



**Comments by Nokia of America Corp. on the U.S. Department of Commerce
National Telecommunications and Information Administration
Broadband Equity, Access, and Deployment (BEAD) Program:
Alternative Broadband Technology Policy Notice**

Nokia employs approximately 7,500 workers in the United States and is the top supplier of fiber-optic broadband technology for service providers in the U.S. Seven out of ten fiber broadband connections in North America are made through Nokia equipment. Nokia is the number one vendor for XGS-PON technology globally and in the U.S. market. Nokia was the first to deploy 1, 10 and 25 Gigabit fiber-optic broadband networks in the U.S. Nokia is also a world leader in wireless communications technologies, including those that power fixed wireless broadband.

When Congress appropriated \$42.45 billion for the BEAD Program, it was recognized as a once-in-a-generation investment intended to close the digital divide once and for all. To implement this objective, NTIA determined in the BEAD Notice of Funding Opportunity (NOFO) that “end-to-end fiber networks” would be designated as Priority Broadband Projects because they provide the critical broadband infrastructure that “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 ... [and] new fiber deployments will facilitate the deployment and growth of 5G and other advanced wireless services, which rely extensively on fiber for essential backhaul.”¹ Conversely, in its Proposed Guidance, NTIA acknowledges that the Alternative Technologies that are the subject of this proposed guidance have inherent

¹ BEAD NOFO at 42. NTIA then concluded that service not offered over an end-to-end fiber network could nevertheless be a Reliable Broadband Service eligible for BEAD funding if it met the following criteria: “(1) a fixed broadband service that (2) is available with a high degree of certainty, (3) both at present and for the foreseeable future.” NTIA has explained that in addition to fiber-to-the-home networks, cable modem/hybrid fiber-coaxial technology, digital subscriber line (DSL) technology, and terrestrial fixed wireless technology utilizing entirely licensed spectrum or using a hybrid of licensed and unlicensed spectrum are considered Reliable Broadband Services that are eligible for BEAD funding.



“service limitations that led to the omission of these technologies from the definition of Reliable Broadband Service.”²

In short, the driving imperative of both the legislation and NTIA’s implementation of the BEAD program to date has been that it is more likely than not the last foreseeable opportunity to incent the deployment of reliable and future-proof high-speed internet to Americans in hard-to-serve areas of the country. Nokia recognizes that there will be locations that are simply impractical to serve with deep fiber. However, it is critical that NTIA ensure this to be truly the case before allowing states to look to Alternative Technologies that may well doom residents in such locations to second-tier broadband status for many years to come.

In addition to this core programmatic issue, Nokia urges NTIA to take appropriate steps to ensure that any guidance on the use of Alternative Technologies does not put the brakes on state award processes that are just now on the verge of seeing results both in terms of infrastructure deployment and job creation.

I. The Proposed Guidance would create unnecessary delays to the BEAD Program.

Nokia has significant concern for the introduction of this proposed guidance at a time when 40 states and territories have received approval of their Initial Proposal Volume 2 for BEAD which is required prior to the launch of a subgrantee selection process in a state. Additionally, four states (Louisiana, West Virginia, Montana and Nevada) have opened grant windows to accept funding proposals for BEAD and Louisiana is expected to submit its Final Proposal to NTIA by the date it is due³ on December 15, 2024.

The NOFO for the BEAD program issued on May 13, 2022, already provides a mechanism for the states to consider alternate technologies in cases of last resort

² Proposed Guidance at 7.

³ A state, also known as an Eligible Entity “shall submit a Final Proposal no later than twelve (12) months after the date upon which the Assistant Secretary approves the Eligible Entity’s Initial Proposal” See NOFO at 46.



where the cost to reach BEAD eligible locations exceeds the Extremely High Cost Per Location Threshold⁴ or was not included in any bids submitted to the state. For example, the NOFO states that:

“An Eligible Entity may decline to select a proposal that requires a BEAD subsidy that exceeds the Extremely High Cost Per Location Threshold for any location to be served in the proposal if use of an alternative Reliable Broadband Service technology meeting the BEAD Program’s technical requirements would be less expensive. Subject to the overarching requirement to run a fair, open, and competitive process, the Eligible Entity has discretion to design a selection process that allows it to engage with a prospective subgrantee to revise the proposal to ensure that no location requires a subsidy that exceeds the Extremely High Cost Per Location Threshold.

“If no Reliable Broadband Service technology meeting the BEAD Program’s technical requirements would be deployable for a subsidy of less than the Extremely High Cost Per Location Threshold at a given location, an Eligible Entity is authorized to select a proposal involving a less costly technology for that location, even if that technology does not meet the definition of Reliable Broadband Service but otherwise satisfies the Program’s technical requirements.”⁵

In addition, the NOFO gives states latitude to negotiate with existing providers to take on the unclaimed BEAD eligible locations.

If, after soliciting proposals, the Eligible Entity has received no proposals to serve a location or group of locations that are unserved, underserved, or a combination unserved and underserved, the Eligible Entity may engage with existing providers and/or other prospective subgrantees to find providers willing to expand their existing or proposed service areas. An Eligible Entity may consider inducements such as use of state funding toward the match requirement set forth in Section III.B or benefits during the grant selection process (e.g., points or credits). The Eligible Entity shall, in this circumstance, work to ensure that its approach is as transparent as possible. For the avoidance of doubt, this provider-specific outreach is only appropriate after the Eligible Entity has solicited proposals and failed to obtain one or more proposals to serve the location or locations at issue.⁶

⁴ This is defined as a threshold whereby a state “may decline to select a proposal if use of an alternative technology meeting the BEAD Program’s technical requirements would be less expensive.” See NOFO at 13.

⁵ See NOFO at 38.

⁶ *Id.*



In short, it is far from clear why this additional guidance is truly necessary.

At the same time, it is far from clear how States are expected to implement the Proposed Guidance which seems to introduce a new structure for the evaluation of alternate technologies that could extend the subgrantee selection rounds for an additional 60-day period that could further delay the entire subgrantee award process. If adopted by NTIA, the Proposed Guidance is likely to delay these current state processes while they determine how to incorporate a new and separate process for the selection of alternate technologies. In some cases, it is also possible that this Proposed Guidance conflicts with a state's Initial Proposal Volume 2 thus requiring an amendment. Further delays on the precipice of subgrantee selection is detrimental to the program.

II. The Proposed Guidance undermines US manufacturing and job creation efforts to meet the Build America Buy America Requirements of the BEAD Program.

On August 3, 2023, at an event in Kenosha, Wisconsin, Vice President Kamala Harris, and Secretary of Commerce Gina Raimondo jointly announced that Nokia was the first telecom company to establish the U.S. manufacturing of fiber-optic broadband network electronic products for the Broadband Equity, Access and Deployment (BEAD) program. This announcement was the direct result of over a year's worth of work in meetings with the Department of Commerce and the Biden Administration as well as a deep examination of Nokia supply chains and products to determine what could be done by Nokia to meet the Build America Buy America mandate of the BEAD program. This monumental effort is a direct result of Nokia's commitment to ensure that best in class technology is manufactured in the United States to support the BEAD Program and the Administration's goal of closing the digital divide.

At the announcement, it was noted by Nokia CEO Pekka Lundmark that products were expected to be available in mid-2024 in time for the first BEAD awards expected to be announced. Less than 8 months later, on April 22, 2024, Nokia held another event in Kenosha with Alan Davidson, Administrator of the National Telecommunications &



Information Administration (NTIA) to announce that the first broadband products were rolling off the production line ahead of schedule and were available for order.

This manufacturing capacity, and the jobs it created, are anxiously waiting for orders to start flowing that are dependent upon states making their BEAD awards. Given the investment and effort by manufacturers to meet the Buy America mandate, NTIA should not delay the issuance of awards to fiber-based projects in order to determine the viability of alternative technologies that are waived of the Buy America mandate.

This is particularly true given that the BEAD Program “*prioritizes projects designed to provide fiber connectivity directly to the end user,*”⁷ yet fiber technologies are largely subject to Buy America mandates while all other broadband electronics including alternative technologies are waived.⁸ Accordingly, facilitating the ability to use Alternative Technologies where not truly necessary has the direct effect of reducing the economic benefits NTIA achieved through its prior implementation of Buy America requirements.

Moreover, the Proposed Guidance would hold up fiber broadband projects while a process plays out for a small minority of projects utilizing alternative technologies that are waived of Buy America requirements. Further delays of awards for fiber projects for BEAD undermines the newly established US manufacturing initiatives to support Buy America Build America mandates. Manufacturers who are making investments in US manufacturing need orders to support production and job creation. The longer the subgrantee process takes, the longer it will take for orders to be submitted for equipment and materials.

For these reasons, should this Proposed Guidance be enacted, Nokia urges NTIA to allow states to issue awards for fiber-based projects that meet the BEAD requirements before states launch an alternative technology selection process. By

⁷ See NOFO at 7.

⁸ See Waiver at 13.



bifurcating fiber awards, this fulfills the BEAD Program purpose of prioritizing fiber and supports US manufacturing efforts to meet the Buy America mandate for BEAD.

Conclusion

Per the comments above, Nokia respectfully recommends that NTIA reconsider issuing this Proposed Guidance as there is already a process in place for states to negotiate and consider alternate technologies in their subgrantee selection process. However, if this guidance is adopted in any form, NTIA should allow fiber broadband projects for BEAD to be approved and released by the states before any alternate technology processes are implemented.

Nokia would like to thank you in advance for consideration of our comments. We look forward to continuing to work with the Department of Commerce, NTIA and the states in the Administration's goal to provide Internet For All and close the digital divide.

Respectfully submitted,

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