

The Broadband Equity, Access, and Deployment (BEAD) Program: Issues for the 119th Congress

August 29, 2025

Congressional Research Service

<https://crsreports.congress.gov>

R48666



R48666

August 29, 2025

Ling Zhu
Analyst in
Telecommunications
Policy

The Broadband Equity, Access, and Deployment (BEAD) Program: Issues for the 119th Congress

Under Section 60102 of the Infrastructure Investment and Jobs Act (IIJA; P.L. 117-58), enacted in late 2021, Congress directed the Assistant Secretary of Commerce for Communications and Information (“Assistant Secretary”) to establish and administer the Broadband Equity, Access, and Deployment (BEAD) Program. Specifically, Congress directed the Assistant Secretary, who leads the National Telecommunications and Information Administration (NTIA; an agency within the Department of Commerce), to make BEAD grants to 56 states and territories (hereinafter “states”) to “bridge the digital divide.” States are required to use these grants to competitively award subgrants to fund a variety of broadband projects in their jurisdictions, with a priority to provide “affordable, reliable, high-speed broadband” service to locations currently lacking such access. A broadband network built with BEAD funding must be capable of providing broadband service with (1) at least 100 megabits per second (Mbps) for downloads and 20 Mbps for uploads; (2) a low network latency enabling real-time, interactive applications; and (3) a low network outage rate (less than 48 hours over any 365-day period). In Division J of the IIJA, Congress appropriated \$42.45 billion for the BEAD Program, which is the single largest federal investment in broadband infrastructure to date.

To access the grant funds allocated to a state using a formula set by the IIJA, the state must submit and have the Assistant Secretary approve its grant documents, including initial and final proposals. In the initial proposal, the state must identify all broadband-serviceable locations in its jurisdiction that are eligible for BEAD funding. In the final proposal, the state must provide a detailed plan that specifies how the state will allocate its BEAD funding for broadband deployment in those locations. As of August 2025, all states have continued to complete final program requirements, and no BEAD funding has been distributed for any eligible broadband deployment projects. A major issue for the 119th Congress is whether and, if so, how to assess and address concerns that have been raised regarding the implementation of the BEAD Program. Concerns include the pace at which NTIA has implemented the BEAD Program, whether certain programmatic requirements or subsequent changes made by NTIA have caused delays in program implementation, and whether NTIA has implemented the program fully consistent with congressional intent and the framework laid out in the IIJA. Another concern involves the requirement that BEAD-funded network deployment projects be “technology-neutral” and who should determine the most suitable broadband connectivity technology for the project—NTIA, states, or subgrantees (i.e., internet service providers [ISPs]). A further concern is whether program requirements such as those related to fair labor practices and climate resilience imposed by NTIA in its BEAD notice of funding opportunity (NOFO) are necessary. Another concern relates to how to define the statutory requirement of the low-cost broadband service option offered to low-income subscribers when using a BEAD-funded network, when states finalize their grant proposals and select BEAD-funded projects. These concerns allude to questions related to the near-term and long-term efficacy and efficiency of federal investment through the program.

On June 6, 2025, NTIA issued the *BEAD Restructuring Policy Notice* (“Policy Notice”) to modify and replace certain requirements in the BEAD NOFO, with the stated purposes of realigning the program with statutory intent, accelerating broadband deployment, and moving the program forward expeditiously. Some Members of Congress have since raised new concerns. These concerns include possible delays because states might need additional time to comply with the Policy Notice to complete their subgrantee selection process and obtain NTIA approval of their final proposals. Other concerns involve uncertainty about which locations are BEAD-eligible, given the expansion of qualifying broadband connectivity technologies and uncertainty about the meaning of the low-cost service option. Concerns have also been expressed about the diversion of BEAD funding from broadband deployment projects using fiber technology to broadband service using technologies such as satellite and unlicensed fixed wireless.

Congress may be interested in overseeing and addressing various aspects of BEAD Program implementation. Congress could consider a range of options, including taking no legislative actions but deferring to the current Administration and focusing efforts on oversight through hearings and investigations. Alternatively, Congress could address emerging program issues by considering new legislation or amending the BEAD provisions in the IIJA. Congress may also choose to consider broader legislation to address implementation of federal broadband programs, including the BEAD Program. Other options include clarification of congressional intent for the BEAD Program to forestall possible unintended readings of the original IIJA language by agencies, codification of agencies’ definitions and programmatic requirements, or enactment of new ones.

Contents

Introduction	1
Overview of the BEAD Program	2
Selected Issues for Congressional Consideration	3
The Pace of Implementing the BEAD Program	4
Implementation Timeline Under the Biden Administration	5
Changes to the BEAD Program by the Second Trump Administration	7
Technology-Neutral Consideration in BEAD-Funded Deployment Projects	9
The “Reliable Broadband Service” Requirement for BEAD-Eligible Locations	10
The “Priority Broadband Project” Requirement for BEAD Funding	12
“Fair Labor Practices” and “Climate Resilience” Requirements in NTIA’s BEAD NOFO	15
Defining <i>Low-Cost Broadband Service Option</i>	17
Options for Congressional Consideration	19

Contacts

Author Information	23
--------------------------	----

Introduction

In the Infrastructure Investment and Jobs Act (IIJA; P.L. 117-58), enacted in late 2021, Congress directed the establishment of the Broadband Equity, Access, and Deployment (BEAD) Program and appropriated \$42.45 billion for the program to make grants to 56 states and territories (collectively referred to as “states” hereinafter) to “bridge the digital divide.”¹ The term *digital divide* generally refers to the gap between individuals who have access to broadband internet and those who do not.² The Federal Communications Commission (FCC), the agency that has a statutory responsibility to annually assess “the availability of advanced telecommunications capability to all Americans,” has determined that having such capability for fixed broadband service “requires access to download speeds of at least 100 Mbps [megabits per second] and upload speeds of at least 20 Mbps” (often listed as 100/20 Mbps).³ FCC data released in May 2025 show that as of June 30, 2024, around 60% of U.S. households had access to residential fixed internet connections with speeds of at least 100/20 Mbps.⁴

The BEAD Program is the single largest federal investment in broadband infrastructure to date.⁵ As of August 2025, all states are continuing to complete final program requirements, and no eligible broadband deployment projects have been funded through states’ allocated BEAD funding.⁶ An issue for the 119th Congress is whether and, if so, how to assess and address concerns that have been raised regarding the implementation of the BEAD Program. Among the concerns raised are the pace of the program, aspects of the program’s requirements and guidelines affecting technological options, labor and climate-related considerations, and broadband service rates when states finalize their grant proposals and select BEAD-funded projects. These concerns relate to the near-term and long-term efficacy and efficiency of federal investment through the program in addressing the digital divide. This report focuses on selected policy issues regarding the BEAD Program and options for Congress to consider.

¹ 47 U.S.C. §1702(b). For more information on broadband provisions in Division F of the Infrastructure Investment and Jobs Act (IIJA), see CRS Report R46967, *The Infrastructure Investment and Jobs Act (P.L. 117-58): Summary of the Broadband Provisions in Division F*, coordinated by Patricia Moloney Figliola.

² CRS Report R47506, *The Persistent Digital Divide: Selected Broadband Deployment Issues and Policy Considerations*, by Colby Leigh Pechtoll.

³ Federal Communications Commission (FCC), *2024 Section 706 Report*, FCC-24-27, March 14, 2024, pp. 3, 13, <https://docs.fcc.gov/public/attachments/FCC-24-27A1.pdf>. See Section 706 of the Telecommunications Act of 1996 (codified at 47 U.S.C. §1302) for the FCC’s annual Section 706 reporting requirement. The FCC did not directly define the term *fixed broadband* in its annual Section 706 reports. In its data publication of the Affordable Connectivity Program (ACP), the FCC defined the term as “any type of broadband service that terminates at a specific end-user premises,” as opposed to “mobile broadband service ... that allows end users to receive information from and/or send information to the Internet from a mobile device and using a mobile network.” See, for example, the nationwide data document attached to FCC, “Office of Economics and Analytics and Wireline Competition Bureau Announce Publication of the Affordable Connectivity Program Transparency Data Collection,” public notice, May 30, 2024, p. 5736, <https://docs.fcc.gov/public/attachments/DOC-402903A1.pdf>.

⁴ FCC, Industry Analysis Division, Office of Economics and Analytics, *Internet Access Services: Status as of June 30, 2024*, May 2025, p. 10, <https://docs.fcc.gov/public/attachments/DOC-411463A1.pdf>.

⁵ CRS In Focus IF12429, *Broadband Equity, Access, and Deployment (BEAD) Program: Issues and Congressional Considerations*, by Ling Zhu.

⁶ National Telecommunications and Information Administration (NTIA), *BEAD Restructuring Policy Notice*, June 6, 2025, <https://www.ntia.gov/sites/default/files/2025-06/bead-restructuring-policy-notice.pdf>. See also NTIA, “Biden-Harris Administration Approves Nevada’s ‘Internet for All’ Final Proposal,” press release, January 16, 2025, <https://www.ntia.gov/press-release/2025/biden-harris-administration-approves-nevada-s-internet-all-final-proposal>; and NTIA, “Public Resources Related to BEAD Plans and Milestones,” <https://broadbandusa.ntia.doc.gov/public-resources-related-bead-plans-and-milestones>.

Overview of the BEAD Program

Under Section 60102 of Division F of the IIJA, Congress tasked the Assistant Secretary of Commerce for Communications and Information (“Assistant Secretary”), who leads the National Telecommunications and Information Administration (NTIA; an agency within the Department of Commerce), with establishing and administering the BEAD Program.⁷ Congress directed the Assistant Secretary to make BEAD grants to “eligible entities” (i.e., the 56 “states”).⁸ States are required to use these grants to competitively award subgrants to fund a variety of broadband projects in their jurisdictions, with a priority to provide “affordable, reliable, high-speed broadband” service to locations currently lacking such access.⁹ A broadband network built with BEAD funding must be capable of providing broadband service with (1) at least 100/20 Mbps speed; (2) a low network latency enabling real-time, interactive applications; and (3) a low network outage rate (less than 48 hours over any 365-day period).¹⁰

To access the grant funds allocated to a state using a formula set by the IIJA, the state must submit and have the Assistant Secretary approve its grant documents, including initial and final proposals.¹¹ In the initial proposal, the state must identify all broadband-serviceable locations in its jurisdiction that are eligible for BEAD funding.¹² In the final proposal, the state must provide a detailed plan that specifies how it will allocate its BEAD funding for broadband deployment in those eligible locations.¹³

The law further directs states to prioritize subgrant funding for *priority broadband projects* that are designed to (1) provide broadband service that meets “speed, latency, reliability, consistency in quality of service, and related criteria” determined by the Assistant Secretary and (2) “ensure that the network built by the project 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.”¹⁴

In Division J of the IIJA, Congress appropriated \$42.45 billion for grants, as authorized through the BEAD Program for FY2022, allowing the funds to remain available until expended. Congress provided that up to 2% (or \$849 million) of the appropriated amount could be used for “salaries and expenses, administration, and oversight” of the program.¹⁵

⁷ 47 U.S.C. §1702(b)(1). For more information on NTIA’s role in federal broadband programs, see CRS Report R47075, *The National Telecommunications and Information Administration (NTIA): Current Roles and Programs*, by Ling Zhu; and CRS Report R47883, *Federal Funding for Broadband Deployment: Agencies and Considerations for Congress*, coordinated by Colby Leigh Pechtoll.

⁸ 47 U.S.C. §1702(a)(2)(F), (M).

⁹ 47 U.S.C. §§1701(1), 1702(a), (b), (f).

¹⁰ 47 U.S.C. §1702(h)(4)(A)(i).

¹¹ 47 U.S.C. §1702(c)(4), (e)(3), (4).

¹² 47 U.S.C. §1702(e)(3)(A)(i)(V).

¹³ 47 U.S.C. §1702(e)(4)(A)(i)(I)(aa).

¹⁴ 47 U.S.C. §1702(a)(2)(I)(i), (ii).

¹⁵ Division J of the IIJA. According to the “Funding Availability” described in NTIA’s notice of funding opportunity (NOFO), NTIA allocated 2% of the sum for administrative purposes, leaving the total amount available for federal assistance under the BEAD Program at \$41.601 billion. See Section II.A of NTIA, *Notice of Funding Opportunity: Broadband Equity, Access, and Deployment Program*, May 13, 2022, p. 17, <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>.

Selected Issues for Congressional Consideration

As the BEAD Program entered its fourth year in November 2024, some Members of Congress, state broadband officials, and stakeholders (e.g., internet service providers [ISPs]) “have raised concerns about NTIA’s administration of the BEAD program.”¹⁶ Their concerns included (1) NTIA’s prioritization of BEAD-funded broadband deployment projects using only fiber connectivity technology while excluding other connectivity technologies (e.g., satellite) from consideration; (2) certain NTIA programmatic requirements for states and ISPs to participate in the BEAD Program, such as specified “fair labor practices” and “climate resilience” activities;¹⁷ and (3) NTIA’s specific guidance on what constitutes a “low-cost option” for eligible subscribers to access broadband service provided by BEAD-funded deployment projects. Some Members of Congress and government officials criticized these requirements for imposing extraneous burdens on states and slowing program implementation.¹⁸ As of August 2025, no BEAD funding had been distributed for any broadband deployment projects.

On June 6, 2025, NTIA issued a *BEAD Restructuring Policy Notice* (hereinafter referred to as the “Policy Notice”), which modified and replaced certain requirements outlined in the BEAD notice of funding opportunity (NOFO) published in May 2022, including the requirements related to connectivity technologies, labor and climate practices, and the low-cost option.¹⁹ NTIA stated that these “superfluous requirements ... made the [program] more complex and expensive, stifled competition, and led to reduced participation levels.”²⁰ The purposes of the Policy Notice were to “realign the Program with statutory intent, speed broadband deployment” and “ensure that all Americans receive the greatest Benefit of the Bargain and that the BEAD Program moves forward expeditiously.”²¹

Since the issuance of the Policy Notice, some Members of Congress have raised concerns about the program modification and progress, including the additional time needed for states to complete their subgrantee selection process and to obtain approval of their final proposals from NTIA. Other concerns raised by Members include uncertainty about which BEAD-eligible locations are broadband serviceable, given the expansion of qualifying broadband connectivity technologies; uncertainty about the meaning of the low-cost service option; and the possibility

¹⁶ Memorandum from the majority staff of the House Committee on Energy and Commerce to committee members for the March 5, 2025, Communications and Technology Subcommittee Hearing, *Fixing Biden’s Broadband Blunder*, March 3, 2025, p. 2, https://d1dth6e84htgma.cloudfront.net/03_05_25_CT_Hearing_Memo_2_1111b3aeea.pdf.

¹⁷ NTIA, *NOFO: BEAD Program*.

¹⁸ See, for example, letter from Sen. Ted Cruz to Alan Davidson, Assistant Secretary of Commerce for Communications and Information and NTIA administrator, November 21, 2024, <https://www.commerce.senate.gov/services/files/C32B6A16-3088-437E-A227-6F72650A081C>; NTIA, “Statement from U.S. Secretary of Commerce Howard Lutnick on the BEAD Program,” press release, March 5, 2025, <https://www.ntia.gov/press-release/2025/statement-us-secretary-commerce-howard-lutnick-bead-program>.

¹⁹ NTIA, *BEAD Restructuring Policy Notice*. NTIA stated that “this Policy Notice ... balances the work that has previously been done with necessary changes to ensure the success of the BEAD Program” (p. 3). Accordingly, the BEAD NOFO was not rescinded in its entirety. With certain sections and paragraphs removed, the rest of the NOFO guidance remains in effect and applicable to the implementation of the BEAD Program.

²⁰ NTIA, *BEAD Restructuring Policy Notice*, p. 3.

²¹ NTIA, *BEAD Restructuring Policy Notice*, p. 3. In the Policy Notice, NTIA used the term “Benefit of the Bargain” to refer to the return on American taxpayers’ broadband investment (i.e., the congressionally appropriated BEAD funds) “via increased competition” in the broadband marketplace. NTIA required states to conduct at least one subgrantee selection round called the “Benefit of the Bargain Round,” in which all applicants for BEAD funding, regardless of broadband connectivity technologies they employ or their prior participation in the program, “compete on a level playing field undistorted by the non-statutory regulatory burdens.” See NTIA, *BEAD Restructuring Policy Notice*, pp. 8, 10.

that some BEAD funding might be diverted from broadband deployment projects using the fiber technology to satellite broadband service.²² Experts and stakeholders have not reached a consensus on whether NTIA's latest guidance has fully and sufficiently addressed the previous concerns about the BEAD implementation, especially considering varied circumstances at the state and local levels (e.g., all states are at different stages of working toward their final proposals; some unserved locations are ready for immediate fiber deployment, while other locations lack potential subgrantees' interest to participate in the BEAD Program for various reasons; different locations have different economic conditions to determine broadband affordability). The following subsections discuss selected issues that reflect policy debates specifically focusing on BEAD Program implementation in the 119th Congress.²³

The Pace of Implementing the BEAD Program

The pace of implementation of the BEAD Program has spurred debates over whether certain programmatic requirements or subsequent changes made by NTIA have caused delays and whether NTIA's implementation is fully consistent with congressional intent and the framework laid out in the IIJA. Some Members of Congress have raised questions regarding the program's implementation timeline, including when BEAD funds will be distributed to subgrantees, when BEAD-funded projects will start construction, and whether it is necessary for Congress to clarify its intent and codify certain program adjustments to expedite broadband deployment.²⁴ Conversely, some experts suggest that the program's complexity and extended implementation timeline stem, at least in part, from congressional design of the program "to avoid the problems of waste, fraud and abuse that plagued ... other [broadband] deployment programs."²⁵

One requirement imposed by Section 60102 of the IIJA is that a state's access to its allocated BEAD funds is subject to NTIA's approval of a series of program filings, including the state's initial proposal and final proposal.²⁶ In its Policy Notice, NTIA required all states to correct their previously approved initial proposals and develop their final proposals to incorporate the revised

²² See, for example, letter from Sen. Ben Ray Lujan to Arielle Roth, Assistant Secretary of Commerce for Communications and Information, July 31, 2025, p. 2., <https://www.lujan.senate.gov/wp-content/uploads/2025/07/Letter-to-NTIA-Administrator.pdf>; letter from 22 Members of Congress (led by Rep. Doris O. Matsui) to Howard Lutnick, Secretary of Commerce, July 22, 2025, https://matsui.house.gov/sites/evo-subsites/matsui.house.gov/files/evo-media-document/matsui-letter-bead-revised-guidance-lutnick_0.pdf; and letter from 48 Members of Congress (led by Rep. James E. Clyburn and Sen. Amy Klobuchar) to Howard Lutnick, Secretary of Commerce, June 25, 2025, https://www.klobuchar.senate.gov/public/_cache/files/9/7/973a0366-34a8-4626-9972-6d6c86972fd2/C6174C7994255EFEF3DDBDEF265E344B9DA50A611D7C9770AD63E71359E560EB.final-letter-to-secretary-lutnick-on-bead-changes.pdf. In the Policy Notice, NTIA requires all states to create separate subgrants to award BEAD funds to low Earth orbit (LEO) broadband service providers. NTIA, *BEAD Restructuring Policy Notice*, p. 19.

²³ Other policy issues related to the BEAD Program in general include (1) coordination among federal agencies that administer various broadband programs, (2) development of a national broadband strategy, (3) avoidance of the duplication of federal broadband programs, (4) data collection and sharing in federal broadband programs, (5) federal-state coordination in broadband programs, and (6) the shift from funding broadband deployment to adoption and sustainability. These issues are discussed in CRS Report R47883, *Federal Funding for Broadband Deployment: Agencies and Considerations for Congress*, coordinated by Colby Leigh Pechtoll; and CRS In Focus IF12429, *Broadband Equity, Access, and Deployment (BEAD) Program: Issues and Congressional Considerations*, by Ling Zhu.

²⁴ See, for example, U.S. Congress, House Committee on Energy and Commerce, Subcommittee on Communications and Technology, *Fixing Biden's Broadband Blunder*, hearings, 119th Cong., 1st sess., March 5, 2025, <https://energycommerce.house.gov/events/communications-and-technology-subcommittee-1>.

²⁵ Testimony of Policy Analyst of New Street Research Blair Levin in U.S. Congress, House Committee on Energy and Commerce, Subcommittee on Communications and Technology, *From Introduction to Implementation: A BEAD Program Progress Report*, hearings, 118th Cong., 2nd sess., September 10, 2024, https://d1dth6e84htgma.cloudfront.net/09_10_24_Levin_Testimony_c367ea6c68.pdf.

²⁶ 47 U.S.C. §1702(c)(4).

terms and conform with the new rules and guidance.²⁷ This subsection provides a timeline of selected milestones of the program from 2022 through August 2025, based on publicly available information. The timeline identifies, where appropriate, what program activities are required by law and what activities are required by NTIA's guidance.

Implementation Timeline Under the Biden Administration

Pursuant to the IIJA, NTIA issued the BEAD NOFO on May 13, 2022, within 180 days of enactment of the law.²⁸ The NOFO described how the agency intended to administer the program and the program requirements under which it would award BEAD grants to states.²⁹

The IIJA allows states, after NTIA's issuance of the NOFO, to request access to the BEAD planning funds through a "letter of intent" to participate in the BEAD Program and use the amounts for various purposes, including initially identifying eligible locations for BEAD funding and establishing and operating a state broadband office to oversee broadband programs and broadband deployment.³⁰ The IIJA provides up to \$5 million in planning funds for each of the 50 states, the District of Columbia, and Puerto Rico and up to \$1.25 million for each of the other four territories.³¹ NTIA required states to submit their letters of intent by July 18, 2022, and all supplemental information related to the planning funds by August 15, 2022.³² Louisiana was the first state to receive planning funds on August 31, 2022.³³ By June 12, 2023, all 56 states and territories had received their BEAD planning funds.³⁴

The IIJA requires the Assistant Secretary to notify each state of its allocated BEAD amount when the FCC national "broadband DATA maps" are publicly available.³⁵ The law directs NTIA to use the mapping data to determine the number of unserved locations in each state and to calculate a major portion of BEAD funding allocated to the state on the basis of that number.³⁶ An *unserved location* is a broadband-serviceable location without access to reliable broadband service (see "The 'Reliable Broadband Service' Requirement for BEAD-Eligible Locations" below).³⁷ On May 30, 2023, the FCC released the first official version of its National Broadband Map (NBM),

²⁷ NTIA, *BEAD Restructuring Policy Notice*, p. 16.

²⁸ 47 U.S.C. §1702(e)(1)(A).

²⁹ NTIA, *NOFO: BEAD Program*, pp. 5, 7.

³⁰ 47 U.S.C. §1702(e)(1)(C).

³¹ 47 U.S.C. §1702(e)(1)(C)(i).

³² NTIA, *NOFO: BEAD Program*, p. 1.

³³ NTIA, "Biden-Harris Administration Awards \$2.9 Million to Louisiana in First of 'Internet for All' Planning Grants," press release, August 31, 2022, <https://www.ntia.gov/press-release/2022/biden-harris-administration-awards-29-million-louisiana-first-internet-all-planning-grants>.

³⁴ NTIA, "Biden-Harris Administration Awards Nearly \$1.25 Million to the U.S. Virgin Islands for 'Internet for All' Planning Grant," press release, June 12, 2023, <https://www.ntia.gov/press-release/2023/biden-harris-administration-awards-nearly-125-million-us-virgin-islands-internet-all-planning-grant>.

³⁵ 47 U.S.C. §1702(e)(2). The term *broadband DATA maps* refers to maps created by the FCC under Section 802(c)(1) of the Communications Act of 1934, as amended (47 U.S.C. §1702(a)(2)(C)). These maps depict the availability of broadband internet access service in the United States (47 U.S.C. §642(c)(1)). For more information on broadband data and mapping, see CRS Report R45962, *Broadband Data and Mapping: Background and Issues for the 117th Congress*, by Colby Leigh Pechtoll.

³⁶ 47 U.S.C. §1702(c)(3). The term *unserved location* means a broadband-serviceable location without access to reliable broadband service with an internet speed of at least 25 megabits per second (Mbps) for downloads and 3 Mbps for uploads (or 25/3 Mbps) and a network latency low enough to support real-time, interactive online applications (47 U.S.C. §1702(a)(1)(A)).

³⁷ 47 U.S.C. §1702(a)(1)(A).

which reflected broadband availability data as of December 31, 2022.³⁸ On the basis of the NBM data, NTIA issued notices regarding the estimated BEAD funding amount available to each state on June 30, 2023.³⁹ The allocated BEAD funding ranged from \$27.1 million for the U.S. Virgin Islands to \$3.3 billion for Texas.⁴⁰

NTIA then requested states to submit their initial proposals within 180 days of the BEAD allocation notice.⁴¹ Pursuant to the IIJA, the initial proposal should include information on deploying broadband, closing the digital divide, coordinating with local governments, awarding BEAD subgrants, and identifying eligible locations and entities for BEAD funding.⁴² Upon approval of the initial proposal, the Assistant Secretary is required to make available to the state 20% of its allocated BEAD funds, with the discretion to approve a higher percentage.⁴³ Kansas, Nevada, and West Virginia were among the first states to receive NTIA's approval of their initial proposals on April 25, 2024.⁴⁴ By November 19, 2024, all 56 states and territories had received NTIA's approval.⁴⁵ On December 23, 2024, NTIA stated that it had "obligated all \$42.45 billion in BEAD funding to states."⁴⁶ At this point, states could access all of their allocated BEAD funds "subject to the terms and conditions of their awards."⁴⁷

NTIA then required states to submit their final proposals within 365 days after the initial proposal approval.⁴⁸ Pursuant to the IIJA, the final proposal must include a detailed plan of how the state will allocate BEAD funding for broadband deployment, an implementation timeline, processes for oversight and accountability, and a description of how the state will coordinate with local governments.⁴⁹ By January 16, 2025, NTIA had approved the final proposals of three states—Louisiana, Delaware, and Nevada—which, according to NTIA, was "the final step required under the BEAD statute before [the state] moves forward with signing agreements with the [ISPs] it has selected to build BEAD-funded networks and begin connecting new locations."⁵⁰

³⁸ Jessica Rosenworcel, "National Broadband Map: It Keeps Getting Better," FCC, May 30, 2023, <https://www.fcc.gov/national-broadband-map-it-keeps-getting-better>. For more information on the FCC's National Broadband Map (NBM), see CRS In Focus IF12298, *FCC's National Broadband Map: Implications for the Broadband Equity, Access, and Deployment (BEAD) Program*, coordinated by Colby Leigh Pechtoll. For the current version of the NBM, visit <https://broadbandmap.fcc.gov/home>.

³⁹ NTIA, "Biden-Harris Administration Announces State Allocations for \$42.45 Billion High-Speed Internet Grant Program as Part of Investing in America Agenda," press release, June 26, 2023, <https://www.ntia.gov/press-release/2023/biden-harris-administration-announces-state-allocations-4245-billion-high-speed-internet-grant>.

⁴⁰ NTIA, "Public Resources Related to BEAD Plans and Milestones."

⁴¹ NTIA, *NOFO: BEAD Program*, p. 2.

⁴² 47 U.S.C. §1702(e)(3)(A)(i).

⁴³ 47 U.S.C. §1702(e)(3)(D)(ii)(III).

⁴⁴ NTIA, "Biden-Harris Administration Approves Kansas, Nevada, and West Virginia's 'Internet for All' Initial Proposal," press release, April 25, 2024, <https://www.ntia.gov/press-release/2024/biden-harris-administration-approves-kansas-nevada-and-west-virginia-s-internet-all-initial-proposal>.

⁴⁵ NTIA, "Biden-Harris Administration Approves Texas' 'Internet for All' Initial Proposal," press release, November 19, 2024, <https://www.ntia.gov/press-release/2024/biden-harris-administration-approves-texas-internet-all-initial-proposal>.

⁴⁶ NTIA, "With All Funds Obligated, NTIA Takes Additional Steps to Accelerate BEAD Construction," press release, December 23, 2024, <https://www.ntia.gov/blog/2024/all-funds-obligated-ntia-takes-additional-steps-accelerate-bead-construction>.

⁴⁷ NTIA, "With All Funds Obligated, NTIA Takes Additional Steps to Accelerate BEAD Construction."

⁴⁸ NTIA, *NOFO: BEAD Program*, p. 2.

⁴⁹ 47 U.S.C. §1702(e)(4)(A)(i).

⁵⁰ NTIA, "Biden-Harris Administration Approves Louisiana's 'Internet for All' Final Proposal," press release, January (continued...)

The IIJA also requires each state to implement a process to allow local governments, nonprofit organizations, or broadband service providers to challenge the state's determination of the eligibility of a particular location for BEAD funding.⁵¹ The state must resolve each challenge and publish a final list of eligible locations before allocating its BEAD funds for broadband deployment projects.⁵² By January 3, 2025, all states had closed their online portals for challenge submission.⁵³

Changes to the BEAD Program by the Second Trump Administration

On March 5, 2025, Secretary of Commerce Howard Lutnick announced that the Department of Commerce had launched “a rigorous review of the BEAD Program,” with the intention to revamp the program by removing certain program requirements, taking a technology-neutral approach to broadband technologies eligible for funding, and working with states to address any “delays,” “waste,” and “red tape.”⁵⁴

The IIJA authorizes the Assistant Secretary to issue regulations or “guidance, forms, instructions, and publications as may be necessary or appropriate to carry out the programs, projects, or activities” under the BEAD Program, “including to ensure that those programs, projects, or activities are completed in a timely and effective manner.”⁵⁵ On June 6, 2025, NTIA issued the Policy Notice and required states to comply with the revised terms set forth therein to gain approval of their final proposals from the Assistant Secretary.⁵⁶ NTIA rescinded all previous final proposal approvals and provided states with 90 days to submit their final proposals.⁵⁷ NTIA stated that it would complete review of each proposal within 90 days of submission.⁵⁸ See the text box below for more information on this Policy Notice.

13, 2025, <https://broadbandusa.ntia.doc.gov/news/latest-news/biden-harris-administration-approves-louisianas-internet-all-final-proposal>; NTIA, “Biden-Harris Administration Approves Delaware’s ‘Internet for All’ Final Proposal,” press release, January 14, 2025, <https://broadbandusa.ntia.doc.gov/news/latest-news/biden-harris-administration-approves-delawares-internet-all-final-proposal>; NTIA, “Biden-Harris Administration Approves Nevada’s ‘Internet for All’ Final Proposal,” press release, January 16, 2025, <https://www.ntia.gov/press-release/2025/biden-harris-administration-approves-nevada-s-internet-all-final-proposal>; and NTIA, “Public Resources Related to BEAD Plans and Milestones.”

⁵¹ 47 U.S.C. §1702(h)(2)(A).

⁵² 47 U.S.C. §1702(h)(2)(B).

⁵³ NTIA, “State and Territory Challenge Process Tracker,” <https://www.ntia.gov/page/state-and-territory-challenge-process-tracker>.

⁵⁴ NTIA, “Statement from U.S. Secretary of Commerce Howard Lutnick on the BEAD Program.”

⁵⁵ 47 U.S.C. §1702(i).

⁵⁶ NTIA, *BEAD Restructuring Policy Notice*.

⁵⁷ NTIA, *BEAD Restructuring Policy Notice*, pp. 10, 16.

⁵⁸ NTIA, *BEAD Restructuring Policy Notice*, p. 10.

Highlights of the BEAD Restructuring Policy Notice

The National Telecommunications and Information Administration's (NTIA's) June 6, 2025, *Broadband Equity, Access, and Deployment (BEAD) Program: BEAD Restructuring Policy Notice* contains the following seven sections of guidance:

1. **Elimination of regulatory burdens.** NTIA requires all states to eliminate seven “non-statutory requirements from BEAD application scoring, subgrantee agreements, and subgrantee reporting requirements” and prohibits states from “imposing any of the obligations removed by this Policy Notice on subgrantees.”⁵⁹ The requirements contained in NTIA's BEAD notice of funding opportunity (NOFO) and eliminated include those related to (1) “labor, employment, and workforce development”; (2) “climate change”; (3) “open access/net neutrality”; (4) “local coordination and stakeholder engagement”; (5) “non-traditional broadband providers”; (6) “a middle-class affordability plan”; and (7) “a low-cost broadband service option.”⁶⁰
2. **Technology neutrality.** NTIA eliminates the “Fiber Preference” section of the NOFO, which prioritized broadband deployment projects using end-to-end fiber. NTIA permits states to select from all qualifying technologies that meet the performance requirements of the IIJA.⁶¹
3. **Optimizing BEAD locations.** NTIA required all states to (1) “account for locations that do not require BEAD funding”; (2) “modify BEAD-eligible location lists to include locations no longer served due to a default or change in service area on a Federal enforceable commitment”; (3) account for and exclude locations with access to existing unlicensed fixed wireless broadband service that meets certain technical specifications; and (4) “revise their list of eligible Community Anchor Institutions” to “conform with the statutory definition [in the] IIJA.”⁶²
4. **Non-deployment funding.** NTIA rescinds approval of all non-deployment activities in initial proposals and will issue updated guidance on allowable non-deployment projects. Final proposals require detail only on BEAD-funded deployment projects.⁶³
5. **Permitting.** “To support NTIA's goal of issuing National Environmental Policy Act (NEPA) approvals within two weeks” for about 90% of BEAD projects, NTIA requires all states to use the Environmental Screening and Permitting Tracking Tool in the NTIA Grants Portal.⁶⁴
6. **Alignment with prior guidance.** NTIA rescinds previous policy notices addressing alternative broadband technologies and addresses issues regarding unlicensed fixed wireless and low Earth orbit (LEO) satellite technologies in the appendixes of the Policy Notice.⁶⁵
7. **Modification of initial and final proposals.** NTIA rescinds all previous final proposal approvals and requires all states to modify their initial proposals to incorporate the terms of the Policy Notice.⁶⁶

As of mid-August 2025, NTIA had approved all states' updated initial proposals. All but two states had started the “Benefit of the Bargain” round of subgrantee selection; no states had submitted the final proposal.⁶⁷

The IIJA requires a subgrantee to deploy the BEAD-funded network and begin providing broadband service to customers no later than four years after receiving the subgrant; however, it allows the state to extend the deadline under certain circumstances.⁶⁸

⁵⁹ NTIA, *BEAD Restructuring Policy Notice*, p. 4.

⁶⁰ NTIA, *BEAD Restructuring Policy Notice*, pp. 4-8.

⁶¹ NTIA, *BEAD Restructuring Policy Notice*, pp. 8-13.

⁶² NTIA, *BEAD Restructuring Policy Notice*, pp. 13-14. A *community anchor institution* is “an entity such as a school, library, health clinic, health center, hospital or other medical provider, public safety entity, institution of higher education, public housing organization, or community support organization that facilitates greater use of broadband service by vulnerable populations.” 47 U.S.C. §1702(a)(2)(E).

⁶³ NTIA, *BEAD Restructuring Policy Notice*, p. 15.

⁶⁴ NTIA, *BEAD Restructuring Policy Notice*, p. 15.

⁶⁵ NTIA, *BEAD Restructuring Policy Notice*, p. 15.

⁶⁶ NTIA, *BEAD Restructuring Policy Notice*, p. 16.

⁶⁷ See NTIA, “BEAD Progress Dashboard,” August 4, 2025, <https://www.ntia.gov/funding-programs/internet-all/broadband-equity-access-and-deployment-bead-program/progress-dashboard>.

⁶⁸ 47 U.S.C. §1702(h)(4)(C).

Despite NTIA's stated purpose of moving the BEAD Program forward expeditiously, some Members of Congress asserted that the policy changes "further complicate[] and delay[] the program for all stakeholders, violating congressional intent."⁶⁹ They expressed concerns that states would "have an impractical timeline to make the massive changes" required in the Policy Notice within 90 days.⁷⁰ Other Members cautioned against NTIA using the Policy Notice to "further delay approvals" of states' final proposals "or revisit established allocations" of BEAD funds to states.⁷¹

Technology-Neutral Consideration in BEAD-Funded Deployment Projects

An ongoing debate surrounds who should determine the most suitable broadband connectivity technology for a BEAD-funded deployment project—NTIA, states, or ISPs. The IIJA neither specifies any broadband technology nor explicitly mandates that NTIA be technology-neutral in its administration of the BEAD Program.⁷² The IIJA provides the characteristics and quality of service that should be provided by BEAD-funded projects.⁷³

Citing the language in the IIJA that allows the Assistant Secretary to determine network performance criteria for eligible broadband technologies and priority broadband deployment projects, NTIA provided guidance to states in its May 2022 NOFO, showing a preference for specific technologies (e.g., fiber) and exclusion of other technologies (e.g., satellites). Some Members of Congress stated that NTIA's technology preferences have limited states' options for selecting the most cost-effective and readily deployed broadband technologies.⁷⁴

NTIA modified the connectivity technology guidance in its June 2025 Policy Notice, eliminating the fiber preference, permitting states to select from all technologies that meet the network performance requirements of the IIJA, and directing states to use the implementation cost as a primary factor in scoring competing applications. Some Members of Congress expressed their concerns with these changes, which they pointed out might result in "inferior connectivity" and "unreliable, unsustainable, and low-quality [broadband infrastructure] builds."⁷⁵

⁶⁹ Letter from 22 Members of Congress (led by Rep. Doris O. Matsui) to Howard Lutnick, Secretary of Commerce, p. 1.

⁷⁰ Letter from 22 Members of Congress (led by Rep. Doris O. Matsui) to Howard Lutnick, Secretary of Commerce, p. 2.

⁷¹ Letter from Sen. Ben Ray Lujan to Arielle Roth, Assistant Secretary of Commerce for Communications and Information, p. 2.

⁷² For comparison, in the Middle Mile Grants program established by Section 60401 of the IIJA, Congress explicitly directs the Assistant Secretary to make "grants on a technology-neutral ... basis ... for the construction, improvement, or acquisition of middle mile infrastructure." 47 U.S.C. §1741(c).

⁷³ For example, a broadband network built with BEAD funding must be capable of providing broadband service with (1) at least 100/20 Mbps speed, (2) a low network latency enabling real-time, interactive applications, and (3) a low network outage rate (less than 48 hours over any 365-day period). 47 U.S.C. §1702(h)(4)(A)(i).

⁷⁴ Opening statement of Rep. Richard Hudson in House Subcommittee on Communications and Technology, *Fixing Biden's Broadband Blunder*, hearings, <https://energycommerce.house.gov/posts/chairman-hudson-delivers-opening-statement-at-subcommittee-on-communications-and-technology-hearing-on-rural-broadband>.

⁷⁵ See, for example, letter from 22 Members of Congress (led by Rep. Doris O. Matsui) to Howard Lutnick, Secretary of Commerce, p. 1.

The “Reliable Broadband Service” Requirement for BEAD-Eligible Locations

For an unserved location to be eligible for BEAD funding, the IIJA requires that it have no “reliable broadband service.”⁷⁶ Congress allows the Assistant Secretary to determine additional network performance criteria for reliable broadband service, including availability, adaptability to changing end-user requirements, or length of serviceable life.⁷⁷

In its BEAD NOFO, NTIA adopted the criteria that reliable broadband service “must be (1) a fixed broadband service that (2) is available with a high degree of certainty, (3) both at present and for the foreseeable future.”⁷⁸ After coordination with the FCC, NTIA determined that broadband service can be considered reliable if it is accessible to an end-user’s location via certain fixed broadband technologies, including fiber, but excluding satellite and fixed wireless technology using only unlicensed radio spectrum (e.g., Wi-Fi) (see the text box below for definitions of broadband connectivity technologies at issue).⁷⁹ Accordingly, NTIA would consider a location unserved if it has been served exclusively by satellite or unlicensed fixed wireless.⁸⁰ With certain exceptions, states were to select broadband deployment projects that will provide unserved locations with reliable broadband service via specified technologies and with specified network performance metrics.⁸¹

Major Broadband Connectivity Technologies at Issue

When referring to broadband technologies in its BEAD NOFO, NTIA cited the Fixed Technology Codes in FCC’s Broadband Data Collection guidance.⁸² The major technologies at issue include the following:

- **Fiber-optic technology (also referred to as “fiber”).** ISPs use fiber to provide fixed wireline internet service to homes or businesses.⁸³ Digital data are transmitted via pulses of light in fiber-optic cables. These fiber cables are either hung on poles or buried in the ground and can be connected directly to end-user locations. Residential fiber technology typically provides a speed of 250-1,000 megabits per second (Mbps) for both downloads and uploads.
- **Non-geostationary satellite.** ISPs use satellites in non-geostationary orbit (e.g., LEO) to provide fixed non-terrestrial wireless internet service to end users.⁸⁴ A satellite antenna (also called a “dish”), modem, and

⁷⁶ 47 U.S.C. §1702(a)(1)(A).

⁷⁷ 47 U.S.C. §1702(a)(2)(L).

⁷⁸ NTIA, *NOFO: BEAD Program*, p. 15. NTIA’s criteria imply that mobile wireless service such as 4G or 5G is not reliable broadband service for the purposes of the BEAD Program.

⁷⁹ NTIA, *NOFO: BEAD Program*, pp. 15, 28. These technologies are specified by the FCC for its Broadband Data Collection submission. See FCC, *Broadband Data Collection: Data Specifications for Biannual Submission of Subscription, Availability, and Supporting Data*, November 25, 2024, Table 4.1, p. 12, <https://us-fcc.app.box.com/v/bdc-availability-spec>. See also CRS In Focus IF12441, *Fixed Technologies Used to Deliver Broadband Service: A Primer and Considerations for Congress*, by Colby Leigh Pechtolt.

⁸⁰ NTIA, *NOFO: BEAD Program*, p. 28.

⁸¹ NTIA, *NOFO: BEAD Program*, p. 37. The fixed broadband technologies specified by NTIA to deliver reliable broadband service were (1) fiber-optic technology, (2) cable modem/hybrid fiber-coaxial technology, (3) digital subscriber line technology, and (4) terrestrial fixed wireless technology using licensed spectrum or a hybrid of licensed and unlicensed spectrum. NTIA, *NOFO: BEAD Program*, p. 15. The performance metrics specified by NTIA are (1) a download speed of at least 100 Mbps and an upload speed of at least 20 Mbps and (2) a network latency less than or equal to 100 milliseconds. NTIA, *NOFO: BEAD Program*, p. 37.

⁸² NTIA, *NOFO: BEAD Program*, pp. 15, 28. The FCC periodically updates its broadband data collection guidance. For the latest one, see FCC, *Broadband Data Collection: Data Specifications for Biannual Submission of Subscription, Availability, and Supporting Data*, November 25, 2024, Table 4.1, p. 12, <https://us-fcc.app.box.com/v/bdc-availability-spec>.

⁸³ FCC, *Broadband Data Collection*, Fixed Technology Code 50.

⁸⁴ FCC, *Broadband Data Collection*, Fixed Technology Code 61.

direct line of sight between an end-user device and a satellite are required for such service. Residential LEO satellite technology may provide a download speed of 25-220 Mbps and an upload speed of 5-20 Mbps.

- **Terrestrial fixed wireless technology utilizing entirely unlicensed radio spectrum (also referred to as “unlicensed fixed wireless”).** ISPs use only, and entirely unlicensed, radio spectrum to provide fixed terrestrial wireless internet service to end users.⁸⁵ The term *fixed wireless* means that broadband service is delivered to a fixed (not mobile) location using a terrestrial wireless connection (e.g., through rooftop radio antennas) rather than a wired line, such as fiber, or a non-terrestrial wireless connection, such as satellites.⁸⁶ An example is internet service provided over Wi-Fi (which uses unlicensed spectrum), connecting end users at fixed locations wirelessly.⁸⁷ This technology may still rely on fiber or other physical cables for backhaul connection to an ISP's core network. Residential fixed wireless technology may provide a download speed of 10-25 Mbps and an upload speed of 1 Mbps.

Other fixed broadband technologies mentioned in the BEAD NOFO include cable modem/hybrid fiber-coaxial technology, digital subscriber line technology, and terrestrial fixed wireless technology utilizing either entirely licensed spectrum or a hybrid of licensed and unlicensed spectrum. For more information on these technologies, see CRS In Focus IF12441, *Fixed Technologies Used to Deliver Broadband Service: A Primer and Considerations for Congress*, by Colby Leigh Pechtol.

In its Policy Notice, NTIA eliminated the distinctions between fiber and other technologies such as satellite and unlicensed fixed wireless.⁸⁸ ISPs using these technologies are now permitted to compete for BEAD subgrants. A potential outcome of these changes is that locations with access to satellite or unlicensed fixed wireless broadband service that provides 100/20 Mbps speeds, which were previously categorized as unserved locations, might now be considered served. Thus, in the Policy Notice, NTIA directed states to review their lists of BEAD-eligible locations previously approved by NTIA.⁸⁹ States must exclude locations already served by a qualifying unlicensed fixed wireless service from the list to prevent overbuilding of existing networks.⁹⁰ NTIA did not address whether locations served by existing satellite broadband service are still eligible for BEAD funding.

An analysis of data from 49 states (all but West Virginia) and the District of Columbia found that the number of BEAD-eligible locations could be reduced by up to 15% nationwide because of the inclusion of unlicensed fixed wireless service.⁹¹ This reduction varies by state, with some seeing a potential 30% decrease (e.g., California, Colorado, Idaho, Minnesota, Nebraska, Nevada, and Wyoming), and others almost no effect (e.g., Connecticut, Hawaii, Mississippi, New Jersey, and Rhode Island).⁹² The analysis suggested that this decrease in BEAD-eligible locations could

⁸⁵ FCC, *Broadband Data Collection*, Fixed Technology Code 70.

⁸⁶ FCC, “FCC Consumer Facts: High Speed Internet Access - ‘Broadband,’” <https://www.fcc.gov/hspc/factsheets/broadband-access.doc>.

⁸⁷ The term *Wi-Fi* refers to a wireless local area network that is within a limited geographic area, such as an office building or building campus, and uses radio spectrum for data communications. National Institute of Standards and Technology (NIST), Computer Security Resource Center (CSRC), “Wireless Fidelity (WiFi),” https://csrc.nist.gov/glossary/term/wireless_fidelity; NIST, CSRC, “Wireless Local Area Network (WLAN),” https://csrc.nist.gov/glossary/term/wireless_local_area_network. The FCC has allocated certain radio frequencies for high-speed wireless data communications without a license. See 47 C.F.R. Part 15, Subpart E. Most Wi-Fi networks operate on unlicensed spectrum.

⁸⁸ NTIA, *BEAD Restructuring Policy Notice*, p. 9.

⁸⁹ NTIA, *BEAD Restructuring Policy Notice*, p. 13.

⁹⁰ NTIA, *BEAD Restructuring Policy Notice*, p. 14.

⁹¹ Alex Karras and Michael Santorelli, “Understanding the New BEAD Map: Including Unlicensed Fixed Wireless and RDOF Defaults in BEAD Could Further Reduce Eligible Locations by ~13%,” Advanced Communications Law and Policy Institute, New York Law School, June 24, 2025, <https://broadbandexpanded.com/posts/beadulfrdof>.

⁹² Alex Karras and Michael Santorelli, “Understanding the New BEAD Map.”

“increase the amount of funding available for each remaining location in states where unlicensed fixed wireless has a notable presence.”⁹³

The “Priority Broadband Project” Requirement for BEAD Funding

In addition to the “reliable broadband service” requirement that determines BEAD-eligible locations, the IIJA uses the term *priority broadband project* to direct states to prioritize BEAD funding to deploy qualifying broadband infrastructure.⁹⁴ The law allows the Assistant Secretary to determine criteria for broadband service provided by a priority broadband project, using considerations such as internet speed, network latency, reliability, and consistency in quality of service.⁹⁵

In its NOFO, NTIA specified that a “priority broadband project” means a project that will provide reliable broadband service via “end-to-end fiber-optic facilities to each end-user premises.”⁹⁶ NTIA explained that its determination of a priority broadband project, which relies entirely on fiber technology, meets the statutory requirement for such a project in the IIJA.⁹⁷ The BEAD-funded network “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.”⁹⁸

According to NTIA, end-to-end fiber networks can be updated by replacing equipment attached to the ends of the fiber-optic facilities, “allowing for quick and relatively inexpensive network scaling as compared to other technologies.” Moreover, new fiber deployments will facilitate the deployment and growth of 5G and other advanced wireless services, “which rely extensively on fiber for essential backhaul [service and data communications].”⁹⁹

Some Members of Congress stated that NTIA’s approach has “extreme technology bias in defining ‘priority broadband projects’ and ‘reliable broadband service.’”¹⁰⁰ They argued that NTIA’s explicit “technology preferences” have created onerous regulatory requirements and conflicted with the IIJA’s implied technology-neutral principle.¹⁰¹ Some policy and industry experts are concerned about the high deployment cost and complexity of end-to-end fiber technology, particularly for unserved locations in remote and difficult-to-reach areas. They urged NTIA to reconsider alternative technologies, such as low Earth orbit (LEO) satellites and fixed wireless through Wi-Fi, and to simplify the terms and conditions and additional processes that states must follow to award BEAD funds for these alternative broadband projects.¹⁰²

⁹³ Alex Karras and Michael Santorelli, “Understanding the New BEAD Map.”

⁹⁴ 47 U.S.C. §1702(h)(1)(A)(ii).

⁹⁵ 47 U.S.C. §1702(a)(2)(I)(i).

⁹⁶ NTIA, *NOFO: BEAD Program*, p. 14.

⁹⁷ NTIA, *NOFO: BEAD Program*, p. 14.

⁹⁸ NTIA, *NOFO: BEAD Program*, p. 14, quoting 47 U.S.C. §1702(a)(2)(I)(ii).

⁹⁹ NTIA, *NOFO: BEAD Program*, p. 42.

¹⁰⁰ Letter from Sen. Ted Cruz to Alan Davidson, NTIA administrator, November 21, 2024, p. 2, <https://www.commerce.senate.gov/services/files/C32B6A16-3088-437E-A227-6F72650A081C>.

¹⁰¹ Opening statement of Rep. Richard Hudson in House Subcommittee on Communications and Technology, *Fixing Biden’s Broadband Blunder*, hearings.

¹⁰² See, for example, Joe Kane, “Fiber Bias, Not Tech Neutrality, Delays BEAD Success,” Information Technology and Innovation Foundation, March 27, 2025, <https://itif.org/publications/2025/03/27/fiber-bias-not-tech-neutrality-delays-bead-success/>; Jericho Casper, “NTIA Urged to Consider Tech-Neutral Approach for \$42.5B BEAD Expansion,” *Broadband Breakfast*, September 11, 2024, [https://broadbandbreakfast.com/ntia-urged-to-consider-tech-neutral-\(continued...\)](https://broadbandbreakfast.com/ntia-urged-to-consider-tech-neutral-(continued...))

In its Policy Notice, NTIA stated that fiber is no longer the only connectivity technology to be used for “priority broadband projects.” Instead, states should treat every broadband deployment project applying for BEAD funding as a priority broadband project so long as the project technology can provide broadband service meeting the following network performance requirements: (1) an internet speed of no less than 100/20 Mbps, (2) a network latency of no more than 100 milliseconds, and (3) a network capable of scaling speeds to meet end users’ future internet needs and supporting the deployment of 5G and other advanced services.¹⁰³ Prospective subgrantees must provide supporting documentation sufficient for the state to assess and determine whether the proposed deployment network meets the above criteria.¹⁰⁴ For scoring competing applications, NTIA directed states to use the primary criterion of the overall cost to the BEAD Program and secondary criteria such as the speed to complete the BEAD-funded project and technical capabilities of the proposed connectivity technology.¹⁰⁵

Some policy experts supported NTIA’s changes of “undoing favoritism to immensely [expensive] fiber projects” and argued that “LEO satellites will provide a fast and scalable option” for BEAD-funded projects.¹⁰⁶ On the other hand, some Members of Congress expressed their opposition to the changes. They pointed out that “[o]f currently available technologies, fiber-optic networks are faster and more reliable and can scale speeds much more easily. We made the decision to invest larger sums now in broadband infrastructure that would be resilient and capable of meeting Americans’ growing digital demands for decades.”¹⁰⁷ Other Members further stated that

[a]ny objective assessment of the technologies ... would conclude that fiber optic technology far exceeds any other in its capability to provide future-proof speeds and network capacity. In fact, it is the only technology that is consistent with the statutory definition of “priority broadband project,” which gives precedence to technologies that are the most reliable, scalable, and capable of meeting evolving connectivity needs. Instead, the [Policy Notice] forces states and territories to award grants to the cheapest applicant—not the best applicant that can address the local conditions, especially of rural, unserved, and underserved communities.¹⁰⁸

Policy and industry experts have generally agreed that no single broadband connectivity technology is universally suitable for all locations, considering factors such as network performance (e.g., internet speed, latency, and reliability), near- and long-term deployment and operational costs, and technical and regulatory requirements (e.g., network architecture and permitting processes). For example, among all commercially available technologies, fiber

approach-for-42-5b-bead-expansion/; and Jake Neenan, “BITAG Wants States to Consider Non-Fiber for BEAD,” January 31, 2024, *Broadband Breakfast*, <https://broadbandbreakfast.com/bitag-wants-states-to-consider-non-fiber-for-bead/>. For more information on broadband technology using LEO satellites, see CRS Report R46896, *Low Earth Orbit Satellites: Potential to Address the Broadband Digital Divide*, by Colby Leigh Pechtoll.

¹⁰³ NTIA, *BEAD Restructuring Policy Notice*, p. 9.

¹⁰⁴ NTIA, *BEAD Restructuring Policy Notice*, p. 9.

¹⁰⁵ NTIA, *BEAD Restructuring Policy Notice*, pp. 12-13. As for the consideration of the cost, NTIA did not require states to select the lowest-cost option for a given set of broadband-serviceable locations; instead, states “must select the combination of project proposals with the lowest overall cost to the [BEAD] Program.” States must then use the secondary criteria to evaluate competing applications within 15% of the lowest cost proposed by a project serving the same area.

¹⁰⁶ Joe Kane, “Broadband Myths: LEOs Don’t Belong in BEAD,” July 14, 2025, Information Technology and Innovation Foundation, <https://itif.org/publications/2025/07/14/broadband-myths-leos-dont-belong-in-bead/>.

¹⁰⁷ Letter from 48 Members of Congress (led by Rep. James E. Clyburn and Sen. Amy Klobuchar) to Howard Lutnick, Secretary of Commerce, p. 1.

¹⁰⁸ Letter from 22 Members of Congress (led by Rep. Doris O. Matsui) to Howard Lutnick, Secretary of Commerce, p. 1.

supports the highest speed ranges at the gigabit level,¹⁰⁹ while its initial deployment could be labor- and capital-intensive and involve various permitting processes (e.g., statutory environmental review and permits to access rights-of-way on federal, state, or local land).¹¹⁰ LEO satellite broadband service is relatively new to the commercial market, and its technology is still evolving. Its network performance is more susceptible to weather and limited by the coverage of a satellite constellation.¹¹¹ With an existing constellation, satellites could connect end users living in remote or rural locations to the internet with relatively lower effort than fiber, requiring only terminal equipment such as a satellite antenna (also known as a dish).¹¹² Lastly, fixed wireless technologies (including those based on Wi-Fi) are “effective in delivering short-range service to closely grouped households in urban and suburban settings” but may not be suitable for geographically dispersed locations such as rural communities.¹¹³ The speed and capacity of fixed wireless technologies is limited by the available bandwidth of assigned wireless spectrum. Similar to satellites, the performance and coverage of a fixed wireless network is “adversely affected by line-of-sight obstructions (including buildings and seasonal foliage) and weather.”¹¹⁴ Unlicensed spectrum is also subject to radio interference from other users on the same spectrum.

In a statement submitted in the congressional hearing on the BEAD Program on March 5, 2025, the research director of the Communications Workers of America (CWA) wrote that “[f]iber is the best performing technology of today and tomorrow,” having advantages in total cost of ownership, quality of service, reliability, and lifespan over fixed wireless and LEO satellite technologies.¹¹⁵ A 2022 industry study asserted that “[f]iber represents the most fiscally prudent expenditure of public funds in most circumstances because of its longevity and technical advantages,” even with high up-front capital costs.¹¹⁶

An industry study released after the Policy Notice found that while fiber meets the minimum speed requirement of 100/20 Mbps, fixed wireless and satellite did not always meet the requirement.¹¹⁷ For example, network performance data from a major satellite broadband service provider, Starlink, showed that the download speed frequently dropped below 100 Mbps in multiple states (e.g., Virginia), and upload speed fell below 20 Mbps in every state as of June 2025.¹¹⁸ The study reached several conclusions. First, it concluded that both fiber and satellite could “scale speeds over time to meet evolving connectivity needs” but questioned how easy it would be to deploy more satellites and use more radio spectrum for satellite operation. Second, the study found that fiber clearly meets the BEAD requirement to support 5G and other advanced wireless services, while “satellite is a poor choice compared to terrestrial connections for

¹⁰⁹ One gigabit per second (1 Gbps) is approximately equal to 1,000 Mbps.

¹¹⁰ See NTIA, “Permitting,” *BroadbandUSA*, <https://broadbandusa.ntia.gov/assistance/permitting>.

¹¹¹ Marcin Frackiewicz, “Satellite vs Fiber Internet: The 2025 Latency & Bandwidth Showdown,” *TS2 Space*, June 4, 2025, <https://ts2.tech/en/satellite-vs-fiber-internet-the-2025-latency-bandwidth-showdown/>.

¹¹² CRS Report R46896, *Low Earth Orbit Satellites: Potential to Address the Broadband Digital Divide*, by Colby Leigh Pechtoll.

¹¹³ Andrew Afflerbach, *Fixed Wireless Technologies and Their Suitability for Broadband Delivery*, Benton Institute for Broadband and Society, June 2022, p. 2, <https://www.benton.org/sites/default/files/FixedWireless.pdf>.

¹¹⁴ Andrew L. Afflerbach, *Fixed Wireless Technologies and Their Suitability for Broadband Delivery*, p. 1.

¹¹⁵ Statement of the Communications Workers of America (CWA) in House Subcommittee on Communications and Technology, *Fixing Biden’s Broadband Blunder*, hearings, pp. 2-3, https://cwa-union.org/sites/default/files/2025-03/cwa_statement_for_house_hearing_on_bead_03.05.25.pdf.

¹¹⁶ Andrew Afflerbach, *Fixed Wireless Technologies and Their Suitability for Broadband Delivery*, p. 51.

¹¹⁷ Rysavy Research, *Broadband Comparison: Fiber, Cable, Wireless, and Satellite in the BEAD Era*, July 21, 2025, pp. 15-16, <https://rysavy.com/wp-content/uploads/2025/07/2025-07-rysavy-broadband-comparison.pdf>.

¹¹⁸ Rysavy Research, *Broadband Comparison: Fiber, Cable, Wireless, and Satellite in the BEAD Era*, pp. 15-16.

supporting 5G infrastructure” because of its limited capacity and network speeds. Finally, it found that “satellite is ideal for areas where terrestrial solutions are not practical, but its inherently low capacity limits how many subscribers it can serve.”¹¹⁹

Some Members of Congress have urged NTIA to defer the technology decision to local experts, noting that “[s]tates are best suited to determine what technology is appropriate for their terrain and therefore must be afforded deference on priority project determinations, so long as they meet the speed, latency and scalability requirements of IIJA.”¹²⁰

“Fair Labor Practices” and “Climate Resilience” Requirements in NTIA’s BEAD NOFO

Another area of debate is whether certain programmatic requirements imposed by NTIA in its BEAD NOFO are necessary.¹²¹ The IIJA authorizes the Assistant Secretary to issue guidance for states to prioritize subgrants for broadband deployment projects.¹²² Citing the law, the BEAD NOFO included seven programmatic requirements for states to comply with, including “fair labor practices” and “climate resilience.”¹²³ In the Policy Notice, NTIA eliminated these requirements.

In awarding BEAD subgrants, the IIJA directs states to give priority to broadband deployment projects based on four factors, including “a demonstrated record of and plans to be in compliance with Federal labor and employment laws.”¹²⁴ NTIA specified this statutory requirement under the title of “fair labor practices” in the NOFO by requiring states to evaluate a prospective subgrantee’s “demonstrated record of and plans to be in compliance with Federal labor and employment laws.”¹²⁵ For states’ evaluation, NTIA required the subgrantee to submit a project workforce plan with specified information, including “[w]hether the workforce is unionized.”¹²⁶ If the project workforce is not unionized, NTIA required the subgrantee to provide additional information with respect to the nonunion workforce, including job titles, size of the workforce, and a description of safety and professional training, certifications, and licensure requirements for each job title.¹²⁷

Regarding the programmatic requirements for climate resilience that were originally imposed in the BEAD NOFO, NTIA required each state to demonstrate in its initial and final proposals how it has utilized federal and state-level tools and resources (e.g., from selected executive orders and their guidelines, the National Oceanic and Atmospheric Administration, and the Federal Emergency Management Agency) to account for, mitigate, avoid, and address “current and future weather- and climate-related risks” to new broadband deployment projects.¹²⁸ The NOFO does not cite a basis for this climate-related documentation requirement in the IIJA authorization.

¹¹⁹ Rysavy Research, *Broadband Comparison: Fiber, Cable, Wireless, and Satellite in the BEAD Era*, pp. 16-17.

¹²⁰ Letter from Sen. Ben Ray Lujan to Arielle Roth, Assistant Secretary of Commerce for Communications and Information, p. 2.

¹²¹ See “Program Requirements” in NTIA, *NOFO: BEAD Program*, p. 50.

¹²² 47 U.S.C. §1702(h)(1)(B).

¹²³ NTIA, *NOFO: BEAD Program*, p. 50.

¹²⁴ 47 U.S.C. §1702(h)(1)(A)(iv)(IV).

¹²⁵ NTIA, *NOFO: BEAD Program*, pp. 56-58.

¹²⁶ NTIA, *NOFO: BEAD Program*, p. 58. The *project workforce* includes “employees of the subgrantee, its contractors, or subcontractors directly engaged in the” funded broadband network construction.

¹²⁷ NTIA, *NOFO: BEAD Program*, p. 58.

¹²⁸ NTIA, *NOFO: BEAD Program*, pp. 62-64. According to NTIA, these risks include “wildfires, extreme heat and (continued...) ”

Some Members of Congress held that such requirements were unrelated to “BEAD’s intended purpose,” “were never approved by Congress or codified in statute,” “[made] the program less attractive to providers and deployment more expensive,” and if not reformed, would result in “more unnecessary delays” in disbursing BEAD funding.¹²⁹ Some industry representatives also argue that such programmatic requirements, including labor- and environment-related ones, could “make BEAD participation prohibitively challenging,” particularly in rural markets, and “significantly delay [broadband] deployment.”¹³⁰

Some representatives for the telecommunications workers assert that “the telecommunications industry has engaged in a race to the bottom to cut costs and increase profits through union-busting and outsourcing of construction to low-road contractors that fail to pay living wages or properly train workers.”¹³¹ During the Biden Administration, NTIA contended that because communities that lack broadband are often “the most vulnerable to extreme weather and climate events,” it is critical to “build in climate resiliency to projects supported by federal funds,” “ensure taxpayers get long-lasting value for their investment,” and help strengthen the longevity of BEAD-funded projects.¹³² A research team in 2021 found that “with just one foot of global seal-level rise—which is possible within 20 years—more than 4,000 miles of fiber optic cable would be under water at least half of the time,” which could “reduce signal strength, corrode connectors, and even break the glass fibers.”¹³³

In its Policy Notice, NTIA prohibited states from imposing any obligations removed by the updated guidance on subgrantees as part of the subgrantee selection process, grant agreements with subgrantees, and subgrantee reporting requirements.¹³⁴ As for the statutory requirement for states to give funding priority to projects with a demonstrated record of and plans to be in compliance with federal labor and employment laws, NTIA provided that states must satisfy the requirement “by requiring a subgrant applicant to certify compliance with such laws” to the states.¹³⁵ In turn, subgrantees would satisfy the requirement “through self-certification of compliance.”¹³⁶ States cannot consider “fair labor practices” specified in the NOFO to score competing applications.¹³⁷ As for the statutory requirement for subgrantees to “incorporate best practices, as defined by the Assistant Secretary, for ensuring reliability and resilience of

cold, inland and coastal flooding, and the extreme winds produced by weather events such as tornadoes, hurricanes, and other weather events.”

¹²⁹ Opening statement of Sen. Ted Cruz in U.S. Congress, Senate Committee on Commerce, Science, and Transportation, *Nomination Hearing – Assistant Secretary of Commerce for Communications and Information*, hearings, 119th Cong., 1st sess., March 27, 2025, <https://www.commerce.senate.gov/2025/3/nomination-hearing-assistant-secretary-of-commerce-for-communications-and-information>. See also opening statement of Rep. Richard Hudson in House Subcommittee on Communications and Technology, *Fixing Biden’s Broadband Blunder*, hearings.

¹³⁰ Testimony of President and CEO of Competitive Carriers Association Tim Donovan in House Subcommittee on Communications and Technology, *Fixing Biden’s Broadband Blunder*, hearings, pp. 7, 13.

¹³¹ Statement of the CWA in House Subcommittee on Communications and Technology, *Fixing Biden’s Broadband Blunder*, hearings, p. 3.

¹³² Letter from Bennett Butler, NTIA Director of Office of Congressional Affairs, to Sen. Ted Cruz, October 18, 2024, pp. 2, 4, attached in Sen. Ted Cruz’s letter to Alan Davidson, NTIA administrator.

¹³³ Yale Climate Connections, “Sea-Level Rise Could Submerge Fiber Optic Cables, a Key Component of Internet Infrastructure,” April 27, 2021, <https://yaleclimateconnections.org/2021/04/sea-level-rise-could-submerge-fiber-optic-cables/>.

¹³⁴ NTIA, *BEAD Restructuring Policy Notice*, p. 4.

¹³⁵ NTIA, *BEAD Restructuring Policy Notice*, p. 4.

¹³⁶ NTIA, *BEAD Restructuring Policy Notice*, p. 13.

¹³⁷ NTIA, *BEAD Restructuring Policy Notice*, p. 13.

broadband infrastructure,”¹³⁸ NTIA provided that subgrantees must satisfy the requirement “by establishing risk management plans that account for technology infrastructure reliability and resilience, including from natural disasters (e.g., wildfires, flooding, tornadoes, hurricanes, etc.).”¹³⁹

Defining *Low-Cost Broadband Service Option*

The fourth issue is how to define the statutory requirement of the *low-cost broadband service option* (LCBSO). The IIJA requires an ISP subgrantee to offer an LCBSO for “eligible subscribers” when providing broadband service using a BEAD-funded network.¹⁴⁰ The law directs each state to define the term *LCBSO* using a specific procedure, including consulting with the Assistant Secretary and prospective subgrantees, submitting a proposed definition in the state’s final proposal, and seeking approval and public disclosure of the definition by the Assistant Secretary.¹⁴¹ The law allows the Assistant Secretary to issue guidance to states in defining the LCBSO but does not authorize NTIA to “regulate the rates charged for broadband service” by an ISP subgrantee (known as “rate regulation”).¹⁴²

In its BEAD NOFO, NTIA provided an example of an LCBSO with four minimum components:

1. monthly recurring charges to a subscriber are \$30 or less, inclusive of all taxes, fees, and charges (or \$75 or less for subscribers residing on tribal lands), with no additional nonrecurring costs or fees;¹⁴³
2. the subscriber could apply the FCC’s Affordable Connectivity Program subsidy to the service price;¹⁴⁴
3. basic service characteristics include an internet speed of at least 100/20 Mbps and network latency of no more than 100 milliseconds, and service is not subject to unreasonable network management practices, such as data caps, surcharges, or usage-based throttling; and
4. the subscriber could later upgrade to a new low-cost plan with higher internet speeds at no cost.¹⁴⁵

Some Members of Congress stated that NTIA’s guidance on the LCBSO has effectively “forc[ed] states to regulate broadband rates before NTIA would approve their proposals, even though the

¹³⁸ 47 U.S.C. §1702(g)(1)(C).

¹³⁹ NTIA, *BEAD Restructuring Policy Notice*, p. 5.

¹⁴⁰ 47 U.S.C. §1702(h)(4)(B). The law directs the Assistant Secretary to define the term *eligible subscriber* (47 U.S.C. §1702(h)(5)(A)(i)). In its Policy Notice, NTIA redefined the term as “any household seeking to subscribe to broadband internet access service that is eligible for the FCC’s Lifeline Program” (p. 8). The Lifeline Program eligibility criteria are defined in 47 C.F.R. §54.409.

¹⁴¹ 47 U.S.C. §1702(h)(5)(B).

¹⁴² 47 U.S.C. §1702(h)(5)(D), (E).

¹⁴³ The figures of monthly recurring charges specified by NTIA mirror the definition of *affordable connectivity benefit* the IIJA provides for the ACP: A household eligible for the ACP could receive a monthly discount up to \$30 (or \$75 if the household is on tribal land) for an internet service charge. 47 U.S.C. §1752(a)(7)(A).

¹⁴⁴ Congress directed the FCC to establish the ACP and funded the program through the IIJA to reimburse a participating internet service provider, which provided the monthly affordable connectivity benefit to an eligible household. 47 U.S.C. §1752(b), (i). The last full funded month for ACP was April 2024, and Congress has not appropriated additional funds for the program since then. For more information on the ACP, see CRS In Focus IF12637, *The End of the Affordable Connectivity Program: Options for Consumers and Congress*, by Patricia Moloney Figliola.

¹⁴⁵ NTIA, *NOFO: BEAD Program*, pp. 67-68.

law explicitly prohibits rate regulation.”¹⁴⁶ Some industry representatives were also concerned that some states might address broadband affordability challenges by regulating service rates. They argued that “imposing price controls on service providers ... is actually a kill switch for the broadband investment and innovation.”¹⁴⁷

In its Policy Notice, NTIA eliminated the “model” LCBSO provided in the NOFO with specific maximum dollar amounts of monthly service charges.¹⁴⁸ NTIA prohibited states from “explicitly or implicitly setting the [LCBSO] rate a subgrantee must offer.”¹⁴⁹ NTIA stated that it will approve only states’ final proposals that include LCBSOs “proposed by the subgrantees themselves.”¹⁵⁰ For example, if a subgrantee has an existing low-cost plan that meets the speed (at least 100/20 Mbps) and performance (no more than 100 milliseconds) criteria, the subgrantee may satisfy the statutory requirement by offering this plan to eligible subscribers.¹⁵¹

Some stakeholders agreed with NTIA’s new position against broadband service rate regulation. They argued that rate regulation would depress investment, reduce competition, and harm smaller ISPs with limited resources and scale.¹⁵² They cited a May 2025 study showing that the State of New York has enacted a law requiring fixed broadband service providers to offer \$15 or \$20 service to qualifying low-income households, and the States of California, Massachusetts, and Vermont were considering similar laws. On the other hand, the study also found that Tennessee prevents local governments from imposing broadband rate regulations and that rate regulation would result in at least a 19% decline of capital expenditures and reduction of ISP participation in unserved locations.¹⁵³ They urged NTIA to take further steps to “expressly condition access to BEAD funds on [a state] agreeing not to apply or enforce rate regulation in the context of BEAD deployment projects and to make clear that no waivers of this policy are forthcoming.”¹⁵⁴

Some Members of Congress opposed the changes made in the Policy Notice, which they believed undermine the IIA’s BEAD provisions “designed to ensure that broadband service is affordable” and contradict “Congress’ mandate for [states] to determine the [LCBSO].”¹⁵⁵ They urged NTIA

¹⁴⁶ See opening statement of Rep. Richard Hudson in House Subcommittee on Communications and Technology, *Fixing Biden’s Broadband Blunder*, hearings. See also opening statement of Sen. Ted Cruz in Senate Committee on Commerce, Science, and Transportation, *Nomination Hearing – Assistant Secretary of Commerce for Communications and Information*, hearings.

¹⁴⁷ Written statement of President and CEO of ACA Connects – America’s Communications Association Grant Spellmeyer in House Subcommittee on Communications and Technology, *Fixing Biden’s Broadband Blunder*, hearings, https://d1dth6e84htgma.cloudfront.net/03_05_25_Spellmeyer_Testimony_1e00d731cb.pdf.

¹⁴⁸ NTIA, *BEAD Restructuring Policy Notice*, p. 7.

¹⁴⁹ NTIA, *BEAD Restructuring Policy Notice*, p. 7.

¹⁵⁰ NTIA, *BEAD Restructuring Policy Notice*, p. 7.

¹⁵¹ NTIA, *BEAD Restructuring Policy Notice*, p. 7.

¹⁵² Letter from Grant B. Spellmeyer, President and CEO of ACA Connects, to Arielle Roth, Assistant Secretary of Commerce for Communications and Information, July 28, 2025, <https://acaconnects.org/index.php?checkfileaccess=/wp-content/uploads/2025/07/270728-ACA-Connects-Letter-to-NTIA-re-BEAD-Rate-Regulation.pdf>. The letter states that ACA Connects is a “trade association representing about 500 small and midsized, independent broadband providers” in the United States.

¹⁵³ Cartesian, *State Broadband Rate Regulation: Impact on Investment and Competition*, prepared for ACA Connects, May 27, 2025, https://acaconnects.org/index.php?checkfileaccess=/wp-content/uploads/2025/05/Effects-of-State-Broadband-Rate-Regulation_27May2025_v1.0.pdf.

¹⁵⁴ Letter from Grant B. Spellmeyer, President and CEO of ACA Connects, to Arielle Roth, Assistant Secretary of Commerce for Communications and Information. The letter pointed out that the State of New York has “a generally applicable law regulating broadband rates.”

¹⁵⁵ Letter from 48 Members of Congress (led by Rep. James E. Clyburn and Sen. Amy Klobuchar) to Howard Lutnick, Secretary of Commerce, p. 2; and letter from 22 Members of Congress (led by Rep. Doris O. Matsui) to Howard Lutnick, Secretary of Commerce, p. 1.

to “uphold the statutory flexibility given to the states,” including a “meaningful [LCBSO] ... that is affordable and high-speed, not just a box[-]checking exercise.”¹⁵⁶ Some experts suggested that an unserved location might be served only by a BEAD-funded network, resulting in a monopoly on the local market; they held that it is necessary to have states clearly and specifically define the Congress-mandated LCBSO to ensure that broadband service made available in unserved locations with BEAD funding is indeed affordable.¹⁵⁷

Options for Congressional Consideration

NTIA’s June 2025 Policy Notice received mixed reactions from various Members of Congress. For example, both chairmen of the Senate and House committees that have jurisdiction over NTIA issued press releases stating that the new guidance removed “time-consuming and unnecessary” programmatic requirements, including those related to technology choice, labor, climate, and service rates, and would accelerate deployment of BEAD-funded broadband networks, provide certainty to states, and ensure that “requested funds will be released this calendar year [i.e., 2025].”¹⁵⁸ In contrast, ranking members of both committees argued that the Policy Notice changes would force “states to start from scratch” and further “delay broadband deployment by at least another year.”¹⁵⁹ Senator Jacky Rosen issued a statement condemning the Trump Administration for rescinding the final proposal approval received by Nevada in January 2025.¹⁶⁰

Congress may be interested in overseeing and addressing various aspects of the BEAD Program, including those discussed in this report (see “Selected Issues for Congressional Consideration”), to ensure that the program is successfully implemented and achieves the statutory goal of bridging the digital divide.¹⁶¹ Congress has a range of options. First, Congress may choose to take no legislative action but defer to the current Administration and focus efforts on congressional oversight through hearings and investigations. NTIA has identified BEAD as a top agency priority.¹⁶² The Assistant Secretary stated that it is NTIA’s responsibility to ensure that BEAD

¹⁵⁶ Letter from Sen. Ben Ray Lujan to Arielle Roth, Assistant Secretary of Commerce for Communications and Information, p. 2.

¹⁵⁷ Testimony of Policy Analyst of New Street Research Blair Levin in House Subcommittee on Communications and Technology, *From Introduction to Implementation: A BEAD Program Progress Report*, hearings.

¹⁵⁸ Senate Committee on Commerce, Science, and Transportation, “Sen. Cruz Applauds New NTIA Guidance Fixing Biden’s \$42 Billion Internet Boondoggle,” press release, June 10, 2025, <https://www.commerce.senate.gov/2025/6/sen-cruz-applauds-new-ntia-guidance-fixing-biden-s-42-billion-internet-boondoggle>; and House Committee on Energy and Commerce, “Chairman Guthrie Celebrates Trump Administration’s Announcement to Remove Harmful BEAD Requirements and Close the Digital Divide,” press release, June 6, 2025, <https://energycommerce.house.gov/posts/chairman-guthrie-celebrates-trump-administration-s-announcement-to-remove-harmful-bead-requirements-and-close-the-digital-divide>.

¹⁵⁹ Senate Committee on Commerce, Science, and Transportation, “Cantwell Statement on Commerce Secretary Lutnick’s ‘Reform’ of BEAD Broadband Program,” press release, June 6, 2025, <https://www.commerce.senate.gov/2025/6/cantwell-statement-on-commerce-secretary-lutnick-s-reform-of-bead-broadband-program>; and House Committee on Energy and Commerce, “Pallone: Trump Administration Changes to the BEAD Program Will Only Further Delay Broadband Funding,” press release, June 6, 2025, <https://democrats-energycommerce.house.gov/media/press-releases/pallone-trump-administration-changes-bead-program-will-only-further-delay>.

¹⁶⁰ Office of Sen. Jacky Rosen, “Rosen Condemns Trump Administration for Rescinding Approval of High-Speed Internet Funding for Nevada,” press release, June 6, 2025, <https://www.rosen.senate.gov/2025/06/06/rosen-condemns-trump-administration-for-rescinding-approval-of-high-speed-internet-funding-for-nevada/>.

¹⁶¹ 47 U.S.C. § 1701.

¹⁶² Matt Daneman, “BEAD, USF Reform and Space Among FCC and NTIA Priorities: Leadership,” *Communications Daily*, vol. 45, no. 159 (August 19, 2025), <https://communicationsdaily.com/article/2025/08/19/bead-usf-reform-and-space-among-fcc-and-ntia-priorities-leadership-2508180023> (link requires paid subscription).

funds “are spent efficiently, expeditiously, and consistent with the law as written by Congress.”¹⁶³ The Department of Commerce conducted a program review in March 2025, and NTIA issued the Policy Notice in June 2025.¹⁶⁴ NTIA also indicated that it would issue other BEAD guidance in the future.¹⁶⁵

If Congress decides to take no action, this could raise some uncertainties and considerations. For example, the recent BEAD Program changes could add uncertainty to the implementation timeline, and states may have difficulty adhering to the new deadlines. The Policy Notice required each state to “rescind all preliminary and provisional [subgrantee] selections” and “conduct at least one additional subgrantee selection round for every BEAD-eligible location,” before the state submits its final proposal that reflects the results of the additional round of subgrantee selection.¹⁶⁶ States must comply with all the obligations outlined in the Policy Notice and submit the final proposal within 90 days, or by September 4, 2025.¹⁶⁷ NTIA stated that it “reserves the right to reject any proposed deployment project,” which implies that it might review and overrule any individual project-level decision made by a state.¹⁶⁸ It is unclear whether NTIA would be able to “complete its review of each Final Proposal within 90 days of submission.”¹⁶⁹

Congress may choose to request that NTIA either keep the programmatic requirements set forth in the original NOFO or issue additional guidance to provide states with certainties and specific timelines. For example, on June 25, 2025, 48 Members of Congress signed a letter that urged the Secretary of Commerce “to implement the BEAD Program in accordance with the best reading of the statute” and “ensure that states receive the full funding and flexibility they retained prior to the issuance of the [Policy Notice].”¹⁷⁰ One Member of Congress argued that it is essential to offer “protections for affordability, good-paying jobs, and climate-resilient networks”; without these protections through the BEAD Program, the cost of accessing broadband service funded by the program could rise, while the quality of service could decrease.¹⁷¹

Congress may evaluate possible impacts from the policy changes NTIA has made, especially on the states’ ability to implement the BEAD Program. For example, the removal of the technology preference of fiber from the BEAD NOFO may result in states receiving additional applications from broadband service providers using other network connectivity technologies, including LEO satellites and Wi-Fi, to connect some unserved locations. These states might need additional

¹⁶³ Testimony of nominee for Assistant Secretary of Commerce for Communications and Information Arielle Roth in Senate Committee on Commerce, Science, and Transportation, *Nomination Hearing – Assistant Secretary of Commerce for Communications and Information*, hearings, p. 2, <https://www.commerce.senate.gov/services/files/34E5D005-5727-4189-A4B7-2CAD1432F396>.

¹⁶⁴ NTIA, “Statement from U.S. Secretary of Commerce Howard Lutnick on the BEAD Program,” and NTIA, “Trump Administration Announces the Benefit of the Bargain BEAD Program That Removes Regulatory Burdens, Lowers Costs and Expands Use of All Technologies,” press release, June 6, 2025, <https://www.ntia.gov/press-release/2025/trump-administration-announces-benefit-bargain-bead-program-removes-regulatory-burdens-lowers-costs>.

¹⁶⁵ NTIA, *BEAD Restructuring Policy Notice*, pp. 15-16.

¹⁶⁶ NTIA, *BEAD Restructuring Policy Notice*, p. 10.

¹⁶⁷ NTIA, *BEAD Restructuring Policy Notice*, p. 10. As of August 21, 2025, no states had submitted a final proposal to NTIA. See NTIA, *BEAD Progress Dashboard*.

¹⁶⁸ NTIA, *BEAD Restructuring Policy Notice*, p. 11.

¹⁶⁹ NTIA, *BEAD Restructuring Policy Notice*, p. 10.

¹⁷⁰ Letter from 48 Members of Congress (led by Rep. James E. Clyburn and Sen. Amy Klobuchar) to Howard Lutnick, Secretary of Commerce, p. 1.

¹⁷¹ Opening statement of Rep. Doris Matsui in House Subcommittee on Communications and Technology, *Fixing Biden’s Broadband Blunder*, hearings.

technical expertise to assess and determine whether the network capacity shown by each of the additional applications meets the statutory requirements.

The removal of the fair labor practice requirement could mean that states will simplify the subgrantee selection process by accepting subgrantees' self-certification of compliance with federal labor and employment laws. Without NTIA-specified requirements, each state might determine how much information a subgrantee should provide in the compliance certification, how to verify the information provided in the certification, and how to monitor the subgrantee's continuous compliance when implementing a BEAD-funded project.

NTIA removed requirements from the NOFO and proposals regarding assessment of current and future weather- and climate-related risks to BEAD-funded broadband networks. To replace these requirements, each subgrantee must establish a risk management plan that would ensure reliability and resilience of its BEAD-funded broadband infrastructure, including from natural disasters. Each state might determine how much information a subgrantee should provide in the plan and how to monitor the subgrantee's implementation of its plan.

Some ISPs expressed a concern that they might be unable to recoup their investment in BEAD-funded projects if they are allowed to charge only a specific "low-cost" service rate. The removal of the low-cost service option model specified in the BEAD NOFO could address the concern and might encourage more ISPs to consider applying for BEAD funding. NTIA prohibits states from setting the dollar amounts for the low-cost service a subgrantee must offer. Instead, the subgrantee may simply offer its existing low-cost plan to eligible subscribers. It is unclear, however, whether all eligible subscribers can afford an ISP subgrantee's preexisting low-cost plan, which may not have been tailored to the economic conditions of those residing in the unserved location targeted by the BEAD Program.

While Congress authorizes the Assistant Secretary to issue regulations and guidance to carry out the BEAD Program and related activities, Congress could take a direct legislative approach to address emerging program issues by considering new legislation or amending the BEAD provisions in the IIJA. For example, the SPEED for BEAD Act (H.R. 1870), introduced in the 119th Congress, would make several changes to the IIJA authorization. The passage of this or similar legislation would codify several changes made in NTIA's Policy Notice, including the following:

- **Making all technologies eligible.** In awarding BEAD subgrants for broadband deployment, the bill would require each state to treat equally any broadband service that meets the performance criteria for reliable broadband service, "without regard to the type of technology by which such service is provided."¹⁷²
- **Prohibition on certain grant conditions.** The bill would prohibit the Assistant Secretary and states from establishing or enforcing a grant condition or requirement that relates to any of 13 specified considerations, including "union workforces" and "climate change."¹⁷³
- **No rate regulation permitted.** The bill would clarify that the law does not authorize the Assistant Secretary, NTIA, or a state "to regulate, set, or otherwise mandate the rates charged for broadband service or the methodologies used to calculate such rates, ... including through the capping or freezing of such rates, the encouragement of another entity to regulate such rates, or the use of rates as part of an application scoring process." The bill would further prohibit states

¹⁷² Section 2(f) of H.R. 1870.

¹⁷³ Section 2(e) of H.R. 1870.

from conducting the above rate regulation activities, even if such activities have been previously approved during the BEAD application process or are carried out in conjunction with the LCBSO requirement.¹⁷⁴

In addition, the bill would

1. replace the word “Equity” with “Expansion” in the full name of the BEAD Program;
2. if a state does not use the full allocated BEAD amounts, direct the Assistant Secretary to transfer the unused amounts to the general fund of the Treasury rather than reallocate the amounts to other states;
3. remove “broadband adoption” and “any use determined necessary by the Assistant Secretary” from the list of eligible uses of the BEAD funds and add “telecommunications workforce development programs” as an eligible use; and
4. direct each state to allow a subgrantee to remove a location from its BEAD-funded deployment project if that location “would unreasonably increase [deployment] costs.”¹⁷⁵

Another option for Congress could be to consider legislation to support the effective and efficient implementation of federal broadband programs, including the BEAD Program. For example, the Broadband Incentives for Communities Act (H.R. 2975) would direct the Assistant Secretary to establish a grant program to assist local or tribal governments in providing efficient review and approval of zoning or permitting applications that facilitate broadband deployment. The PLAN for Broadband Act (H.R. 2805) would direct the Assistant Secretary to develop a “National Strategy to Close the Digital Divide” to support better management of federal broadband programs, synchronize interagency coordination, and facilitate state, local, and tribal government participation in federal broadband programs. The BEAD FEE Act of 2025 (H.R. 1975) would direct the Assistant Secretary to withhold BEAD funds from a state if the state or its local governments charge a fee “to consider a request for authorization to place, construct, or modify” broadband infrastructure or a fee for use of a right-of-way “for the placement, construction, or modification” of broadband infrastructure unless such fee meets certain criteria listed in the bill.

Congress also could consider legislation to clarify its intent for the BEAD Program, avoiding possible unintended reading of the original IIJA language by agencies. Congress may further choose to codify agencies’ definitions and programmatic requirements or provide its own. Congress may also realign the program with its policy priorities after reviewing the changing broadband landscape (e.g., current broadband availability data and needs from unserved locations) since the enactment of the IIJA in 2021. On the other hand, legislation typically takes time and may not have an immediate effect on the BEAD Program. Given that more than four years have elapsed since the program establishment, and that a BEAD-funded project could take up to another four years to complete, Congress may weigh all avenues to accelerate implementation. While the legislation option could clarify congressional intent and afford regulatory certainty to states and stakeholders, this option might result in less flexibility for states and the administering agency to leverage their understanding of local needs and their programmatic and technical expertise in implementing the program.

¹⁷⁴ Section 2(g) of H.R. 1870.

¹⁷⁵ Sections 2(b), (c), (d) of H.R. 1870.

Author Information

Ling Zhu
Analyst in Telecommunications Policy

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.