

## Attachment A

### Grant Requirements & Payment Milestones

**A. Administration of federal funds – Network capabilities**

Pursuant to 47 U.S.C. § 1702(g)(1)(A), which directs the Assistant Secretary of the U.S. Department of Commerce to establish quality-of- service standards to which each Subrecipient shall provide service with the performance standards and provisions outlined in the National Telecommunications and Information Administration (NOFO) and Broadband Equity Access and Deployment (BEAD) Restructuring Policy Notice to each location in the funded network. At minimum, all locations included in the project must, at project completion, meet BEAD-qualified speed, latency, and outage requirements,

- B.** The Subrecipient shall ensure that any subgrant agreement, contract or lease agreement for a Funded Network permits the Subrecipient to use the subgrant 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.

**C. Compliance with laws –Subrecipient accountability**

The Subrecipient shall follow sufficient accountability procedures to ensure compliance with all applicable Program requirements, including the following:

- i.** Compliance with 2 C.F.R. § Part 200 and the USDOC Financial Assistance Standard Terms and Conditions, and as further provided in NTIA’s Policy notice to Uniform Guidance, NTIA’s General Terms and Conditions for BEAD, and NTIA’s Specific Award Conditions for BEAD funding as applicable to Subrecipient;
- ii.** Compliance with all relevant obligations in the State’s approved Initial and Final Proposals and as amended with the BEAD Restructuring Policy Notice;
- iii.** Subrecipient accountability practices that include distribution of funding to Subrecipients on a reimbursable basis;
- iv.** Subrecipient accountability practices that include the use of clawback provisions; and
- v.** Timely Subrecipient reporting and robust monitoring practices.

Additionally, Subrecipient shall provide service (as defined by BEAD NOFO) to all locations agreed upon. If there is an issue that prevents connectivity such as misclassification of the location, the building no longer exists, or access to the building is denied with a location (e.g., outbuilding), it shall provide evidence of such.

(NOFO IV.C.1.b, p. 51 and IX.G.4, p. 98, BEAD Terms and Conditions p. 4, and Question 4.4 of the Final Proposal Policy Notice on Uniform Guidance Exceptions)

**D. Subrecipient, Sub-Subrecipient, and Contractor Compliance with Applicable Requirements**

The Subrecipient shall comply, and shall require each Subrecipient or contractor, including lower tier Subrecipients or subcontractors, to comply with all applicable Federal, state, and local laws and regulations, as well as specific service obligations committed to by the subrecipient in its grant application and all applicable terms and conditions of this award. The Subrecipient and its Subrecipients 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.

**E. Contracting with Small and Minority Business, Women’s Business Enterprises, and Labor Surplus Area Firms**

The Subrecipient and its Subrecipients shall take all necessary affirmative steps (as described in 2 C.F.R. § 200.321 and NOFO Section VII.D.7) to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible.

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

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

Further, Subrecipient shall monitor award activities for common fraud schemes, including but not limited to:

- i.** false claims for materials and labor;
- ii.** bribes related to the acquisition of materials and labor;
- iii.** product substitution;
- iv.** mismarking or mislabeling on products and materials; and
- v.** time and materials overcharging.

Should a Subrecipient detect any fraud schemes or any other suspicious activity, they shall contact the Council, 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 C.F.R. § 200.113, an applicant or Subrecipient shall disclose, in a timely manner, in writing, to the Council and NTIA or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Subrecipients 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 C.F.R. § 200.339. (*See also* 2 C.F.R. § Part 180, 31 U.S.C. § 3321, and 41 U.S.C. § 2313.)

**G. Conflict of interest**

The Subrecipient agrees to maintain a conflict-of-interest policy consistent with applicable law and regulations including the False Claims Act (31 U.S.C. §§ 3729-3733) (NOFO IX.G.2.a, p. 95)

**H. Deployment deadlines and benchmarks**

Pursuant to 47 U.S.C. § 1702(h)(4)(C), the Subrecipient must begin providing broadband service to each customer that desires broadband service not later than four years after the date on which the Subrecipient receives the subgrant for the applicable network. The Subrecipient shall follow and establish a schedule for interim milestones in accordance with the Milestone pages incorporated to this agreement attachment on pp. 20-21, and subject to Council approval. These milestones, enforceable as conditions of the subgrant, must be sufficient to ensure that Subrecipient is making reasonable progress toward meeting the four-year deployment deadline. The Council may, following consultation with the NTIA, and with the approval of, whoever holds the title of Assistant Secretary of Commerce for Communications and Information, extend the deadlines under this subparagraph if the Council determines that (i) the Subrecipient 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 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. Council will review progress towards milestones on a periodic basis. Subrecipient must inform Council in a timely manner if it determines there is a substantial risk of not meeting the deployment schedule included in end of appendix. Council may allow changes in the deployment schedule if mutually agreed upon. Council may engage in a variety of enforcement activities, including more detailed and frequent monitoring and reporting, field inspections, and withholding grant funds to ensure timely project completion. Failure to meet project objectives at the end of a federally mandated deadline for project completion may result in clawbacks of grant funding.

**I. Domestic preferences in procurement**

All funds for broadband infrastructure shall comply with the Build America, Buy America (BABA) Act. (NOFO VII.D.6, p. 87 and BEAD Terms and Conditions, p.11) Failure to comply with BEAD BABA requirements may result in enforcement activities, including potentially clawback of funds if Subrecipient it unable to remedy its obligations to Council's satisfaction.

**J. Environmental and historic preservation laws**

The Subrecipient shall submit all required environmental documentation before construction may begin.

- i.** Subrecipients, partners, contractors or subcontractors cannot begin construction activities, and funds will not be disbursed until necessary environmental review is complete and NTIA has approved any necessary decision document, except for limited permissible activities listed in Section 13.E, BEAD Terms and Conditions.
- ii.** Subrecipient shall timely prepare any required Environmental and Historic Preservation (EHP) documents and obtain required permits, and shall adhere to any applicable statutory deadlines as described in 42 U.S.C. 4336a(g).
- iii.** Subrecipient shall provide a milestone schedule identifying specific deadlines and describing how the Subrecipient proposes to meet these timing requirements including, as required, completion of consultations, completion of NEPA and Section 106 reviews, and submission of Environmental Assessments or Environmental Impact Statements.

(NOFO VII.D.4, p. 86 and BEAD Terms and Conditions pp. 7-10) As noted in the BEAD Terms and Conditions, NTIA may require the State to provide additional documentation to support its review of NEPA compliance for each award.

As required under Section 13.D, BEAD Terms and Conditions, Council will form a Permitting Roundtable to monitor and assist with permitting issues that are not resolvable within 90 days of proper permit applications. The Council will track, publicly post, and submit to NTIA unresolved complaints escalated to the Permitting Roundtable by Council or Subrecipient. Council will report to NTIA unresolved Subrecipient complaints that delays were attributable to state or local entities required changes in construction methods, or that state or local authorities did not follow FCC rules.

**K. Federal audit requirements**

A Subrecipient that expends an aggregate amount of funding from federal sources in excess of the amount set forth in 2 CFR Part 200, Subpart F in federal awards during its fiscal year must undergo an organization-wide financial and compliance single audit, or (if a commercial entity) either a financial audit related to each subgrant in accordance with Generally Accepted Government Auditing Standards or a program-specific audit for each subgrant in accordance with 2 C.F.R. § 200.507. The State and NTIA may also conduct audits, develop additional monitoring plans, and impose specific conditions on grant awards to mitigate risk of nonperformance. (BEAD Terms and Conditions, pp. 19-21, NOFO VII.D.5, p.87)

**L. Federal interest in BEAD-funded property**

The Federal interest in all real property or equipment acquired or improved as a part of a BEAD-funded broadband deployment subgrant will continue for the Federal Interest Period, which will be ten years or as otherwise reduced by NTIA in subsequent guidance. after the date in which that subgrant has closed out in accordance with 2 C.F.R. § 200.344. Subrecipients shall document the Federal interest in real property through a properly recorded “Covenant of Purpose, Use and Ownership” and in equipment through a UCC-1 filing and attorney certification. (NOFO IV.C.2.c, pp.66-68 and BEAD Terms and Conditions, pp. 14-15)

**M. Fiber project (only) - conduit access point requirement**

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 shall include interspersed conduit access points at regular and short intervals for interconnection by unaffiliated entities. *See* NOFO IV.C.2.b.ii.

**N. Prohibition on profit or fees and program income**

Broadband infrastructure project Subrecipients may retain program income and use of supported networks and connections for profit. This does not change the BEAD Program’s prohibition on claiming profit and fees as allowable costs. Proposed Subrecipient budgets thus may not include profit, fees, or similar charges. (NOFO V.H.2.b, p.82, and BEAD Terms and Conditions, p. 16, 21.)

**O. Letter or credit or performance bond**

Subrecipient agrees to maintain an Irrevocable Standby Letter of Credit or a Performance Bond in compliance with applicable Program rules, including but not limited to U.S. DOC Notice of Programmatic Waiver (January 2026). Subrecipient will maintain a [LOC/PF] in the amount of [value]. [The following should be omitted if subrecipient chose 10% value or other fixed value] As long as Council determines that the project is progressing satisfactorily, it will allow a reduction in value of this amount at end of each project year with verified milestone completion percentage for that year. consistent with those set forth in 47 C.F.R. § 54.804(c)(2) committing to issue an irrevocable standby letter of credit, in

the required form, to the prospective Subrecipient. (NOFO IV.D.2.a.ii, p. 72 and BEAD Terms and Conditions p.6). If Subrecipient received approval by Council to submit a Performance Bond in 100% value after the date of execution of this Agreement for a period (“Grace Period”) of up to 60 days, it must submit such Bond and show progress towards initial milestones. Failure to submit an acceptable Performance Bond under the terms of the Programmatic Waiver will lead to immediate termination of this Agreement. Subrecipient may not seek reimbursement against a completed milestone until submission of such Performance Bond.

**P. Monitoring activities**

Subrecipient is subject to robust monitoring activities and outlined in the Program Guide. Failure to comply with the terms of this Attachment may lead to enforcement actions, including increased monitoring activities. (BEAD Terms and Conditions, p. 4-5, Final Proposal Question 4.4)

**Q. Prohibition on the supplantation of funds**

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

Subrecipient certifies that it and any of its affiliates will not require or accept any additional Federal funds to support a BEAD project during the Agreement’s period of performance or Federal Interest Period.

Subrecipient certifies that it and any of its affiliates will not require or accept any additional Federal broadband service subsidies for the project and/or Broadband Serviceable Location(s) (BSL(s)) to be served by the subgrant during 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)).

These certifications will be reported to NTIA, which may elect to publish them publicly.

**R. Prohibition on certain telecommunications and video surveillance**

The Subrecipient is prohibited from using grant funds for telecommunications and video surveillance or services covered under the Secure and Trusted Communications Networks Act. (NOFO V.H.2.a, p. 82 and BEAD Terms and Conditions, p. 11.)

**S. Collective Bargaining**

The Subrecipient is prohibited from using grant funds to support or oppose collective bargaining. (NOFO V.H.2.c, p. 82.)

**T. Fair Labor**

Subrecipient agrees to comply with applicable federal labor laws, including the Fair Labor Standards Act (FSLA), and Contract Work Hours and Safety Standards Act, 40 U.S.C § 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Subrecipient further agrees that significant fair labor or collective bargaining violations could lead to increased and more frequent monitoring and reporting, auditing, and in severe circumstances, lead to clawbacks of provided grant funding.

**U. Protections for whistleblowers**

The Department of Commerce Financial Assistance Standard Terms and Conditions 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 U.S.C. § 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 Subrecipient, its Subrecipient, 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.

Subrecipients and contractors under Federal awards and subgrants shall inform their employees in writing of the rights and remedies provided under 41 U.S.C. § 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.

**V. Publicity**

Subrecipient shall carry out public awareness campaigns in their service areas that highlight the benefit and value of broadband service and include information about low-

cost service plans or federal subsidies such as the Lifeline Program. (NOFO IV.C.2.c.iv, p.68 and BEAD Terms and Conditions, p.15).

Subrecipient is encouraged to take photos of its construction activities and provide such photos for publicity and publication by Council. Subrecipient will also inform Council of its public awareness campaigns for its BEAD project(s) and to the project locations.

**W. Eminent Domain**

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

- i. Not to use any power of eminent domain available to the Subrecipient (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;
- ii. 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
- iii. Any use of the power of eminent domain to acquire land, easements, or interests in land, whether by the Subrecipient 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 Subrecipient to appropriate enforcement action by the Grants Officer, including but not limited to the disallowance of award costs and the termination of an award.

**X. Inspection and Testing Materials**

The Subrecipient 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. Must conduct testing as outlined in NOFO pp. 64-65. Speed tests with speed and latency data must be performed in accordance with NTIA guidelines as outlined in "Performance Measures for BEAD Last-Mile Networks." In addition, to receive milestone-based reimbursements, subrecipients will be required to submit as-built drawings, and other documentation, such as speed tests, as requested to certify connectivity to a location, Council may also request photographic evidence as needed. The Subrecipient shall ensure that documentation of same is cataloged and retained. Council reserves the right to inspect the documentation at any time. Subrecipient shall retain documentation throughout the period of performance of the project, and Council may inspect documentation and test project assets and materials without prior notice.

**Y.** Energy Efficiency

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

**Z.** Requirements During Construction

During construction, the Subrecipient or its Subrecipient, as applicable, is responsible for:

- i. Ensuring that it meets all deadlines in approved plans and specifications;
- ii. Monitoring the progress of grant-funded activities;
- iii. Reporting progress;
- iv. Providing for required construction permits and adequate construction inspection;
- v. Promptly paying costs incurred for grant funded activities to its own subrecipients, contractors, and subcontractors; and
- vi. Monitoring contractors' compliance with Federal, State, and local requirements.

To the extent feasible and allowable by law, Council will target a 90-day turnaround for state and local government permit approvals and promote the adoption of streamlined and expedited permitting aligned to actual costs and market pricing.

Council will establish a Permitting Roundtable with utility pole owners, government permitting agencies, other relevant asset owners, and agencies to regularly consider ways to resolve delays in permitting.

Subgrantee may submit complaints or issues for discussion to this Permitting Roundtable if it believes a permit has not been approved within the 90-day target due to failure to comply with BEAD rules, state and federal laws, or applicable FCC rules.

Council will publicly post status on permits that could not be resolved within the 90-day period or other mandated timeline and for which a resolution was not identified or implemented. Council will report such issues to NTIA as part of its mandated periodic reporting.

**AA.** Service obligations

Subrecipient must provide service compliant with the NOFO to all project locations for the duration of the Federal Interest Period. This includes:

- i. Providing broadband service minimally at the speed and latency required by the

NOFO;

- ii. Providing service at each location that is subject to BEAD maximum outage requirements;
- iii. Providing service to any customer who requests it within 10 business days of the request at no more than standard installation cost and on terms and conditions that are reasonable and non-discriminatory; and
- iv. Offering at least one low-cost service offering to eligible subscribers.

**BB.** Environmental and Historical Preservation (EHP) Review

The Subrecipient shall comply with the requirements of all applicable Federal, state, and local environmental laws, regulations, and standards and shall ensure that its subrecipients, partners, Contractors and Subcontractors comply with all such requirements as well.

**CC.** EHP Pre-Implementation and Funding Conditions

The Subrecipient shall not initiate or allow a Sub-Subrecipient to initiate, without Council approval, any grant-funded implementation activities—except for the limited permissible activities identified in Section 13.E below.

- i. 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 Subrecipient, 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;
- ii. 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;
- iii. 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
- iv. Demonstration of compliance with all other applicable Federal, state, and local environmental laws and Regulations.

**DD.** Subrecipient Compliance with NHPA Section 106

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

- i.** Provide sufficient information to initiate Tribal notification via the FCC's Tower Construction Notification System (TCNS) when required for grant funded activities;
- ii.** Provide notified Tribes with information regarding grant-funded activities via their preferred communication means, as identified in TCNS;
- iii.** Notify Council of any Tribal request for government-to-government consultation or any identification that a grant funded activity may impact a historic property or a property of religious or cultural significance to a Tribe; and
- iv.** Provide all consulting parties with the statutorily required time to respond to its determination of a grant funded activity's effect on historic properties.

**EE.** Limited Permissible Pre-Implementation Activities

The Subrecipient 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 all EHP requirements as outlined in this Section. The Subrecipient shall 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 Subrecipients comply with such conditions as well. The Subrecipient shall also provide any information requested by NTIA to ensure both initial and ongoing compliance with all requirements described above.

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

- i.** Pre-construction planning, including collecting information necessary to complete environmental reviews;
- ii.** Applications for environmental permits;
- iii.** Studies including, but not limited to, Environmental Assessments (EAs), wetland delineations, biological assessments, archaeological surveys, and other environmental reviews and analyses;
- iv.** Administrative costs;

- v. Pre-award application costs, as they relate to NEPA or permitting activities only, not to expenses associated with the subaward application as a whole;
- vi. Activities supporting consultations required under the NHPA, the Endangered Species Act, and the Clean Water Act; and/or
- vii. 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).

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

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

**FF.** 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. Subrecipients shall notify NTIA of inadvertent discoveries and potential impacts to these resources and identify and follow all applicable laws or protocols. Subrecipients 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 Subrecipient shall 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. Such construction activities may then only continue with the written approval of NTIA.

**GG.** Scheduling Inspection for Final Acceptance

The Council 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 Subrecipient, the architect/engineer, and the

subcontractor and/or contractor(s) will attend the Subrecipient's final inspection for each project. Council shall be given reasonable advance notice of each final inspection so that a representative of Council and NTIA may participate.

**HH.** Subrecipient reporting requirements

Pursuant to 47 U.S.C. § 1702(j)(2)(A), the Subrecipient shall submit to Council a report, at least semiannually, for the duration of the subgrant, to track the effectiveness of the use of funds provided. Subrecipients shall 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. Council may add additional reporting requirements or increase the frequency of reporting. See also NOFO VII.E.2.

**II.** Tribal consent

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 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 C.F.R. § 200.403. Consistent with NOFO section IV.B.7.a.ii.10 and IV.B.9.b.15, the Subrecipient may not 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.

**JJ.** Affordability and Low-Cost Plans

Pursuant to 47 U.S.C. § 1702(h)(4)(B), each Subrecipient receiving BEAD funding to deploy network infrastructure shall offer at least one low-cost broadband service option. Pursuant to Section 1702(h)(5)(C), NTIA or the Subrecipient may take corrective action, including recoupment of funds from the Subrecipient, for noncompliance with the statutory low-cost plan requirement. The Subrecipient must continue to offer the low-cost broadband service option to eligible subscribers, during the Federal Interest Period. See NOFO IV.C.2.c.i.

**KK.** 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. See NOFO IV.C.2.c.iii. Council reserves the right to request data related to, and verify compliance of,

the low-cost services offering throughout federal interest period. Subrecipient will ensure that potential BEAD location subscribers are aware of this service offering by a targeted mail or generally publicizing on its website where it advertises its available service plans.

**LL.** Interconnection Requirements and Wholesale Access

If a Subrecipient, 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 shall be taken to ensure continuity of service. In consultation with Council or NTIA, the Subrecipient must sell the network capacity at a reasonable, wholesale rate on a nondiscriminatory basis to one or more other broadband service providers or public-sector entities or sell the network in its entirety to a new provider who commits to providing services under the terms of the BEAD Program. The Subrecipient may pursue either remedial action, so long as such action results in continued retail service to end users in the grant area. *See* NOFO IV.C.2.c.v.

**MM.** Cybersecurity and Supply Chain Risk Management

Pursuant to 47 U.S.C. § 1702(g)(1)(B), a Subrecipient, shall comply with prudent cybersecurity and supply chain risk management practices. The Subrecipient shall attest that:

- i. It has a cybersecurity risk management plan (the plan) in place that is either:
  - (a) operational, if the prospective Subrecipient is providing service prior to the award of the grant; or
  - (b) ready to be operationalized upon providing service, if the prospective Subrecipient is not yet providing service prior to the grant award;
- ii. The Plan accounts 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.
- iii. 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;
- iv. The plan will be reevaluated and updated on a periodic basis and as events warrant; and
- v. The plan will be submitted to the Council prior to the allocation of funds. If the Subrecipient makes any substantive changes to the plan, a new version will be submitted to the Council within twenty (20) days.

With respect to supply chain risk management (SCRM), the Subrecipient to attests that:

- i.** It has a SCRM plan in place that is either:
  - (a)** operational, if the prospective Subrecipient is already providing service at the time of the grant; or
  - (b)** ready to be operationalized, if the prospective Subrecipient is not yet providing service at the time of grant award;
- ii.** 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;
- iii.** The plan will be reevaluated and updated on a periodic basis and as events warrant; and
- iv.** The plan will be made available upon request to the Subrecipient prior to the allocation of funds. If the Subrecipient makes any substantive changes to the plan, a new version will be submitted to Council within twenty (20) days.

**NN.** Subrecipient Integrity and Performance Matters

In accordance with Section 872 of Public Law 110-417, as amended, *see* 41 U.S.C. § 2313, if the total value of a Subrecipient'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 Subrecipient shall be subject to the requirements specified in Appendix XII to 2 C.F.R. § 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 Subrecipient. *See also* NOFO VII.F.

**OO.** Protected and Proprietary Information

The Subrecipient is 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 Council and the Department of Commerce and external program evaluators. In accordance with 2 C.F.R. § 200.303(e), Subrecipients are reminded that they shall 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.

**PP.** Encumbrances

Subject to the exception below, Subrecipients shall not encumber property without prior disclosure to and approval from NTIA and NIST. Subrecipients may not enter into any encumbrances that interfere with the construction, intended use, operation, or maintenance of grant funded property during Federal Interest Period.

Subrecipients may encumber real property and equipment acquired or improved under such subgrants only after provision of notice to Council and NTIA and to the NTIA Grants Officer, and subject to a requirement that the Department of Commerce (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. At such time as NTIA addresses the notice requirement for encumbrances, Subrecipient shall strive to comply with that directive. Council retains the right to request and monitor information regarding encumbrances at any time.

**QQ.** Recordation of the Federal Interest in BEAD-Funded Property

Useful Life and Compliance with 2 C.F.R. § 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 shall coincide with the Federal Interest Period. During the useful life of the BEAD-funded property, the Subrecipient shall 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 C.F.R. § 200.311 or 200.313, as applicable. At such times NTIA provides additional information concerning the review and approval process for transactions involving BEAD-funded real property and equipment in subsequent guidance.

To document the Federal interest in BEAD-funded real property, the Subrecipient shall 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 Subrecipient or Sub-Subrecipient 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 shall 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.

**RR.** UCC-1 Filing & Attorney’s Certification.

Pursuant to 2 C.F.R. § 200.316, after acquiring all or any portion of the equipment under this award, the Subrecipient 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) shall include 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 shall be attached to and filed with the UCC-1.

**SS.** 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 years after the year in which that subgrant has been closed out in accordance with 2 C.F.R. § 200.344. 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).

The NTIA Grants Officer, in consultation with the Council, shall determine the Federal Interest Period for real property or equipment that will be acquired or improved using BEAD funds and not captured in provision (a) of Term 46. NTIA will issue further implementation guidance regarding the Federal Interest Period for these BEAD assets.

**TT.** This award is a “fixed amount subaward” as defined in 2 CFR § 200.201 where the major purpose of the subaward is a broadband infrastructure project and will be administered by the State pursuant to the Uniform Guidance Policy Notice published by NTIA on December 26, 2023, titled “Policy Notice: Tailoring the Application of Uniform Guidance to the BEAD Program.” Subgrantee bears the responsibility of familiarizing itself with 2 CFR § 200 and ensuring compliance with the requirements contained in § 200.

Exceptions to 2 C.F.R. § Part 200 Fixed Amount Subgrant Requirements (200.333—Fixed Amount Subgrants and 200.201(b)(2)--Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts)

Fixed Subgrant awards are subject to exceptions of 2 C.F.R. § 200.333 and 200.201(b)(2)

approved by the Office of Management and Budget (“OMB”).

As a condition of the fixed subgrant award, Council must monitor the reasonableness of Subrecipient’s costs. Subrecipient will report 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. This requirement applies both to the cost for which reimbursement will be requested and to Subrecipient’s non-Federal share/required by the subgrant agreement.

The Subrecipient may only be reimbursed for the eligible costs in connection with the last-mile broadband deployment projects. 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 Subrecipient including, but not limited to, personal expenses for housing, such as rent or mortgages, vehicles for personal use and personal travel, 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.

Subrecipient may request reimbursement according to the milestone schedule incorporated in this Attachment as the Budget and Milestone Schedule. Subrecipient shall submit its non-federal share (matching funds) at the same general rate as the Federal share for the life of the award or before Federal funds are expended.

Pursuant to 2 C.F.R. § 200.201(b)(3), the Subrecipient shall certify in writing to the Council at the end of the Federal award that the broadband project funded under the subgrant was completed.

Accordingly, a Subrecipient receiving a fixed amount subgrant shall certify to the Council that the broadband project was placed into service, as defined in 47 U.S.C. § 1702(h)(4)(C) by the end of the project deployment.

The above notwithstanding, the BEAD Program prohibition on the Subrecipient 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 Subrecipient 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).

**UU. Adjustments to 2 C.F.R. § 200.318-320 and 200.324-326—Procurement Standards**

Subrecipients of fixed amount subgrants pursuant to the above exceptions are not required to comply with the Procurement Standards set forth in 2 C.F.R. § 200.318-320 and 200.324-326. All other Procurement Standards, *i.e.*, 2 C.F.R. § 200.317, 200.321-200.323, and 200.327, remain as requirements. Noncompliance with profit and fee prohibition rules may lead to increased monitoring of and reporting by Subrecipient. Upon finding of a violation, Council may withhold reimbursement until Subrecipient has remedied the violation.

Council reserves the right to monitor and investigate any unauthorized uses of BEAD funds and may engage in enforcement actions that include temporary withholding of funds, increased monitoring, audits and potentially clawbacks of funding if Subrecipient is unwilling or unable to remedy violations. Subrecipient agrees to maintain financial records and provide Council with financial reporting and receipts of its and its subcontractors' BEAD project activities as needed to fulfill its federal obligations for fiscal monitoring.

**VV. Exceptions and Clarifications to 2 C.F.R. § 200.313—Equipment**

Title to equipment acquired or improved under the fixed amount subgrant vests in the Subrecipient upon acquisition, subject to the following conditions and clarifications that

apply for the duration of the Federal Interest Period:

- i. Subrecipients shall follow their existing commercial practices for managing equipment in the normal course of business and shall use inventory controls indicating the applicable Federal interest and loss prevention procedures. This requirement is in lieu of the requirements contained in 2 C.F.R. § 200.313(d), pursuant to an exception from OMB. Subrecipients that do not have existing commercial practices for managing equipment in the normal course of business shall comply with 2 C.F.R. § 200.313(d).
- ii. Subrecipients shall comply with the use and equipment disposition requirements of 2 C.F.R. § 200.313(c)(4) and 313(e).
  - a. Subrecipients acquiring replacement equipment under 2 C.F.R. § 200.313(c)(4) may treat the equipment to be replaced as “trade-in” even if the Subrecipient elects to retain full ownership and use over equipment. As with trade-ins that involve a third party, the Subrecipient 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 Subrecipient will also be responsible for tracking the value of the replacement equipment, including both the Federal and non-Federal share.
  - b. Subrecipients 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.
  - c. Subrecipients shall notify the Subrecipient and NTIA upon the filing of a petition under the U.S. Bankruptcy Code, whether voluntary or involuntary, with respect to the Subrecipient or any affiliate that would impact the Subrecipient’s ability to perform in accordance with its subgrant.

**WW. Exception to 2 C.F.R. § 200.314--Supplies**

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

As permitted by state and federal laws, the State, 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 Subrecipient or its affiliates anywhere it provides service within the State’s jurisdiction, while that Subrecipient 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 State 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.

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Subrecipient 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

Subrecipient 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)).

Disbursement Milestones

Milestone Category	Milestone	Percentage of the Award Amount
Project Plan	Aggregated project plan with milestones and budget.	5%
Engineering & Permitting	Completed engineering drawings and executed permits for 20% of project BSLs.	2%
	Completed engineering drawings and executed permits for 40% of project BSLs.	2%
	Completed engineering drawings and executed permits for 60% of project BSLs.	2%
	Completed engineering drawings and executed permits for 80% of project BSLs.	2%
	Completed engineering drawings and executed permits for 100% of project BSLs.	2%
Pre-deployment	Documentation of binding agreements for all required contracted labor and materials. Evidence of	3%

Milestone Category	Milestone	Percentage of the Award Amount
	construction staging and material delivery for 20% of project BSLs.	
	Documentation of binding agreements for all required contracted labor and materials. Evidence of construction staging and material delivery for 40% of project BSLs.	3%
	Documentation of binding agreements for all required contracted labor and materials. Evidence of construction staging and material delivery for 60% of project BSLs.	3%
	Documentation of binding agreements for all required contracted labor and materials. Evidence of construction staging and material delivery for 80% of project BSLs.	3%
	Documentation of binding agreements for all required contracted labor and materials. Evidence of construction staging and material delivery for 100% of project BSLs.	3%
Deployment	Completed placement of broadband infrastructure and associated as-built documentation for 20% of project BSLs.	12%
	Completed placement of broadband infrastructure and associated as-built documentation for 40% of project BSLs.	12%
	Completed placement of broadband infrastructure and associated as-built documentation for 60% of project BSLs.	12%
	Completed placement of broadband infrastructure and associated as-built documentation for 80% of project BSLs.	12%
	Completed placement of broadband infrastructure and associated as-built documentation for 100% of project BSLs.	12%
Network Activation & Program Closeout	Completed network activation and submission of subscriber test data for 20% of project BSLs.	2%
	Completed network activation and submission of subscriber test data for 40% of project BSLs.	2%
	Completed network activation and submission of subscriber test data for 60% of project BSLs.	2%
	Completed network activation and submission of subscriber test data for 80% of project BSLs.	2%
	Completed network activation and submission of subscriber test data for 100% of project BSLs. Completion of all program closeout requirements.	2%