

KAY IVEY
GOVERNOR



STATE OF ALABAMA

KENNETH W. BOSWELL
DIRECTOR

September 5, 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: Comments of the Alabama Department of Economic and Community Affairs to
the National Telecommunications and Information Administration on
the "Proposed BEAD Alternative Broadband Technology Guidance"

Dear Assistant Secretary Davidson:

The Alabama Department of Economic and Community Affairs (ADECA) submits these comments in response to the "Proposed BEAD Alternative Broadband Technology Guidance" issued by NTIA on August 26, 2024.¹

NTIA has created an unreasonable new policy with burdensome requirements that create risk to Alabama's BEAD timeline and subgrantee selection budget.

Two years after releasing the BEAD Program NOFO, NTIA has issued a proposed policy that would force Alabama to comply with time-consuming and expensive new requirements. The state would need to incorporate these costly and complex efforts in its BEAD budget and timeline—both of which are already stretched by existing program requirements.

As the policy is written, ADECA will be required to conduct new processes to review, vet, and validate existing (or planned) Alternative Technologies and the companies that operate them. These new requirements will need to be conducted during the subgrantee selection process—adding new tasks to an already challenging schedule. Alabama must now revisit the past two years of planning to add new workflows and months of effort to accommodate these last-minute new rules.

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

The new requirements would also require Alabama to incur costs (e.g., to vet and verify existing Alternative Technologies) that were not anticipated, not budgeted for, and not included in the Initial Proposal Funding Request (IPFR). This means Alabama may need to amend its IPFR to meet the new requirements, which may create additional delay; it also means money spent on these efforts will not be available for BEAD Program implementation.

The effort may be considerable. Meeting these requirements will require an engineering assessment involving a complex analysis of existing or planned network infrastructure and operations.

Furthermore, the technical requirements still require clarification. Under the new rule, for example, the state will have to verify that each location can receive at least 5 Mbps service or at least 2 TB of data per month. However, the new rule 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.

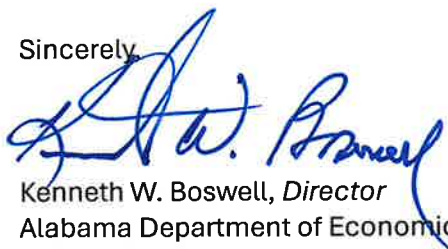
The policy also notes that providers “may meet this standard by demonstrating the ability to scale up to provide this capacity within a reasonable timeframe as subscribers increase”—but the guidance does not define “a reasonable timeframe,”² creating ambiguity for the state.

To validate data regarding existing or planned Alternative Services, the state may need access to test and inspect each provider’s network facilities. NTIA 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.”³ However, the proposed guidance does not address the enforcement mechanism or penalties for service providers that provide inaccurate data, whether deliberately or inadvertently—even as the state is responsible to NTIA to verify the data.

In summary, **ADECA is deeply concerned by NTIA’s proposed policy** because of the unfunded new requirements the policy seeks to impose at this late date; the risk these new requirements pose to the BEAD Program timeline; and the lack of clarity in technical and other aspects of the policy as written. We ask for clarification on all of the above.

Sincerely,

A handwritten signature in blue ink, appearing to read "K. W. Boswell", is written over the typed name and title.

Kenneth W. Boswell, *Director*
Alabama Department of Economic and Community Affairs

² “BEAD: Alternative Broadband Technology Policy Notice [Draft],” p. 8.

³ “BEAD: Alternative Broadband Technology Policy Notice [Draft],” p. 9.