

September 10, 2024

Hon. Alan Davidson
NTIA Administrator and Assistant Secretary of Commerce for Communications and Information
Herbert C. Hoover Building
U.S. Department of Commerce
National Telecommunications and Information Administration
1401 Constitution Avenue, N.W.
Washington, D.C. 20230
Via email: bead@ntia.gov

Re: The Oregon Broadband Office's comments to NTIA on the "Proposed BEAD Alternative Broadband Technology Guidance"

Dear Assistant Secretary Davidson:

As requested by NTIA, this letter represents comments of the Oregon Broadband Office (OBO) regarding the "Proposed BEAD Alternative Broadband Technology Guidance" issued on August 26, 2024.¹

Given Oregon's complex topography and low population density, we have recognized from the outset of the BEAD Program that our office may not receive any applications—or no affordable applications—for Reliable Broadband Service at many remote locations. As a result, we have long understood that we may be required—under the BEAD Program's requirement to address the broadband needs of all eligible locations—to accept Alternative Technologies like LEO satellite and unlicensed fixed wireless as solutions for those locations.

NTIA's additional guidance regarding Alternative Technologies is welcome. However, this new guidance creates a new set of challenges and risks for the OBO.

We are concerned about the cost and timeline implications of NTIA's proposed new processes, standards, and requirements for OBO to identify Alternative Technologies. For example:

1. The new processes to review, vet, and validate existing Alternative Technologies and the companies that operate them will need to be conducted during OBO's subgrantee selection process, once OBO understands which eligible locations will not be fundable with Reliable Broadband Service—adding new tasks and time to an already challenging schedule. We have preliminarily concluded that the new tasks may require eight to ten weeks of additional time to complete the subgrantee selection process, given NTIA's proposed schedule of affording existing Alternative Technology ISPs five weeks to submit data regarding their existing or planned services, as well as the need for OBO to then review and validate those data.

¹ "Proposed BEAD Alternative Broadband Technology Guidance," NTIA, August 26, 2024, <https://www.ntia.gov/other-publication/2024/proposed-bead-alternative-broadband-technology-guidance>.

2. There is uncertainty regarding the length of OBO's validation review because NTIA's proposed policy lacks sufficient clarity regarding the new technical requirements. NTIA proposes to add to the existing BEAD requirements that additional elements that the state verify that each location served by an Alternative Technology can receive at least 5 Mbps service or at least 2 TB of data per month, but the guidance does not specify (1) whether the speed is download, upload, or both; (2) how or where the capacity or usage allowance would be measured; or (3) what would constitute an acceptable level of proof. OBO encourages NTIA to address these three items in detail in the policy so that OBO can develop a plan that will account for level of effort, timeline, and cost for compliance.
3. Given the late date of NTIA's proposed policy, the costs associated with these new requirements were not anticipated, not budgeted for, and not included in our Initial Proposal Funding Request (IPFR). The state may need to amend the IPFR to account for the new efforts, creating further risk of delay.
4. The new requirements assume the state will be able to secure participation and accurate information from Alternative Technologies service providers. Once the providers for eligible locations are identified, the state must reach out to the providers and conduct a financial, managerial, operational and technical capacity assessment. To validate that data, the state may need access to test and inspect each provider's network facilities. NTIA's proposed policy assumes service providers will be willing to share data about their networks—and that they will share accurate data. The risk is on the state to secure from service providers complete and accurate data about their networks and their own capabilities. The proposed policy would allow states to exclude from funding providers that do “not respond to the Eligible Entity in a timely manner.”² However, the proposed guidance does not address challenges or risk to state broadband offices if service providers provide inaccurate data, whether deliberately or inadvertently.
5. The period of performance for a grant to a LEO provider (i.e., Starlink) would be 10 years under NTIA's proposed rules, in contrast to the four- to five-year deployment period for terrestrial technologies. This creates new obligations for the state to manage, verify, and report on an active grant for five to six years longer than has been anticipated under the BEAD rules—and budgets—thus far.

By imposing new and potentially burdensome requirements, NTIA's proposed policy creates risk to both our BEAD timeline and our subgrantee selection budget. OBO requests clarifications and consideration of these concerns.

Sincerely,
Nick Batz, *Director*
Oregon Broadband Office
Business Oregon

² “BEAD: Alternative Broadband Technology Policy Notice [Draft],” p. 9.