the success of the entire BEAD program. Furthermore, the increased compliance costs of a dual regulatory system could lead Subgrantees to offset such costs by raising rates across their entire service area, including for consumers served by BEAD projects.
In addition, because IIJA prohibits NTIA from regulating broadband service rates,[14] NTIA has further determined that permitting states to do that which the agency itself is expressly prohibited from doing would contradict Congressional intent and impair the success of the BEAD program.

Consistent with these determinations, and to ensure that the Grantee's[15] BEAD projects are carried out in a timely and effective manner, the Grantee shall commit that it will not enforce any law, regulation, order, contracting requirement, or other enforceable obligation that directly or indirectly regulates the rates, terms, and conditions of broadband internet service, whether on a retail, wholesale, or network basis, or imposes net neutrality rules, open access, or other utility-style rules on broadband internet

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[9] 47 U.S.C. § 1702(i).
[10] A "net neutrality rule" is any law, regulation, order, contracting requirement, or other enforceable obligation by the state that prohibits broadband internet service providers from, among other things, blocking content, throttling speeds, imposing data caps, engaging in paid prioritization, or that imposes a general conduct or similar standard upon broadband internet service providers.
[11] *See* Ford, G., *Internet regulation and investment in the U.S. telecommunications industry*, Applied Economics, 1–8 (2024), https://doi.org/10.1080/00036846.2024.2439584.
[12] *See* Fullenbaum, R. & Richards, T., *The Impact of Regulatory Growth on Operating Costs*, Mercatus Working Paper Series (2020), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3697453.
[13] *See* Briglauer, W., *et al.*, *Net neutrality and high-speed broadband networks: evidence from OECD countries* European Journal of Law and Economics, Vol. 55, pp. 533, 535 ("We find empirical evidence that net neutrality regulations exert a significant and strong negative impact on fiber investments" and "our main result indicates that net neutrality regulations seriously impact the deployment of general-purpose broadband infrastructures which generate considerable externalities across a wide range of sectors of the economy.").
[14] 47 U.S.C. § 1702(h)(5)(D) ("Nothing in this subchapter may be construed to authorize the Assistant Secretary or the National Telecommunications and Information Administration to regulate the rates charged for broadband service.").
[15] A "Grantee" is an "Eligible Entity" as defined by 47 U.S.C. § 1702(a)(2)(F).

service, against a Subgrantee or its affiliates anywhere it provides service within the State (*i.e.*, both BEAD and non-BEAD locations), while that Subgrantee has any subgrant that is still within its period of performance, extended period of performance, or federal interest period.

The Grantee shall include the following language reflecting the commitments above in each subgrant agreement so that any Subgrantee may assert its contractual rights should the Grantee attempt to enforce any such requirement:

> *The Grantee, and any agency, instrumentality, or subdivision thereof, agrees not to enforce any law, regulation, executive order, contracting requirement, or other enforceable obligation that directly or indirectly regulates in any way the rates, terms, and conditions of broadband internet service, whether on a retail, wholesale, or network basis, or imposes net neutrality rules, open access, or other utility-style rules on broadband internet service, against the Subgrantee or its affiliates anywhere it provides service within the Grantee's jurisdiction, while that Subgrantee has any subgrant that is still within its period of performance, extended period of performance, or federal interest period. For purposes of this provision, a "net neutrality rule" is any law, order, contracting requirement, or other enforceable obligation by the Grantee that prohibits internet service providers from, among other things, blocking content, throttling speeds, imposing data caps, or engaging in paid prioritization, or that imposes a general conduct or similar standard upon internet service providers.*

51. NEW-- Protecting the BEAD Program from Defaults

By law, BEAD Grantees are required to ensure that all Subgrantees have "the financial and managerial capacity to meet": (1) "the commitments of the subgrantee under the subgrant"; (2) "the requirements of the Program"; and (3) "such requirements as may be further prescribed by the Assistant Secretary."[16] Grantees are further required to: (1) "distribute the funds in an equitable and nondiscriminatory manner"; and (2) "ensure, through a stipulation in any contract with a subgrantee for the use of such funds, that each subgrantee uses the funds in an equitable and nondiscriminatory manner."[17]

As such, NTIA has determined that agreements between Grantees and Subgrantees should adequately and accurately reflect the economic risk of providing broadband service to the project area(s), as well as specific Broadband Serviceable Location(s) (BSL(s)). Furthermore, NTIA has determined that a Subgrantee relying on the speculative prospect of future Federal funding is at increased risk of defaulting on its obligations and that the distribution of funds to such a Subgrantee would be inequitable.

Therefore, to ensure Subgrantees have the requisite financial and managerial capacity and funds are distributed in an equitable manner, NTIA requires that contracts between Grantees and Subgrantees appropriately account for the economic risk associated with the particular project area(s) and BSL(s) and are not premised on the receipt of additional or future Federal funding.

To comply with this requirement, Grantees shall incorporate the following certification into all subgrant agreements:

> *[Subgrantee] and any of its affiliates will not require or accept any additional Federal funds to support a BEAD project[18] during the BEAD subgrant agreement's period of performance,*

[16] 47 U.S.C. § 1702(g)(2)(A)(ii).
[17] 47 U.S.C. § 1702(g)(2)(C)(i), (ii).

extended period of performance, or federal interest period; and
[Subgrantee] and any of its affiliates will not require or accept any additional Federal broadband service subsidies[19] for the project(s) and/or Broadband Serviceable Location(s) (BSL(s)) to be served by the subgrant during the BEAD subgrant agreement's period of performance, extended period of performance, or federal interest period, other than any such subsidies that were committed prior to the BEAD subgrant agreement. (This includes, but is not limited to, new operating expenses for any BEAD project(s) or BSL(s)).
I certify that the foregoing is true and correct.
Executed on this ____ day of ______.

____
[Name and title of official authorized to execute BEAD subgrant agreement]
[Address and phone number]

Grantees shall incorporate this certification by reference in all subgrant agreements.

Grantees shall require each Subgrantee to submit such signed certification before releasing any BEAD funds to the Subgrantee. The Grantee shall collect such certifications from each Subgrantee and shall submit each Subgrantee's signed certification to NTIA within thirty (30) days of receipt. Grantees shall submit these certifications (either individually or in batches) to their Federal Program Officers via email.

Grantees are hereby notified that NTIA may publicly publish these signed certifications; accordingly, Grantees must inform all Subgrantees that their certifications may be published publicly.

NTIA finds that prohibiting the consideration of additional or future Federal funds (i.e. duplicative funds) to support a Subgrantee's BEAD project(s) or BSL(s) in the evaluation of a Subgrantee's financial and managerial capacity and requiring the Subgrantee certification above is also consistent with NTIA's, the Grantee's, and the Subgrantee's responsibilities to avoid waste, fraud, and abuse in the Program.[20] It is also consistent with the Notice of Funding Opportunity's prohibition on treating any location subject to an enforceable Federal, state, or local commitment to deploy qualifying broadband service as "unserved" or "underserved."[21]

52. <u>Uniform Guidance Exceptions, Adjustments, and Clarifications Applicable to Fixed Amount Subgrants For Which the Major Purpose of the Subgrant is a Broadband Infrastructure Project(s)</u>

The following Uniform Guidance exceptions, adjustments, and clarifications apply to fixed amount subgrants for which the major purpose of the subgrant is a broadband infrastructure project. Throughout the below discussion on exceptions, adjustments, and clarifications, the phrase "fixed amount subgrant" is used as shorthand to refer to fixed amount subgrants as described in the preceding sentence.

A. Exceptions to 2 CFR Part 200 Fixed Amount Subgrant Requirements (200.333—Fixed Amount Subgrants and 200.201(b)(2)--Use of grant agreements (including fixed amount awards),

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[18] 47 U.S.C. § 1702(a)(2)(K) (defining the term "project" as "an undertaking by a subgrantee under this section to construct and deploy infrastructure for the provision of broadband service").
[19] For purposes of this prohibition, a "Federal broadband subsidy" is defined as any Federal funds made available to subsidize the provision of broadband service. For example, Federal broadband service subsidies include, but are not limited to, any of the Universal Service Fund (USF) support mechanisms.
[20] *See* BEAD NOFO at 96-98.
[21] *See* BEAD NOFO at 36, n. 52.

cooperative agreements, and contracts)

Pursuant to exceptions of 2 CFR 200.333 and 200.201(b)(2) approved by the Office of Management and Budget ("OMB"), and subject to the conditions identified below, Grantees may issue fixed amount subgrants without further NTIA approval, regardless of whether the value of the subgrant exceeds $250,000, and notwithstanding whether the subgrant includes a non-Federal match from the Subgrantee that is being used to satisfy the Grantee's statutory match requirement.

Grantees may elect to treat subgrants as fixed amount subgrants even if the Grantee requires Subgrantees to submit evidence of costs. Grantees thus may treat subgrants providing for a maximum payment amount that is based on a reasonable estimate of actual cost (*see* 2 CFR 200.201(b)(1)) as fixed amount subgrants, even if the subgrant agreement also provides that payments to the Subgrantee will be limited to actual costs after review of evidence of costs.

The authority to issue fixed amount subgrants pursuant to these exceptions is conditioned upon a requirement that the Grantee monitor the reasonableness of Subgrantee costs. Measures to validate that fixed amount subgrants reasonably approximate the actual cost of broadband infrastructure projects would include, but are not limited to, requiring Subgrantees to periodically report their expenses using Generally Accepted Accounting Principles or other standard accounting practices, or monitoring the relative proportion of costs across key spending areas: professional services (e.g., engineering, environmental and historic preservation permitting, legal expenses, etc.); construction services (e.g., digging trenches, erecting towers, blowing fiber, constructing and improving buildings, etc.); outside plant, towers, and poles (e.g., fiber plan, conduit, towers, poles, emergency power generational equipment, etc.); network and access equipment (e.g., broadband routing equipment, broadband transport equipment, network broadband access equipment, wireless base stations, antennas, etc.); operating equipment (e.g., office furniture and fixtures, work equipment and vehicles, etc.); customer premise equipment; contingency funds; and all other expenses. A Grantee's monitoring responsibility also means monitoring the non-Federal share/required by the subgrant agreement.

Grantees issuing fixed amount subgrants shall require the Subgrantee to use subgrant payments only for the reimbursement of the eligible costs in connection with the last-mile broadband deployment projects for which the payment is intended and, if applicable, the eligible costs for non-deployment uses for which the payment is intended. Ineligible uses of fixed amount subgrant payments include but are not limited to the following:

i. Personal expenses of employees, executives, board members, and contractors, and family members thereof, or any other individuals affiliated with the Subgrantee, including but not limited to personal expenses for housing, such as rent or mortgages, vehicles for personal use and personal travel, including transportation, lodging and meals;
ii. Gifts to employees; housing allowances or other forms of mortgage or rent assistance for employees except that a reasonable amount of assistance shall be allowed for work-related temporary or seasonal lodging; cafeterias and dining facilities; food and beverage except that a reasonable amount shall be allowed for work-related travel; entertainment;
iii. Expenses associated with: tangible property not logically related or necessary to the broadband infrastructure project or authorized non-deployment use; corporate aircraft, watercraft, and other motor vehicles designed for off-road use except insofar as necessary or reasonable to access portions of the project area not readily accessible by motor vehicles travelling on roads; tangible property used for entertainment purposes; consumer electronics used for personal use; kitchen

appliances except as part of work-related temporary or seasonal lodging assistance; artwork and other objects which possess aesthetic value;

iv. Political contributions; charitable donations; scholarships; membership fees and dues in clubs and organizations; sponsorships or conferences or community events not logically related or necessary for the intended use of the subgrant; nonproduct-related corporate image advertising; and

v. Penalties or fines for statutory or regulatory violations; penalties or fees for any late payments on debt, loans, or other payments.

The remainder of 2 CFR 200.201 remains unchanged. Payments to Subgrantees under fixed amount subgrants shall be made on a reimbursement basis in accordance with terms of the subgrants. *See* NOFO Sec. IV.C.1.b. Pursuant to 2 CFR 200.201(b)(1), acceptable forms of payment include, but are not limited to: (a) partial payments of agreed amounts upon meeting milestones or other triggering events identified in the subgrant; (b) payments on a unit price basis, for a defined unit or units, at a defined price or prices identified in the subgrant; or (c) a single payment upon completion of the project.

Pursuant to 2 CFR 200.201(b)(3), the Subgrantee must certify in writing to the Grantee at the end of the Federal award that the broadband infrastructure project funded under the subgrant was completed. Accordingly, a Subgrantee receiving a fixed amount subgrant must certify to the Grantee that the broadband infrastructure project was placed into service, as defined in 47 USC 1702(h)(4)(C) for last-mile broadband deployment projects, or in the Subgrantee agreement for all other broadband infrastructure projects, by the end of the Grantee's period of performance.

The above notwithstanding, the BEAD Program prohibition on the Grantee or Subgrantees claiming profit or fees as allowable costs remains unchanged by this exemption. *See* NOFO Sec. V.H.2.b. Therefore, neither fees above the estimated actual cost that will be incurred by the Subgrantee nor profit shall be considered reasonable costs when determining the reasonable estimate of actual costs (*i.e.*, neither fees nor profits may be included in the estimate of actual costs).

Subgrantees of fixed amount subgrants pursuant to the above exceptions are not required to comply with the Cost Principles set forth in 2 CFR Subpart E. However, all fixed amount subgrants must be based on a reasonable estimate of actual cost. It is imperative that the Grantee establish effective means for determining the reasonable estimate of actual costs prior to the issuance of any fixed amount subgrant to ensure there is sufficient funding to cover the proposed activities, while minimizing to the greatest extent possible an unexpended balance at the conclusion of the subgrant.

B. Adjustments to 2 CFR 200.318-320 and 200.324-326—Procurement Standards

Subgrantees of fixed amount subgrants pursuant to the above exceptions are not required to comply with the Procurement Standards set forth in 2 CFR 200.318-320 and 200.324-326. All other Procurement Standards, i.e., 2 CFR 200.317, 200.321-200.323, and 200.327, remain as requirements.

C. Exceptions and Clarifications to 2 CFR 200.313—Equipment

Title to equipment acquired or improved under the fixed amount subgrant vests in the Subgrantee upon acquisition, subject to the following conditions and clarifications that apply for the duration of the Federal Interest Period:

a. Subgrantees must follow their existing commercial practices for managing equipment in the normal course of business and must use inventory controls indicating the applicable Federal interest and loss prevention procedures. This requirement is in lieu of the requirements contained in 2 CFR 200.313(d), pursuant to an exception from OMB. Subgrantees that do not have existing commercial practices for managing equipment in the normal course of business must comply with 2 CFR 200.313(d).
b. Subgrantees must comply with the use and equipment disposition requirements of 2 CFR 200.313(c)(4) and 313(e).
    i. Subgrantees acquiring replacement equipment under 2 CFR 200.313(c)(4) may treat the equipment to be replaced as "trade-in" even if the Subgrantee elects to retain full ownership and use over equipment. As with trade-ins that involve a third party, the Subgrantee will have to record the fair market value of the equipment being replaced in its Tangible Personal Property Status Reports to the DOC to ensure adequate tracking of the Federal percentage of participation in the cost of the grant funded activities. The Subgrantee will also be responsible for tracking the value of the replacement equipment, including both the Federal and non-Federal share.
    ii. Subgrantees may sell, lease, or transfer equipment only after (a) securing the agreement of the successor or transferee to comply with these requirements and the acknowledgement of the successor or transferee of the Federal interest in the subject equipment, and (b) obtaining consent to the sale or transfer from NTIA. NTIA will provide additional information concerning the review and approval process for transactions involving BEAD-funded equipment, as well as real property, in subsequent guidance.
    iii. Subgrantees must notify the Grantee and NTIA upon the filing of a petition under the U.S. Bankruptcy Code, whether voluntary or involuntary, with respect to the Subgrantee or any affiliate that would impact the Subgrantee's ability to perform in accordance with its subgrant.

D. Exception to 2 CFR 200.314--Supplies

Pursuant to an exception approved by OMB, the property standards set forth in 2 CFR 200.314 for supplies shall not apply to fixed amount subgrants.

E. Exception to 2 CFR 200.315--Intangible Property

Pursuant to an exception approved by OMB, the property standards set forth in 2 CFR 200.315 for intangible property shall not apply to fixed amount subgrants.

F. Additional Discretionary Conditions

The Grantee may impose additional conditions in their fixed amount subgrants at their discretion; however, a Grantee may not alter the exceptions, adjustments, and clarifications to the Uniform Guidance as provided to Subgrantees and described herein without written prior approval from the NIST Grants Officer. Requests for modifications to this section must be submitted to ugam@nist.gov and must contain sufficient detail about the specific modifications the Grantee is requesting and a thorough justification supporting the request. They may only be granted in extremely limited circumstances and only in cases wherein the modification will protect the integrity of the BEAD Program funding and that are in the best interests of the Program as a whole.

Instructions and Summary

Award Number: 37-20-B087

Date of Submission: 9/4/2025

Award Recipient: NC Department of Information Technology

Form Submitted by: Annette Taylor

Please read the instructions on each worksheet tab before starting. If you have any questions, please ask your DOC contact. Do not modify this template or any cells or formulas.

1. First fill out the blank white cells in workbook tabs a. through j. with costs only for the current phase (e.g., initial proposal or final proposal) being submitted. Enter the project costs identified for each Category line item within each worksheet tab to auto-populate column B of this summary tab.
2. Blue colored cells contain instructions, headers, or summary calculations and should not be modified. Only blank white cells should be populated.
3. All costs incurred by the eligible entity's sub-recipients and contractors, should be entered only in section e. Contractual/Subaward. All other sections are for the costs of the eligible entity only.
4. Ensure all entered costs are allowable, allocable, and reasonable in accordance with the administrative requirements prescribed in 2 CFR 200. Only include costs that can be directly attributed to the project. Do not include costs that will be incurred for any other Federal financial assistance award.
   - **Allowable** refers to costs that may be charged to a grant in accordance with the cost principles prescribed in 2 CFR 200.403.
   - **Allocable** refers to costs that can be directly charged to the grant award based on the benefit provided. See 2 CFR 200.405.
   - **Reasonable** refers to actions a prudent business person would employ and are necessary to the execution of the award. See 2 CFR 200.404.
5. Add rows as needed throughout tabs a. through i. If rows are added, formulas/calculations may need to be adjusted by the preparer. Do not add rows to the Instructions and Summary tab or tab j.
6. **Expenses relating to the administration of the grant: An Eligible Entity may not use more than two percent of the grant amounts received under the BEAD Program for expenses relating (directly or indirectly) to administration of the grant under Section 60102(d)(2)(B) of the Infrastructure Act. To identify if any expenses relating to the administration of the grant are included, please fill out columns C through E for each cost category in this summary page. Expenses related to the administration of the grant, both direct and indirect, should not be added to or subtracted from the total cost category in column B. Please also fill in cell B32 with your total allocation to determine your percent of expenses relating to the administration of the grant (%). Please see the BEAD FAQ's for additional information.**
7. The Total Federal Costs should reflect FPFR funds requested.
8. Initial Planning Funds total: input the allocation the Eligible Entity received in Initial Planning Funds.
9. Total Allocation: input the total allocation the Eligible Entity received, including Initial Planning Funds.
10. Total Allocation after Initial Planning Funds: calculation of Total Allocation minus Initial Planning Funds total. This is the remaining allocation available.
11. The totals of ALL cost categories are rounded to the nearest dollar.
12. If any cells turn red after the completion of the workbook, review the budget to ensure the Eligible Entity is not exceeding the total allocation or the 2% administration cap.

SUMMARY OF BUDGET CATEGORY COSTS PROPOSED

The values in this summary table are from entries made in subsequent tabs, only blank white cells require data entry

Category	Cost	Includes expenses subject to the 2% administrative cap (Y/N)	Expenses ($) relating to the administration of the grant (DIRECT COSTS)	Expenses ($) relating to the administration of the grant (INDIRECT COSTS)	Comments (as needed)
a. Total Personnel	$13,812,047.00	Y	$2,406,283.50	$0.00	
Salary	$9,795,984.00	Y	$1,715,752.00	$0.00	
Fringe	$4,016,063.00	Y	$690,531.50	$0.00	
b. Travel	$39,310.00	Y	$27,294.00		
c. Equipment	$0.00	N	$0.00		
d. Supplies	$37,500.00	Y	$7,500.00		
e. Contractual/Subawards	$333,737,670.10	N	$0.00		
f. Construction	$0.00	N	$0.00		
g. Other Direct Costs	$1,180,372,954.05	N	$0.00		
Total Direct Costs	$1,527,999,481.15		$2,441,077.50		

h. Total Indirect Charges	$0.00			$0.00	
Federal Funds	$0.00				
Non-Federal Funds	$0.00				
Total Federal Costs	$1,527,999,481.15		$2,441,077.50	$0.00	

i. Cost Sharing/Matching $	$312,042,554.60
i. Cost Sharing/Matching %	$0

Total Project Costs	$1,840,042,035.75	Total expenses relating to the administration of the grant ($)	$2,441,077.50
Total Allocation	$1,532,999,481.15		
Initial Planning Funds Total	$5,000,000.00	Percent of expenses relating to the administration of the grant (%)	0.1592%
Total Allocation after Initial Planning Funds	$1,527,999,481.15		

Additional Explanation (as needed):

Exhibit B

Federal Award Identification Number and Approved Application

This Exhibit will reflect the Federal Award Identification Number for the project being contracted as well as primary application materials for this project.

(Federal ID)	*(NCDIT application #)*

Documents included from the approved application:

- NC_BEAD_ProjectData (and Sub-Projects)
- Project Technical Plan and Evidence Submission
- Network Design Diagram
- Project Timeline Template for Build-Out
- Project Costs Template
- BEAD Certification

Exhibit C
NCDIT Disclosures required by 2 C.F.R. § 200.332 and 09 NCAC 03M

2 C.F.R. § 200.332 Required Disclosures	
Disclosure	**Contract Location**
(1) Federal award identification.	
Subrecipient name	Section 1.1
Subrecipient's unique entity identifier;	Cover letter; Exhibit B
Federal Award Identification Number (FAIN);	Section 1.1; Exhibit A
Federal Award Date of award to the recipient by the Federal agency;	Cover letter; Exhibit A
Subaward Period of Performance Start and End Date;	Sections 1.7 – 1.8
Subaward Budget Period Start and End Date;	Sections 1.7; 2.2; Exhibit D
Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient;	Exhibit D
Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current financial obligation;	Section 1.4; Exhibit D
Total Amount of the Federal Award committed to the subrecipient by the pass-through entity;	Section 1.4; Exhibit D
Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);	Section 1.3
Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity;	Sections 1.1; 8.13
Assistance Listings number and Title; the pass-through entity must identify the dollar amount made available under each Federal award and the Assistance Listings Number at time of disbursement;	Exhibit A
Identification of whether the award is R&D; and	No
Indirect cost rate for the Federal award per § 200.414.	Not Applicable
(2) All requirements imposed by the pass-through entity on the subrecipient so that the Federal award is used in accordance with Federal statutes, regulations and the terms and conditions of the Federal award;	Section 1.5; 6.1
(3) Any additional requirements that the pass-through entity imposes on the subrecipient in order for the pass-through entity to meet its own responsibility to the Federal awarding agency including identification of any required financial and performance reports;	Sections 2.3/; 5.5; Article 6

(4) An approved federally recognized indirect cost rate negotiated between the subrecipient and the Federal Government. If no approved rate exists, the pass-through entity must determine the appropriate rate in collaboration with the subrecipient;	N/A
(5) A requirement that the subrecipient permit the pass-through entity and auditors to have access to the subrecipient's records and financial statements as necessary for the pass-through entity to meet the requirements of this part; and	Section 5.5
(6) Appropriate terms and conditions concerning closeout of the subaward.	Sections 4.6; 7.4

09 NCAC 03M .0703 Required Contract Provisions	
Provision	**Contract Location**
(1) A specification of the purpose of the award, services to be provided, objectives to be achieved, and expected results;	Section 1.3
(2) The source of funds (such as federal or state) must be identified, including the CFDA number and percentages of each source where applicable.	Section 1.4
(3) Account coding information sufficient to provide for tracking of the disbursement through the disbursing agency's accounting system.	Cover Letter; Agreement Header
(4) Agreement to maintain all pertinent records for a period of five years or until all audit exceptions have been resolved, whichever is longer.	Section 4.6; 5.5
(5) Names of all parties to the terms of the contract. For the recipient or subrecipient, each contract shall contain the employer/tax identification number, address, contact information, and the recipient's or subrecipient's fiscal year end date.	Sections 1.1; Exhibit I
(6) Signatures binding all parties to the terms of the contract.	Section 8.22
(7) Duration of the contract, including the effective and termination dates.	Section 1.7
(8) Amount of the contract and schedule of payment(s).	Exhibit D; Exhibit E
(9) Particular duties of the recipient.	Section 2.3
(10) Required reports and reporting deadlines.	Exhibit F
(11) Provisions for termination by mutual consent with 60 days written notice to the other party, or as otherwise provided by law.	Section 7.3
(12) A provision that the awarding of State financial assistance is subject to allocation and appropriation of funds to the agency for the purposes set forth in the contract.	Sections 3.2; 7.7

(13) Provision that requires reversion of unexpended State financial assistance to the agency upon termination of the contract.	Sections 7.6
(14) A provision that requires compliance with the requirements set forth in this Subchapter, including audit oversight by the Office of the State Auditor, access to the accounting records by both the funding entity and the Office of the State Auditor, and availability of audit work papers in the possession of any auditor of any recipient of State funding.	Sections 2.3; 4.5; 5.1; 5.2; 5.3; 5.5
(15) A clause addressing assignability and subcontracting, including the following:	
(a) The recipient or subrecipient is not relieved of any of the duties and responsibilities of the original contract.	Section 8.11
(b) The subrecipient agrees to abide by the standards contained in this Subchapter and to provide information in its possession that is needed by the recipient to comply with these standards.	Article 6; Section 8.11

Public Records Statement

Pursuant to N.C. General Statutes, Chapter 132, public records and public information compiled by the agencies of North Carolina government or its subdivisions are the property of the people. Therefore, it is the policy of this State that the people may obtain copies of their public records and public information free or at minimal cost unless otherwise specifically provided by law. Except as otherwise designated under N.C.G.S. 132-1.2 (Confidential Information), public records shall mean all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions.

Policies

All policies of NCDIT will be made available upon request.

Exhibit D
Scope of Services

Subgrantee,____________, Application # _______will carry out the terms of this contract as follows:

1. Scope of the Project

The Subgrantee shall deploy infrastructure indicated in the approved, detailed network design and technology type to the approved Locations required by this Agreement and, upon completion of construction, shall offer to those Locations broadband service at speeds of no less than 100 megabits per second for downloads and 20 megabits per second for uploads, has a latency less than or equal to 100 milliseconds, and can easily scale speeds over time to meet the evolving connectivity needs of households and businesses and support the deployment of 5G, successor wireless technologies, and other advanced services.

2. BEAD Award and Matching Funds

The total BEAD Award amount stated in Section 2.2 of this Agreement is incorporated herein and the specific project amounts covered under this Agreement are listed as follows:

Project/Application ID	Award Amount	Subgrantee Match Amount	NCDIT Amount

3. Locations

The Subgrantee must make broadband service available to all households, businesses and Community Anchor Institutions approved for this project. The locations represent Broadband Serviceable Locations (BSLs) and/or Community Anchor Institutions submitted in the BEAD Application and any adjustments made during the negotiation process and approved by NCDIT.

The data file listing the locations submitted by Subgrantee and approved by NCDIT for this Project is considered a part of this Grant Agreement and is incorporated into the Agreement by reference. A copy of this data file listing these final locations, as previously agreed upon by the Parties, is being provided to the Subgrantee as a csv file in a separate email with the following naming structure: (**NC_BEAD_ProjectData (and Sub-Projects)**). The approved and required locations are outlined in the data file, which includes Broadband Serviceable Locations and Community Anchor Institutions as relevant.

This DRAFT BEAD Grant Contract Agreement is a DRAFT to be used for planning purposes and information for eligible and potential BEAD applicants. NCDIT reserves the right to modify or update this document as necessary to effectuate the goals of the BEAD program and remain compliant with State, Federal or NTIA requirements or for any other reason to administer the BEAD program.

The Subgrantee must make broadband service available to the total number of locations outlined in the table below.

BSLs	
Community Anchor Institutions	
Total Locations:	

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Exhibit E
Project Milestones

This Exhibit reflects the project milestones and associated payment percentages. The defined milestones are attributed on a per-county basis for each individual county within the subgrant award. Milestone payment requests must be accompanied by documentation demonstrating achievement of the associated milestones. NCDIT further defines the milestone documentation requirements in its Milestone Disbursement Guide and shall not issue payment without NCDIT's acceptance of the submitted documentation.

Milestone	Documentation Requirements	% BEAD Funds Paid	Minimum Required Match
Program Mobilization & Project Plan	• Identify key personnel • Register key personnel with NTIA and/or NCDIT reporting portals • Provide evidence of expense tracking, match obligation, and record retention • Meet with NCDIT staff to review grant agreement terms and conditions • Provide updated location list • Provide updated project shapefiles • Provide updated project timeline • Provide initial permit plan • Provide fixed wireless (FW) design (FW projects only) • Provide EHP Planning Questionnaire	2%	2% of Required Match %
Final Engineering & Design	• Complete detailed network design for awarded project areas • Provide updated location list • Provide updated project shapefiles • Provide updated project timeline • Provide updated permit plan • Provide updated fixed wireless design (FW projects only) • Provide detailed design drawings • Provide updated bill of materials (BoM) • Provide evidence of match obligation	10%	10% of Required Match %
NEPA and Permitting Plan Approved	• Provide updated location list • Provide updated project shapefiles • Provide updated project timeline • Provide updated permit plan • Provide updated fixed wireless design (FW projects only)	8%	

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Milestone	Documentation Requirements	% BEAD Funds Paid	Minimum Required Match
	• Provide detailed design drawings • Provide updated bill of materials (BoM) • Provide evidence of approved permits (e.g., right-of-way (ROW), pole attachment) • Obtain evidence of environmental approval • Provide evidence of match obligation		8% of Required Match %
Procurement & Materials Readiness	• Provide executed contract(s) for construction labor • Provide executed contract(s) for construction materials • Provide evidence of staging and material delivery • Provide updated bill of materials (BoM) • Provide evidence of match obligation	10%	10% of Required Match %
Construction Phase I	• Completed placement of broadband infrastructure and associated as-built documentation for 20% of project BSLs • Provide updated location list • Provide updated project shapefiles (as-builts) • Provide updated permit plan • Provide updated fixed wireless design (FW projects only) • Provide updated bill of materials (BoM) • Provide evidence of approved permits (newly required permits) • Provide evidence of match obligation • Obtain accepted field inspection report from NCDIT	20%	20% of Required Match %
Construction Phase II	• Completed placement of broadband infrastructure and associated as-built documentation for 65% of project BSLs • Provide updated location list • Provide updated project shapefiles (as-builts) • Provide updated permit plan • Provide updated fixed wireless design (FW projects only) • Provide updated bill of materials (BoM) • Provide evidence of approved permits (newly required permits) • Provide evidence of match obligation • Obtain accepted field inspection report from NCDIT	20%	20% of Required Match %
Construction Phase III, Testing, & Validation	• Completed placement of broadband infrastructure and associated as-built documentation for 100% of project BSLs • Provide updated location list	20%	

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Milestone	Documentation Requirements	% BEAD Funds Paid	Minimum Required Match
	• Provide updated project shapefiles (as-builts) • Provide updated permit plan • Provide updated fixed wireless design (FW projects only) • Provide updated bill of materials (BoM) • Provide evidence of approved permits (newly required permits) • Demonstrate program speed test compliance • Validate locations through NCDIT mapping • Submit cybersecurity compliance attestation • Provide evidence of match obligation • Obtain accepted field inspection report from NCDIT		20% of Required Match %
Final Report	• Provide project completion report • Provide final performance (technical) report • Provide final engineering certification • Provide evidence of match obligation	10%	10% of Required Match %

Exhibit F
Reporting Schedule for Progress Reports

This Reporting Schedule for Progress Reports is intended to provide the minimum frequency of reporting as well as the minimum amount of information required for each report. NCDIT may require more frequent reporting or more information with each report based on federal and state law or regulation or based on NCDIT monitoring requirements. NCDIT reserves the right to require more rigorous reporting scheduling, as frequent as on a weekly basis, based on risk, repeated non-compliance with terms and conditions, or NCDIT determination that completion of one or more milestones has not occurred in a reasonably expected timeframe.

Semiannual Reporting Requirements

Subgrantee shall, for the duration of this Agreement, submit to NCDIT a "Semiannual Progress Report" for the Project on a semi-annual basis for the periods beginning on January 1 and ending June 30 and beginning on July 1 and ending on December 31 (or any portion thereof) no later than fifteen (15) calendar days following the end of each reporting period. The Semiannual Progress Report content is subject to revision at NCDIT's discretion and updates provided by NTIA. The information currently required includes, at a minimum:

1. A list of addresses or location identifications (including the Broadband Serviceable Location Fabric established under 47 U.S.C. § 642(b)(1)(B)) that constitute the service locations that will be served by the broadband infrastructure to be constructed and the status of each project;
2. New Project locations served within the relevant reporting period and, for each such service and whether service taken (if applicable);
3. Include an aggregate percentage of customers taking service at new locations served within each Project area;
4. Whether each address or location identified in item 2 is residential, commercial, or a community anchor institution;
5. A description of the types of facilities that have been constructed and installed, or initiated as broadband service;
6. A description of the peak and off-peak actual speeds of the broadband service being offered;
7. A description of the maximum advertised speed of the broadband service being offered;
8. A description of the non-promotional prices, including any associated fees, charged for different tiers of broadband service being offered;

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9. List all middle mile interconnection agreements made to Subgrantee during the reporting period, and their current status;

10. The number and amount of contracts and subcontracts awarded by Subgrantee;

11. Any other data that would be required to comply with the data and mapping collection standards of the Federal Communications Commission under Section 1.7004 of title 47, Code of Federal Regulations, or any successor regulation, for broadband infrastructure projects, including (i) fiber-optic technology; (ii) Cable Modem/Hybrid fiber-coaxial (HFC) technology; (iii) digital subscriber line (DSL) technology; or (iv) terrestrial fixed wireless technology utilizing entirely licensed spectrum, entirely unlicensed spectrum, a hybrid of licensed and unlicensed spectrum; or (v) Low Earth Orbit (LEO) satellite services.

12. A SF-425, Federal Financial Report that meets the requirements described in the DOC GT&Cs, Section A.01.c. for Financial Reports;

13. A SF-429, Real Property Status Report Federal Financial Report that meets the requirements described in the DOC GT&Cs, Section A.01.d.1. for Real Property Status Reports;

14. A SF-428, Tangible Personal Property Status Report that meets the requirements described in the DOC GT&Cs, Section A.01.d.2. for Tangible Personal Property Status Reports;

15. Certification by an officer of Subgrantee that:

    a. That Subgrantee has informed its employees in writing of the rights and remedies provided under 41 U.S.C. § 4712 in the predominant native language of the workforce, and required its subcontractors and subgrantees to do the same.

    b. The information in the Semiannual Progress Report is accurate.

    c. Subgrantee complies with the Contract Work Hours and Safety Standards Act, 40 U.S.C. § 3702 and 3704, as supplemented by 29 C.F.R. Part 5.

    d. Subgrantee complies with Federal Fair Labor Standards Act, as amended (29 U.S.C. §§ 201-219), as supplemented by 29 C.F.R. Part 516), including provisions thereof related to collective bargaining.

<u>Annual Reporting Requirements</u>

Subgrantee shall, for the duration of this Agreement, submit to NCDIT an "Annual Progress Report" for the Project on an annual basis for the period ending December 31 of each year (or any portion thereof) no later than thirty (30) calendar days following the end of each reporting period. The Annual Progress Report content is subject to revision at NCDIT's discretion and updates provided by NTIA. The information currently required includes, at a minimum:

1. The number of residential and commercial locations that have access to Qualifying Broadband Service as a result of the Project;
2. The percentage of end users in the project area who have access to Qualifying Broadband Service and the percentage of end users with access who actually subscribe to the Qualifying Broadband Service;
3. The average number of subscriptions for residential and commercial Qualifying Broadband Service in the Project area;
4. Any right-of-way fees, permit fees, or franchise fees paid to a local government, state government, railroad, private entity, or person in connection with the Project during the term of this Agreement;
5. Any delays encountered when obtaining a right-of-way permission;
6. Evidence consistent with the Federal Communications Commission attestation that the Subgrantee is making available the proposed advertised speed, or a faster speed, as set forth in Exhibit B; and
7. Unless Subgrantee meets one of the exceptions set forth in 2 C.F.R. § 170.110, Subgrantee shall provide executive compensation information to NCDIT in accordance with 2 C.F.R. Part 170 and pursuant to the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. No. 109-282). *See* DOC GT&C G.05.o.

<u>Reporting Requirements on Expiration of the Period of Performance</u>

Subgrantee shall submit a final Form SF-425 and a final Performance (Technical) Report to the NCDIT within ninety (90) calendar days after the expiration of the Period of Performance.

Exhibit G
Letter of Credit (LOC) Waiver Option

Subgrantee has reviewed the Waiver Options listed in NTIA Notice of Programmatic Waiver regarding Letters of Credit (https://broadbandusa.ntia.gov/sites/default/files/2026-01/BEAD_LOC_Waiver_Notice_10.23.23_0.pdf) and elects to request the following Waiver Option:

[   ] Subgrantee elects to NOT request any Waiver Options.

[   ] 2.1 Subgrantee Option to Use Credit Unions

Portion of 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 where the subgrantee otherwise meets the LOC Requirement 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.

[   ] 2.2 Subgrantee Option to Use Performance Bonds

The LOC Requirement is waived where:

(a) During the application process, prospective 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 prospective subgrantee. The letter shall at a minimum provide the dollar amount of the performance bond.

(b) Within 60 days of entering into any subgrantee agreement, each prospective subgrantee obtains a performance bond, acceptable in all respects to the Eligible Entity and in a value of no less than 100 percent of the subaward amount. If a performance bond has not been obtained prior to entering a subgrant agreement, the Eligible Entity must include a clause in the agreement that allows for termination should the subgrantee fail to obtain the performance bond within 60 days.

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.

[ ] 2.3 Reduction of LOC/Performance Bonds Upon Completion of Milestones

The requirement that “In no event, however, shall the letter of credit have a value of less than 25 percent of the subaward amount” is waived, conditioned on the requirement that the subgrantee obtain a new a letter of credit in a reduced amount upon achievement of specific deployment milestones that are publicly specified by the Eligible Entity and applicable to all subgrantees subject to the LOC Requirement. Where a subgrantee chooses to utilize a performance bond in lieu of a letter of credit under section 2.2 above, Eligible Entities shall also have the option to reduce the amount of the performance bond by a commensurate amount as subgrantees meet the same service milestones.

NCDIT will provide a schedule of LOC or performance bond reduction upon achievement of specific deployment milestones to be publicly specified and applicable to all subgrantees subject to the LOC or performance bond requirement.

[ ] 2.4 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 consistent with section 2.2 above, allow the initial amount of the performance bond to be lower than 100% of the subaward amount, where:

(a) The Eligible Entity issues funding on a reimbursable basis consistent with Section IV.C.1.b of the NOFO;

(b) Reimbursement is for periods of no more than six months; and

(c) 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 satisfaction of the Eligible Entity that it has completed the buildout of 100 percent of locations to be served by the project or until the period of performance of the subaward has ended, whichever occurs first.

Exhibit H
Cybersecurity and Supply Chain Risk Management Plan Attestation

[Signatory], [Title], [Entity] hereby attests that:

1. [Entity] has a cybersecurity risk management plan ("CRM Plan") in place that is:
    a. Operational, if [Entity] is providing service prior to the award of the grant; or
    b. Ready to be operationalized upon providing service, if [Entity] is not yet providing service prior to the grant award;
2. The CRM Plan reflects the latest version of the NIST Framework for Improving Critical Infrastructure Cybersecurity and the standards and controls set forth in Executive Order 14028 and specifies the security and privacy controls being implemented;
3. The CRM Plan incorporates strategies for mitigating risks associated with natural disasters, such as wildfires, flooding, tornados, hurricanes, etc., as applicable;
4. The CRM Plan will be reevaluated and updated on a periodic basis and as events warrant; and
5. If [Entity] makes any substantive changes to the CRM Plan, a new version will be submitted to NCDIT within thirty (30) calendar days. [Entity] acknowledges that NCDIT must provide [Entity]'s CRM Plan to NTIA upon NTIA's request.

Signatory further attests:

1. Subgrantee has a supply chain risk management plan ("SCRM Plan") in place that is either:
    a. Operational, if [Entity] is already providing service at the time of the grant; or
    b. Ready to be operationalized, if [Entity] is not yet providing service at the time of grant award;
2. The SCRM Plan is based upon the key practices discussed in the NIST publication NIST Internal or Interagency Report (NISTIR) 8276, Key Practices in Cyber Supply Chain Risk Management: Observations from Industry and related SCRM guidance from NIST, including NIST Special Publication (SP) 800-161 Rev. 1, Cybersecurity Supply Chain Risk Management Practices for Systems and Organizations and specifies the supply chain risk management controls being implemented;
3. The CRM Plan incorporates strategies for mitigating risks associated with natural disasters, such as wildfires, flooding, tornados, hurricanes, etc., as applicable;
4. The SCRM Plan will be reevaluated and updated on a periodic basis and as events warrant; and
5. If [Entity] makes any substantive changes to the SCRM Plan, a new version will be submitted to NCDIT within thirty (30) calendar days. [Entity] acknowledges that NCDIT must provide [Entity]'s SCRM Plan to NTIA upon NTIA's request.

Subgrantee Name:

Signature of Authorized Representative Print Name Date

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Exhibit I
Key Personnel of the Subgrantee

BEAD GRANT PROGRAM (FEDERAL)

Purpose: The purpose of this document is for the awardee to identify and determine the responsibilities of a representative from the company with regards to administering the BEAD Grant Project. This document will establish the appropriate contacts from the awardee, assign responsibility and delegate authority to appropriate staff to ensure compliance with the executed grant agreement.

The Subgrantee's Project Contacts table can be edited, and additional rows may be added, as needed, by the user. **Please include a copy of a letter on company letterhead by the principal or legal counsel certifying the roles of the representatives listed in the table.**

Definitions

Awardee Name: Legal name of the awardee as indicated in the submitted application

Application #: The application number assigned by the Enterprise Business Service (EBS) online application portal at the time of application submission. You may also reference the application # in the award letter.

Unique Entity Identifier (UEI): Awardees must have an active Unique Entity Identifier. This is required due to the use of federal funds per 2 C.F.R § 200.206. At the time of application, the identifier was referred to as the System Award Management (SAM) ID and used the DUNS number as part of the registration process. The SAM.gov transitioned from using DUNS numbers to the UEI on April 4, 2022. If your organization does not have a UEI, please register or update your information at this link: SAM.gov | Home.

Principal: The person that has the authority to enter a legally binding contract with the State of North Carolina.

Legal Counsel: The person that serves as legal counsel on behalf of the company and will review the grant agreement from the NC Department of Information Technology.

Fiscal Representative: The person that will submit claims for reimbursement.

Authorized Representative: The person that is responsible for certifying and submitting progress report documentation.

Construction Manager and/or Engineer: The person that is responsible for questions about the construction of broadband infrastructure.

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Authorized User(s) for the EBS on-line portal: The person that has access to the Enterprise Business Services (EBS) on-line portal. Please ensure that the authorized user has a valid NCID username and password (register here). In addition, ensure that the user has received authorization to access the EBS (register here).

Awardee Name: ______________________________

Application #: ______________________________

Unique Identify Identifier (as registered with SAM.gov) ______________________________

Tax Identification #: ______________________________

Awardee Fiscal Year End Date: ______________________________

Responsibility	Full Name, Title	Contact Information Business Name Mailing Address Email Address and Phone
Principal		
Legal Counsel		
Fiscal Representative		
Authorized Representative		
Construction Manager and/or Engineer		
Authorized User(s) for the Enterprise Business Services (EBS) on-line portal		

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Reserved for other representatives		
Reserved for other representatives		

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Exhibit J
Byrd Anti-Lobbying Certification

Subgrantee certifies to the best of their knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Undersigned shall complete and submit Standard Form- LLL, "Disclosure form to Report Lobbying," in accordance with its instructions. A copy of this form is contained in 31 C.F.R. Pt. 21, App. B.

3. Subgrantee shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made and entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The Subgrantee certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Subgrantee understands and agrees that the provisions of 31 U.S.C. Chapter 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Subgrantee Name:

Signature of Authorized Representative	Print Name	Date

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Exhibit K
Protecting the BEAD Program from Defaults Certification - Requirement

1. Certification Requirement

Provisionally Selected Subgrantees must certify that its application did not rely on the prospect of receiving speculative additional federal funding to fulfill its BEAD obligations, and that it will not need or accept such additional federal broadband funds to serve its BEAD-funded locations. All Subgrantees and Authorized Representatives must consult NTIA guidance, including but not limited to NTIA Frequently Asked Questions and the General Terms and Conditions for the NTIA BEAD Program (Updated November 2025). Please be advised that NTIA may publish these certifications.

2. Applicability and Scope

This certification is forward-looking, applies only to BEAD-funded locations, and only applies to federal funds for broadband network deployment and operations. The certification does not apply to federal support for non-BEAD-funded locations, nor does it apply to non-federally funded programs, such as state universal service programs.

The certification applies through the end of the BEAD-funded network's federal interest period (or extended period of performance in the case of LEO Subgrantees). In the rare case where a provider is already receiving federal support for a location included in a BEAD project, the provider may continue to receive such support under the terms of the other federal program to serve the BEAD funded location.

3. Consequences of Non-Compliance

Failure to submit the required certification will result in grant award funds being withheld from the Subgrantee until the time the certification is received by NCDIT. Provisionally Selected Subgrantees that refuse to sign the certification will not be eligible to receive BEAD funding.

Protecting the BEAD Program from Defaults Certification

- Subgrantee: [Subgrantee Company Name]
- Project Name: [Name of Project]
- Subgrant Agreement No.: [Subgrant Agreement Number]

1. [Subgrantee] and any of its affiliates will not require or accept any additional Federal funds to support a BEAD project during the BEAD subgrant agreement's period of performance, extended period of performance, or federal interest period; and

2. [Subgrantee] and any of its affiliates will not require or accept any additional Federal broadband service subsidies for the project(s) and/or Broadband Serviceable Location(s) (BSL(s)) to be served by the subgrant during the BEAD subgrant agreement's period of performance, extended period of performance, or federal interest period, other than any such subsidies that were committed prior to the BEAD subgrant agreement. (This includes, but is not limited to, new operating expenses for any BEAD project(s) or BSL(s)).

Subgrantee Name:

____

Signature of Authorized Representative   Print Name   Date