



COLORADO

Broadband Office

Governor's Office of Information Technology

Colorado Broadband Office's Response to Public Comment Proposed Alternative Broadband Technology Guidance September 10, 2024

Executive Summary

The Colorado Broadband Office (CBO) appreciates the opportunity to provide public comments on the Proposed BEAD Alternative Broadband Technology Guidance. This document summarizes our feedback on each section, with page references for clarity. After reviewing the guidelines, the CBO has also included recommendations for the NTIA to consider in the final guidelines.

Proposed BEAD Alternative Broadband Technology Guidance Comments

Pages 6-7: Figure 1

Digital Subscriber Line (DSL) is listed as a reliable broadband service. However, according to Volume One of the Initial Proposal, many states, including Colorado, do not recognize DSL as a reliable broadband service. As such, this technology should not be eligible for any public funding, including BEAD. Regarding "Other Broadband Technologies," geostationary orbit (GEO) satellite is considered ineligible for BEAD funding. The CBO recommends that GEO be reconsidered under "Other Broadband Technologies."

Pages 7-8: Case 1 - Enforceable Commitments for Alternative Technologies

The NTIA asks Eligible Entities to consult the FCC Funding Map to determine applicability but does not specify which version of the fabric should be used. Should states refer to the fabric used during their challenge process, or the most recent version? This point needs clarification.

Furthermore, the guidance requests that Eligible Entities collect documentation to support their determination of this case but does not specify what documentation is required. If it mirrors the documentation used to assess eligibility based on Priority and Other Last-Mile Broadband Project criteria, the guidance should indicate that. If not, the NTIA must clarify what is expected.

Pages 8-9: Case 2 - Provider Can Demonstrate that it Currently Meets BEAD Requirements for Alternative Technology Deployments

As with Case 1, the NTIA needs to clarify which version of the FCC National Broadband Map should be used. The reliance on evaluating the construction or leasing of passive infrastructure does not apply to LEO in some cases, making the use of such technologies difficult. Additionally, the description of technical capabilities, especially regarding capacity scaling, is confusing and does not align with the definition of broadband. This language could discourage participation.

The NTIA gives Eligible Entities the ability to propose additional criteria but does not specify what the NTIA will approve. This creates uncertainty for states. To resolve this, the NTIA should allow states to develop criteria that does not require NTIA approval since the NTIA itself does not currently provide clear guidelines.

The NTIA should avoid prescribing timelines for providers showing interest (7 days), public notices, and submitting documentation (30 days). These timelines should be left to the states to prevent conflicts with the BEAD program timelines already established by the states. States need the flexibility to integrate these processes into their current programs without the NTIA imposing rigid timelines.

Page 8: Case 3 - BEAD Investment in Alternative Technologies

This scenario is generally straightforward, but the language stating that "providers that did not respond in a timely manner may be determined to be incapable" should be removed. Non-response does not necessarily indicate incapability, and this determination should be left to the states, not the NTIA. The current approach is too prescriptive and does not provide the flexibility needed for states to work with providers.

This paragraph also contradicts the process outlined in the BEAD NOFO for engaging providers where there were no BIDs. It is out of place and should be removed.

Pages 9-10: Awarding Alternative Broadband Technology Subgrantees

4.1 Selection Mechanism Comments

The current language states that Eligible Entities can only consider alternative technologies if no reliable broadband service exists. However, the NTIA considers DSL reliable, meaning areas with DSL technology would be included. DSL does not meet the speed or reliability criteria of broadband service, and excluding alternative technologies in these areas contradicts the goals of the BEAD program.

4.2 Subgrantee Obligations Comments

The NTIA's requirement for 5 Mbps of capacity or 2TB of usage for alternative technologies is an extremely low benchmark for acceptable broadband service. Providers using alternative technology should at least meet the definition of fast, reliable broadband. These benchmarks are too low and would lead to suboptimal services, forcing states to over build these areas in the future. Additionally, there should not be any data caps, which would require deleting the 2TB usage cap.

4.3 Subgrantee Obligations Comments

The requirement for subgrantees to cover BSLs within 10 business days of a service

request is restrictive and likely to discourage participation, especially in rural areas. A more realistic timeframe is 3-4 weeks.

The same network performance standards used for reliable broadband service should apply, but this assumes that networks meet the definition of adequate broadband service at 100/20 Mbps, while the NTIA accepts 5 Mbps for alternative technologies. This inconsistency is evident throughout the guidance, particularly as DSL is not a reliable broadband service.

4.4 Additional Flexibility for Subgrantees for Last-Mile LEO Deployments

Comments

Many of the eligible uses for last-mile LEO deployments, particularly items 1, 2, 3, and 5, do not apply. This section should be clarified to reflect that while these items may apply to other alternative technologies, they do not pertain to LEO. Extending the period of performance to 10 years is not acceptable, it may discourage LEO providers from participating in the program. Especially since the use of life of technology is 5 - 7 years.

Appendix A: BEAD Alternative Broadband Technology Policy Notice Additional Areas for Input

1. The NTIA mentions that states can make supplemental payments to LEO providers within the initial 4-year period of performance, but this is unrealistic. States will have likely exhausted their BEAD funding. The statement should include a qualifier, such as "if funds remain."
2. The NTIA discusses rates for reserving network capacity but offers no guidance on what is acceptable or approvable.
3. The distinction between 5 Mbps (a speed measurement) and TBs (addressing capacity) is unclear. Introducing another speed requirement as a proxy is confusing.
4. Posing questions in guidance is not helpful and adds confusion.

Recommendations and Conclusion

The guidelines cover several aspects of including Alternative Technologies in the BEAD Program, but key elements need attention. States need clearer guidance on leveraging the Extremely High Cost per Location Threshold to determine when Alternative Technologies are acceptable. Additionally, LEO providers must be reimbursed for each location, and guidance should clarify how states should set reasonable pricing for these providers.

The NTIA should streamline the review process for Alternative Technology provider requirements and avoid adding arbitrary time-to-service benchmarks, which should be set by the states. The NTIA needs to provide guidance on provisions that apply to LEO providers in the Grant Agreement as soon as possible.

Finally, the guidelines should go into effect immediately upon finalization without waiting for states to update their Vol. 2 Initial Proposals. Delaying the process unfairly penalizes states that are ahead in the BEAD process.

Sincerely,

A handwritten signature in black ink that reads "Brandy Reitter". The script is fluid and cursive, with the first name "Brandy" and last name "Reitter" clearly legible.

Brandy Reitter
Executive Director - Colorado Broadband Office