Broadband, Equity, Access and Deployment (BEAD) Initial Proposal Volume II Public Comments

November 1, 2023 to December 1, 2023

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Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

You can find more information on the project website: https://www.commerce.wa.gov/building-infrastructure/washington-statewide-broadband-act/internet-for-all-wa/. You can also sign up for email updates or provide comments at InternetForAll@Commerce.wa.gov.

We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

> Tonia Reed

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

> n/a

Q12. (Optional) What is your title?

Q11. (Optional) What is your email address?

> ████████████

Q9. (Optional) What is your zip code?

> ████

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

⦿ One application per project area | To seperate programs issues and responsibilities and to better track the outcomes and hold people accountable

○ Multiple project areas in an application [ ]

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

> no

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

◉ County project area boundaries with broadband serviceable locations limited to approximately 1000

○ Other, please describe [ ]

○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

> no

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

> yes

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

> My question is related to a general issue related to internet and broadband security, Where to go for help with technical issues that need in person help should be included. Most companies that offer internet services I have visited do not have the knowledge needed to correct or advise how to resolve the issues I am having. This may be a personal issue however, I really need help and cant seem to find anyone who can help. I am blocked from a lot of online assistance such as the wa it center and even in person on public computers that dont require signing in, im somehow blocked as soon as I try to use the computer. I cant properly submit foi requests, everything is done online now. I just think a tech center with in person help would be a good thing to include!

Q16. *End of survey*

████████████████████████████████

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_____

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

_____

Q12. (Optional) What is your title?

_____

Q11. (Optional) What is your email address?

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Q9. (Optional) What is your zip code?

_____

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

○ One application per project area _____

◉

Multiple project areas in an application	Every areas have unique needs(elderly, handicap), unique resources(maintenance, enforcement), unique challenges(rare metal theft, vandal) , unique demands, unique intelligence (common sense, technology sense, security sense)

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

Affordability: rate adjusted based on congestion, service disruption, usage (emergency, streaming bandwith), theft (siphoning, snooping). Fair labor Practices: Extreme oversight and management and penalty on written contract, cost over runs, delays, unsecured materiel theft, drugs on premise, no contract awarded to companies whose profits are funnelled to China, Russia, and other unfriend countries to US))

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

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○ County project area boundaries with broadband serviceable locations limited to approximately 1000

○ Other, please describe [　　　　　　　]

○ No preference

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Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?
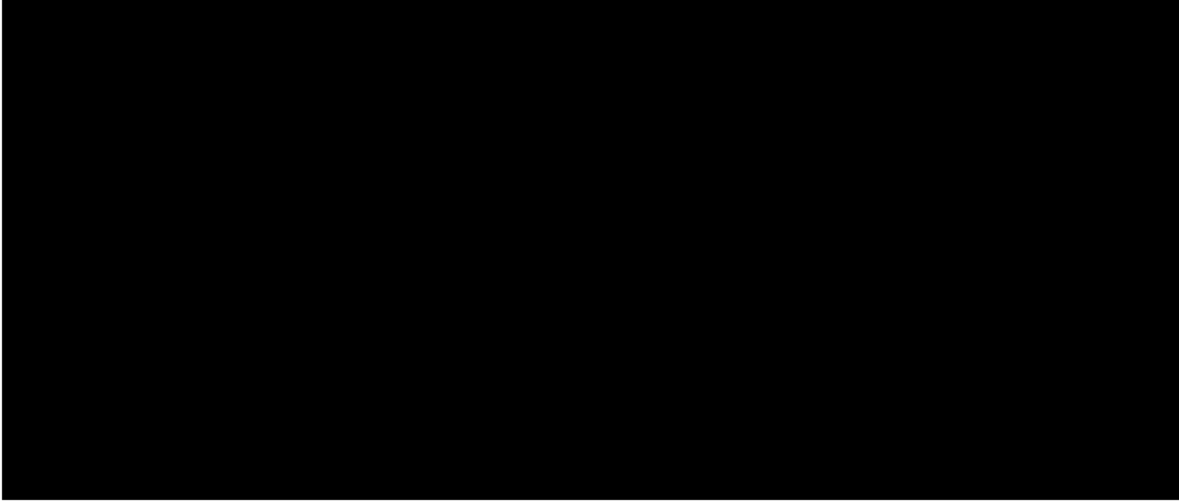
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Q16. *End of survey*

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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

> Richard Larson

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

Q12. (Optional) What is your title?

Q11. (Optional) What is your email address?

> ███████████

Q9. (Optional) What is your zip code?

> ████

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- ● One application per project area [   ]
- ○ Multiple project areas in an application [   ]

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

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- ○ Other, please describe
- ○ No preference

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Currently my "affordable" internet service is CenturyLink DSL so my download speed is less than 3 mbps and an even more pathetic upload speed of less than 1 mbps.

Q16. *End of survey*
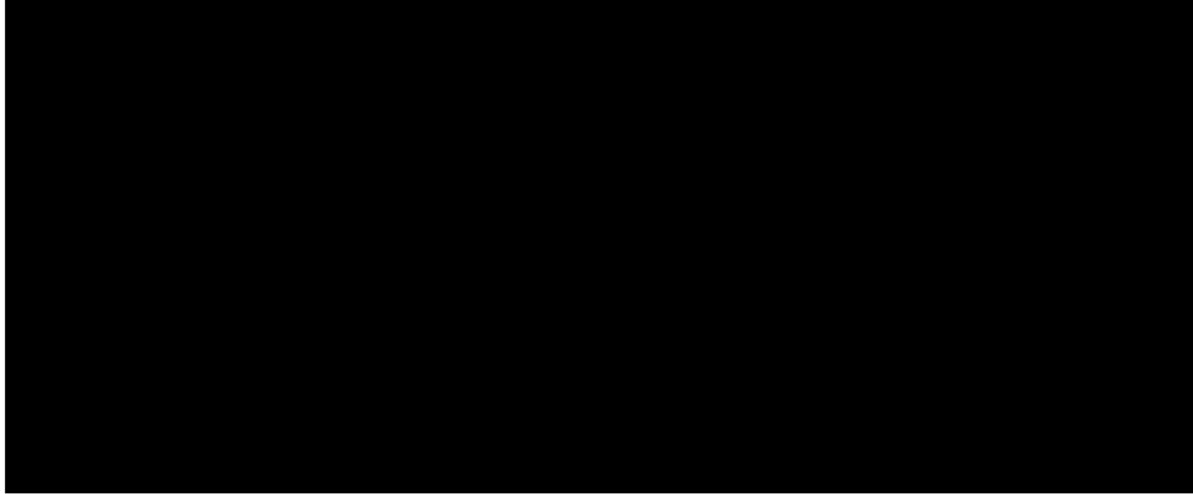
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Q10. (Optional) What is your name (first and last)?

> John Towers

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

Q12. (Optional) What is your title?

Q11. (Optional) What is your email address?

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[Information is unable to be accessed with current low bandwidth at our location on Anderson Island. Map shows our location in green, not sure why as we are unable to get any decent broadband access, including satellites. We get 2-3 mb download on a phone hotspot. That is all we have access to unless the strength of the AT&T tower on Key Peninsula is strengthened. We were told there was to be no focus on Anderson Island. People move here, then leave because they cannot get decent internet service. Tanner Electric has a very low tower on the east side. That needs to be expanded to cover the entire island.]

Q16. *End of survey*
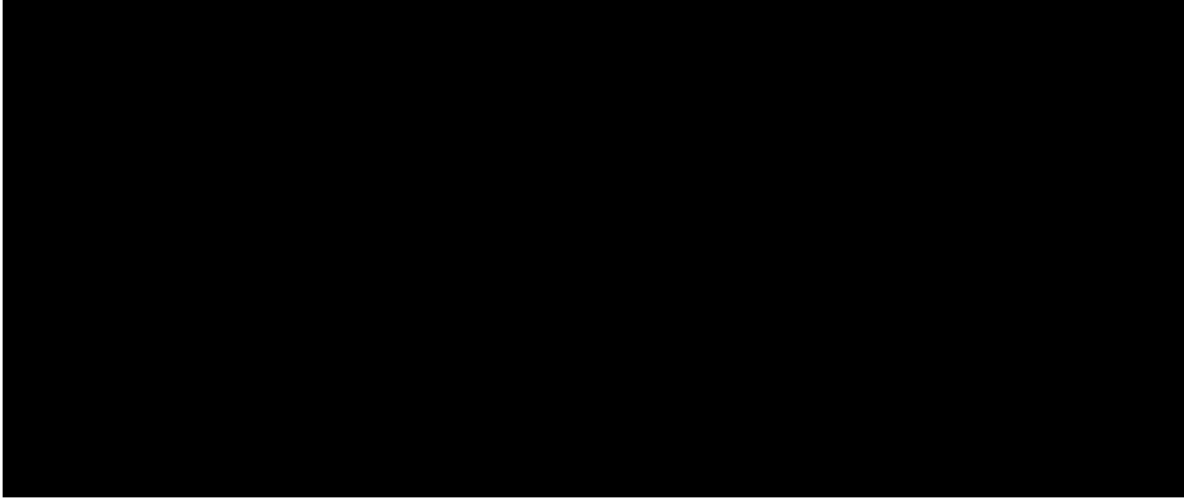
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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

> Michael Abensour

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

> Compudopt

Q12. (Optional) What is your title?

> Chief Impact Officer

Q11. (Optional) What is your email address?

> ██████████████

Q9. (Optional) What is your zip code?

> ████

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○ Multiple project areas in an application _____

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[   ]

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[   ]

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

My name is Michael Abensour and I am the Chief Impact Officer at Compudopt, a national 501c3 nonprofit (www.compudopt.org) dedicated to digital inclusion work through the distribution of computer devices, digital literacy, after-school STEM programs, connectivity (our own networks and through ACP sign-ups) and wrap-around services to support our community members. We applaud Washington State's Broadband Office (WSBO) for your detailed, comprehensive plan to end the digital divide in your state. At Compudopt, we strongly believe that true broadband access isn't a luxury but a necessity for those seeking to learn, work and thrive in today's society. Our comments are to remind policymakers that broadband infrastructure alone is not enough to end the digital divide but must be accompanied with digital inclusion strategies and programs that teach basic digital literacy skills, provide internet-ready devices, and create relevance in our communities as to why this work is so important. Without these services, internet adoption, no matter how fast, how prevalent, will continue to lag. On behalf of Compudopt, we hope that the Washington State Broadband Office (WSBO) work with ISPs to ensure that proper outreach and enrollment strategies include the aforementioned in order to maximize the state's investment in creating new and robust broadband infrastructure. Thank you.

Q16. *End of survey*
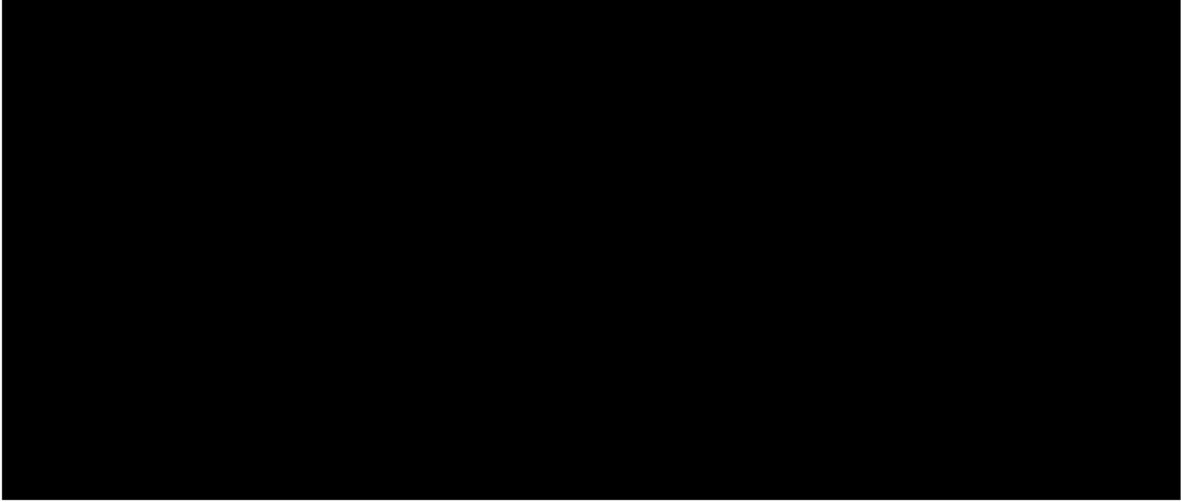
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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

> Randy Sandone

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

> Critical Infrastructure Resilience Institute at the University of Illinois

Q12. (Optional) What is your title?

> Executive Director

Q11. (Optional) What is your email address?

> █████████

Q9. (Optional) What is your zip code?

> ████

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○ One application per project area [   ]

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Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

[   ]

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

[   ]

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

The Washington State Broadband Office (WSBO) has put together an extensive and well-crafted proposal for implementing the Broadband Equity, Access, and Deployment (BEAD) grant program in the State of Washington. While the proposal appears to meet the specified grant requirements, it seems to overlook a crucial factor that could impact the deployment – the resilience of the broadband infrastructure itself. The goals and objectives of the Washington program are detailed in Volume 2, specifically on pages 8 and 9. The first goal for the WSBO reads: "Universal Access: Provide every business and household with broadband access by 2028." Two of the specific objectives for this goal are "Objective 1.1 Deployment" and "Objective 1.3 Access". This comment is submitted to focus on these two objectives: "Deployment" and "Access". Modern telecommunications infrastructure relies heavily on precise timing signals, currently provided by GPS (Global Positioning System) satellites, for its efficient operation. Any loss, disruption or manipulation of these signals could render the broadband infrastructure inaccessible to subscribers, thus negating the primary goal of the BEAD program and the objectives of Washington. There have been numerous instances worldwide where the timing function of broadband has been compromised due to accidental or malicious actions targeting and degrading GPS timing sources. These events have exposed vulnerabilities in the reliability of broadband infrastructure, necessitating the development of mitigation strategies to provide alternative backup timing sources. This is crucial to ensure the continuity of critical infrastructure and accessibility, both of which are vital to the intended beneficiaries of this grant program. A resilient broadband timing solution is not just important; it's foundational to the success of broadband delivery. We wholeheartedly support the objectives of the Washington plan for implementing BEAD grant funding. However, to ensure the access and deployment of broadband infrastructure, it is imperative to address the need for a robust and resilient back-up timing signal source as part of the broadband deployment. Terrestrial-based timing systems represent a solution that relies on ground-based infrastructure and signals, in contrast to satellite-based systems like GPS or GNSS (Global Navigation Satellite System). These terrestrial systems incorporate redundancy and backup mechanisms to ensure reliability, such as using multiple timing sources or paths to minimize the risk of timing disruptions due to equipment failures or other issues. Currently, eight states and one territory in the US have implemented an alternative timing solution known as the Nationwide Integration of Timing Resiliency for Operation (NITRO). NITRO retrieves timing information from multiple government and commercial sources of space-based and terrestrial timing, including GPS, and analyzes them for accuracy. The most precise alternative timing signal is then transmitted to users via terrestrial broadcasts, fiber, and wireless cellular networks. NITRO is currently utilized by State National Guard Bureaus to maintain their ability to support civilian authorities during disasters and similar crises. This same capability can serve as a backup timing source for the broader broadband telecommunications systems that rely on precise timing. This is a perfect opportunity to utilize BEAD Grant funding to expand NITRO, a critical capability, and make it accessible to a wider range of stakeholders, thereby strengthening an essential component of broadband delivery and usage that is susceptible to attacks. This initiative would leverage the Department of Defense's existing investment in creating the basic NITRO capability and enable the Department of Commerce to fulfill its mandate of providing critical backup timing to ensure uninterrupted commerce and the stability of the US economy. Such an approach aligns with the public/private partnership philosophy promoted by Congress in the Infrastructure Investment and Jobs Act and BEAD Grant legislative language. Failure to address the resilience of the timing function in broadband infrastructure could undermine the goals and objectives of the BEAD Program in general and the Washington program specifically and would diminish the return on the $42 billion investment that has been appropriated to support the program. Accordingly, we recommend that Washington include back-up timing as a priority for BEAD Grant implementation in its final Volume 2 Proposal.

*Q16. *End of survey**
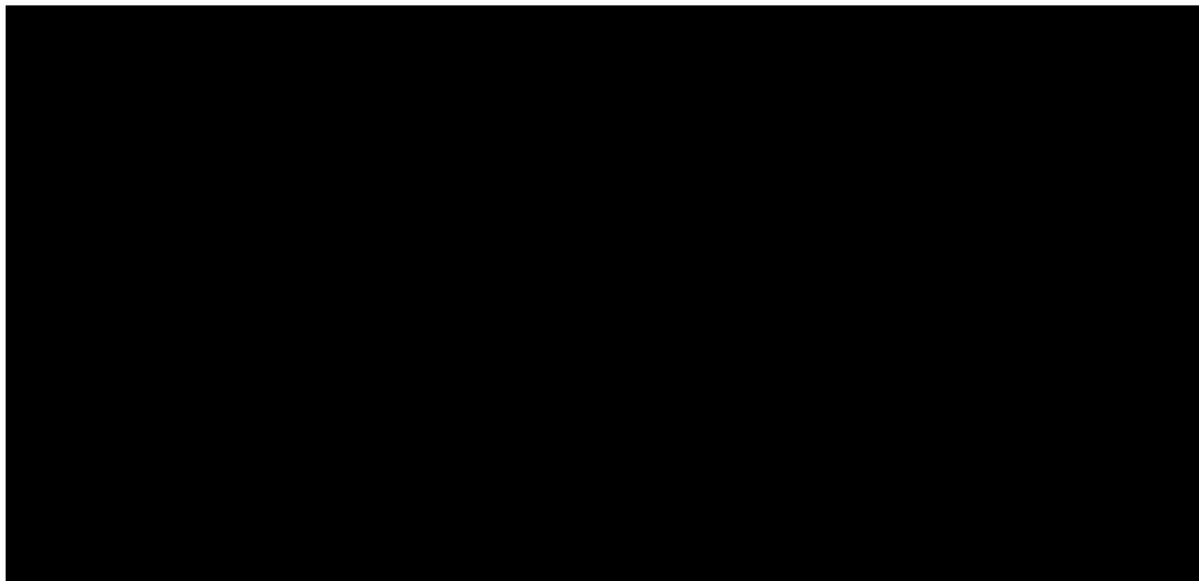
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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

Mark Mattke

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

Spokane Workforce Council

Q12. (Optional) What is your title?

CEO

Q11. (Optional) What is your email address?

██████████████

Q9. (Optional) What is your zip code?

████

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<div style="border:1px solid #999; min-height:40px"></div>

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○ Other, please describe [_____]

○ No preference

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Pg. 84 under B. Developing and Promoting Partnerships - update language in first paragraph and change "regional Workforce Development Councils" to "Local Workforce Development Boards (LWDBs)" to reflect the accurate name for these entities. Also, add to beginning of next sentence a descriptor of the LWDBs: "insert: Local Workforce Development Boards (LWDBs) are responsible for connecting workers to skill development and credential acquisition as well as providing direct support to businesses to determine their workforce needs and create a talent pipeline. LWDBs work with local elected officials and a wide range of stakeholders in their communities to leverage an array of public and private resources to ensure that diverse workers have access to the training necessary to enter career pathways in in-demand industries." In the same section, 2nd paragraph, 1st sentence, replace "regional Workforce Development Councils" with "Local Workforce Development Boards"

Q16. *End of survey*
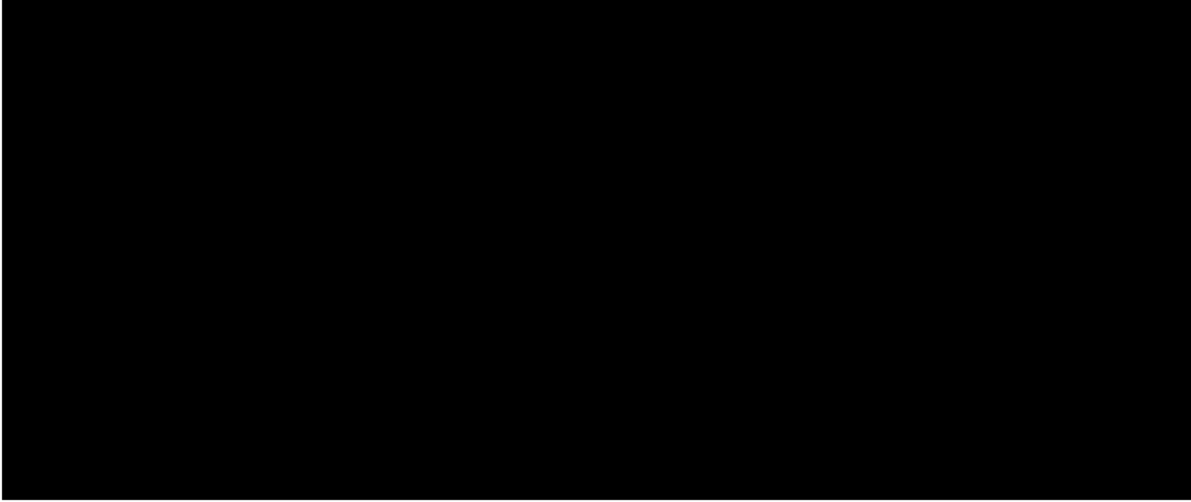
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Q10. (Optional) What is your name (first and last)?

> Mike Rizzitiello

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

Q12. (Optional) What is your title?

> City Administrator

Q11. (Optional) What is your email address?

> ███████████

Q9. (Optional) What is your zip code?

> █████

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○ One application per project area

● Multiple project areas in an application

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

> You need to have an element that allows for funding areas that in effect are doughnut holes. Areas surrounded by fast internet but are high speed deserts in semi urban areas due to low income populations nearby. College Place has several.

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> nope. Just doughnut hole areas need to be addressed

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

> nope

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

> doughnut hole areas in the middle of semi urban areas that have high quality internet need to be addressed. College Place has several and no one is talking about this.

Q16. *End of survey*
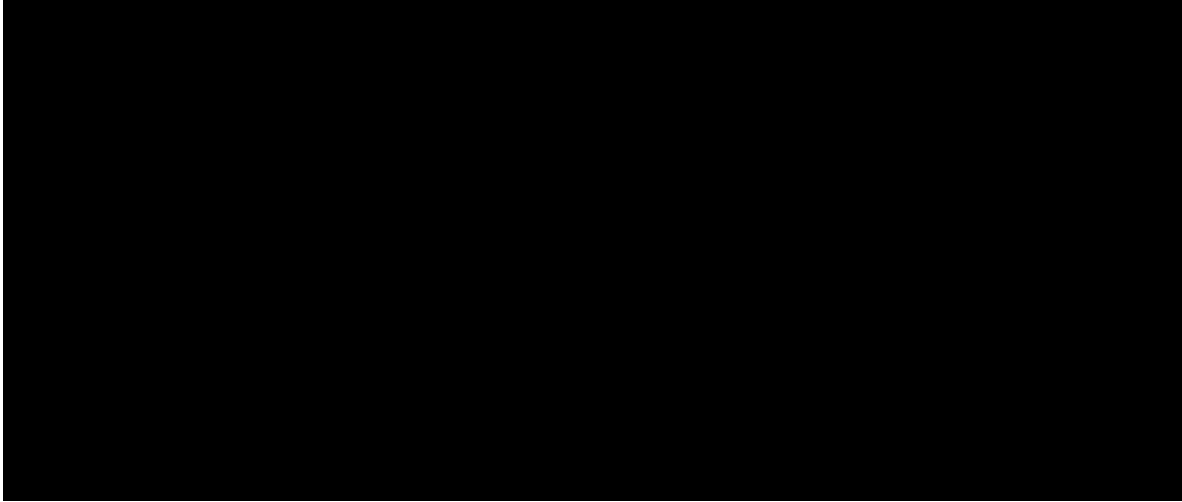
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Q10. (Optional) What is your name (first and last)?

> Steven Nelson

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

Q12. (Optional) What is your title?

Q11. (Optional) What is your email address?

> ████████

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○ One application per project area

● Multiple project areas in an application | But this spreads projects too thin

29

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[ ]

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I fear that all of the resources will be spent "fixin' to plan" and never get to an actionable stage. The availability of internet services in my area is getting progressively WORSE, with my only available provider, Century Link, threatening to pull out what little T-1 line service we currently have.

Q16. *End of survey*

Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

Jean N Jensen

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

InternetForAll@Commerce.wa.gov.

Q12. (Optional) What is your title?

Ms

Q11. (Optional) What is your email address?

██████████

Q9. (Optional) What is your zip code?

████████

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

○ One application per project area

● Multiple project areas in an application It'll cover statewide this way

32

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

> No

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

- ○ School district boundaries
- ○ County project area boundaries with broadband serviceable locations limited to approximately 1000
- ○ Other, please describe [   ]
- ● No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

>

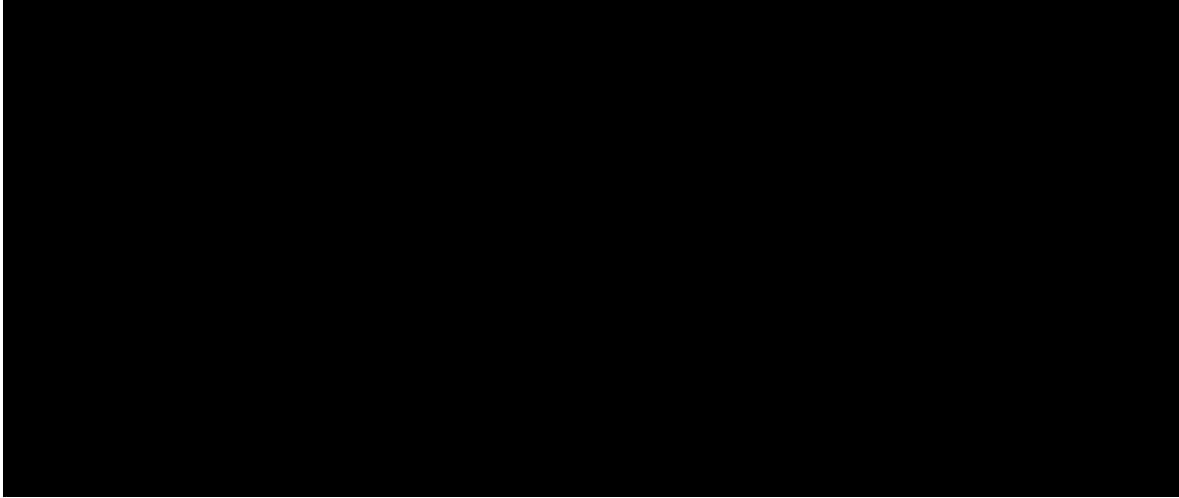*Q19.* Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

> I think everyone should have public access through this project

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

>

Q16. *End of survey*

Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

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Q12. (Optional) What is your title?

Q11. (Optional) What is your email address?

Q9. (Optional) What is your zip code?

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○ One application per project area

○ Multiple project areas in an application

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[   ]

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Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

○ County project area boundaries with broadband serviceable locations limited to approximately 1000

○ Other, please describe [   ]

○ No preference

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[   ]

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[   ]

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

[Yes - this initial Volume II is too lengthy to find the basis for spending money for this project - My comment is that public tax dollars need to address equity across all classes not just the ones the government wants to pander to. Tribal units do not pay taxes but receive the benefit? I need lower cost internet as do many others. Please do not marginalize other diverse populations with stereotypes that you mistakenly characterize having no access as well This survey has no merit if it does not consider ideas or opinions by ignoring comments with no page numbers or do not fit what you want as your desired outcome.]

Q16. *End of survey*
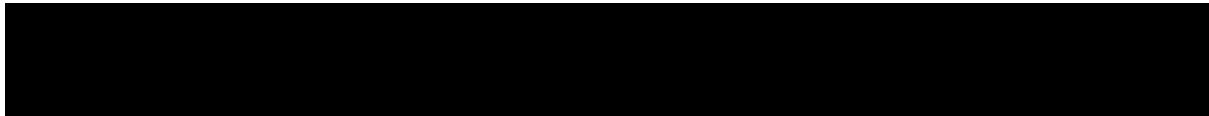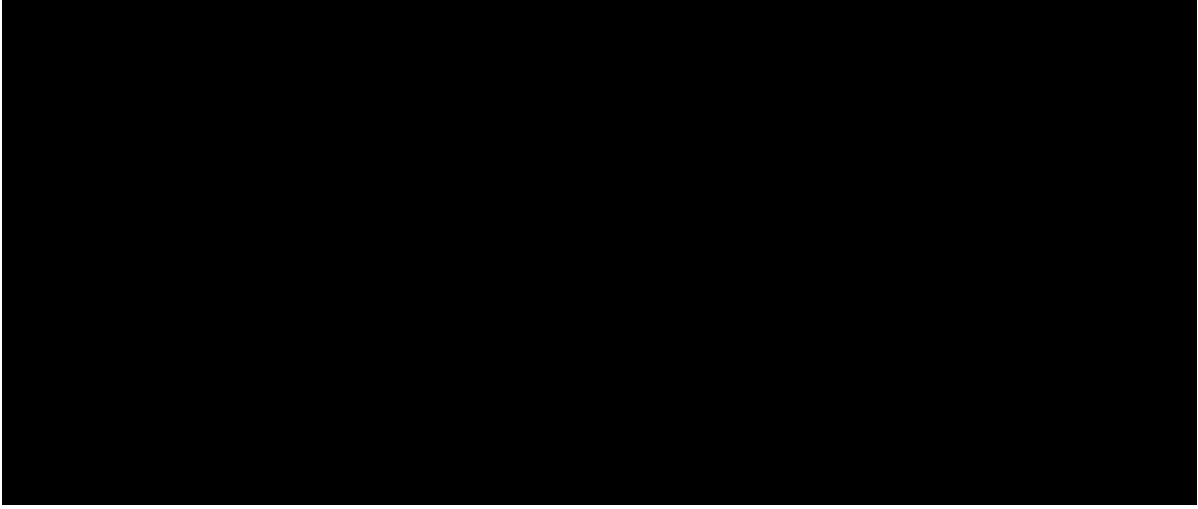
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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

> Earl Overstreet

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

Q12. (Optional) What is your title?

> President, Retired General Microsystems Inc.

Q11. (Optional) What is your email address?

> ██████████

Q9. (Optional) What is your zip code?

> ███

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

○ One application per project area

◉

Multiple project areas in an application	Allowing multiple project areas per application simplifies the proposal response process and encourages maximum project area coverage. WSBO could require breaking out parts of the proposal by project area to facilitate "like-to-like" comparisons of competitive bids.

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

> Equitable workforce development, including the utilization of small, diverse, veteran, and local businesses should be prioritized and incorporated into the Scoring Rubric. Relying on encouraging words has proven to be ineffective in changing behavior regarding equity in contracting. Our commitment to digital equity needs to be reflected in the proposal scoring.

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

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> No

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

The draft document covers the basic requirements and leverages the considerable work done by the WSBO and stakeholders to collect current state information and identify barriers to success. Further expansion of community engagement to encourage innovation, investment, collaboration, and competition will be needed to reach our goal. Other comments are as follows: Page 8 – Encourage innovations that reduce cost as another affordability objective. Page 9 – Include business growth, enhanced ability to deliver government, healthcare, and education services to Economic Growth section. Page 33 – Consider community representatives on the selection committee. Page 55 – Will WSBO consider deployment speed when evaluating alternative technology proposals? Pages 94-96 – MBE, WBE, and Labor Surplus Area firm engagement should include other organizations in addition to OMWBE. Outreach, tracking, and reporting should include self-certified firms in addition to OMWBE certified firms.

Q16. *End of survey*

Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

Yasmin Ali

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

Skillspire Foundation

Q12. (Optional) What is your title?

Executive Director

Q11. (Optional) What is your email address?

████████

Q9. (Optional) What is your zip code?

████

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🔘 One application per project area
⚪ Multiple project areas in an application

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[   ]

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[   ]

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

Providing broadband access to all in WA state is the first step towards achieving digital equity. Once this is provided, individuals should be provided tech training in Cybersecurity at the very minimum. Without digital skills broadband access will not accomplish the goal.

Q16. *End of survey*

Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

Jessica Epley

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

Ziply Fiber

Q12. (Optional) What is your title?

Vice President, Regulatory and External Affairs

Q11. (Optional) What is your email address?

██████████

Q9. (Optional) What is your zip code?

███

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◉

| Multiple project areas in an application | Ziply Fiber believes the Washington State Broadband Office ("WSBO") should allow for multiple project areas in a single application to give applicants the ability to decide their own capacity. This could result in fewer applications for WSBO to process. |

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

The open access requirement in the Priority Broadband Project Scoring Criteria table shows that an applicant can receive 3 points if "Two or more committed ISPs above and beyond the applicant with signed agreements (page 36)." Ziply Fiber seeks clarity on this scoring criterion. Does an applicant receive points for their wholesale cost per connection and then additionally, the applicant receives 3 points if there are two or more committed ISPs above and beyond the applicant? The open access requirement in the Other Last Mile Broadband Projects Scoring Criteria table shows that an applicant can receive 3 points if "Two or more committed ISPs above and beyond the applicant with signed agreements (page 40)." Ziply Fiber seeks clarity on this scoring criterion. Does an applicant receive points for their wholesale cost per connection and then additionally, the applicant receives 3 points if there are two or more committed ISPs above and beyond the applicant? Ziply Fiber applauds the WSBO for their effort to address affordability, as it is required by the NTIA in primary scoring criteria (page 36). However, the approach taken by WSBO amounts to rate regulation by providing up to 25 points for a provider offering a 1g/1g plan for $75 a month. Under the Infrastructure, Investment and Jobs Act (IIJA), Congress included a provision that outlaws rate setting (Infrastructure Act § 60102(h)(5)(D)). WSBO runs the risk of NTIA not approving of their Initial Proposal Volume II if this scoring criteria remains. This approach has failed in the FCC's Rural Digital Opportunity Fund auction, where certain winners claimed they could not afford to build with the rates they said they would offer and are now seeking additional funding.

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

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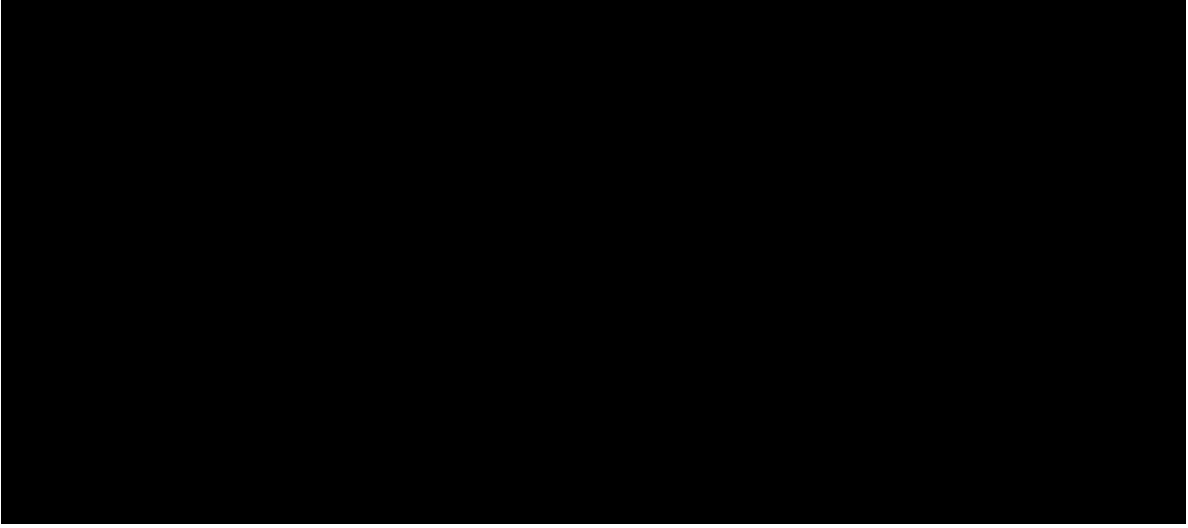
Prior to Washington Broadband grants using US Treasury Capital Project Funds, there was no requirement to document on a per address basis for connected locations (page 30). How will state agencies who have implemented broadband projects document the funded locations as they didn't previously require the addresses? How will the WSBO inform potential subgrantees of the webinars that detail the application guidelines and requirements (page 31)? WSBO states that it will be provide this information prior to the publication of the application opportunity. Does WSBO have expected dates of when these webinars will take place? How will WSBO provide the template for applicants to outline requested dollars to serve locations, CAIs and matching funds (page 32)? Will they send out a notification to those who subscribe to the Internet for All Washington or are potential applicants to regularly check the website for this template? How and when will WSBO notify applicants of issue clarifications based on guidance outline of Initial Proposal Volume II (page 32)? What are the selection criteria for choosing the selection committee who reviews applications (page 33)? What kind of training are they required to do prior to selection? Ziply Fiber believes that WSBO should allow applicants to submit more than one application for a project area (page 33). This would allow applicants to go back and readjust their application to make it more competitive, and potentially stretch the grant dollars awarded to WSBO further. How will WSBO alert potential applicants to the webinars and informational for both the EHP and BABA compliance requirements (page 46 and 48)? Does WSBO have an established date and time for both of those webinars? During the Initial Proposal Volume 1 comment period, Ziply Fiber stated that the BEAD NOFO § I.C.u includes DSL as a Reliable Broadband Service, WSBO's position of not allowing providers to rebut serviceability on a challenge location basis is an error (page 50). Simply because the location is served by copper DSL does not mean that location is not receiving 1g/1g service. Ziply Fiber has invested hundreds of millions of dollars deploying fiber deeper into our network allowing us to use existing copper facilities to serve ethernet. Within Washington State alone, many government buildings are only able to use copper infrastructure because they do not have the inside wiring to support a modern fiber optic network. Many businesses and tribal communities are heavily reliant upon DSL technology to provide basic services like voice to their multiline telephone systems. WSBO should allow for locations served by DSL to be considered served and allow for evidence of such DSL service to be used as a rebuttal for a challenge. How will WSBO inform potential applicants of the additional requirements for deployment of fiber on tribal reservations (page 53)? Will there be an email sent to potential applicants or are they to regularly check-in on WSBO project website? WSBO issued a revised guidance on ILOC on 10-23-23. Will WSBO align with revised provisions in the requirements (page 57)? Ziply Fiber appreciates WSBO's willingness to accept an acceptable alternative rather than a traditional letter of credit (page 57). This alternative will mean more money for broadband deployment as private investment money will be caught up bank fees with the traditional letter of credit. WSBO final proposal should reflect NTIA's recently issued Letter of Credit Waiver and allow for alternatives to requiring a letter of credit, such as a performance bond to be reduced to 10% if the provider is going to be reimbursed in increments of 6 months or less and allows it to be retired with deployment. Ziply Fiber likes the Virginia model for this provision and recommends WSBO incorporates it into their own volume II (Virginia Initial Proposal Volume II). Another option would be to follow Ohio's model, as their Initial Proposal Volume II seeks a waiver from letter of credit requirement and proposed alternatives (Ohio Initial Proposal Volume II). At a minimum, Washington should propose to phase down to the 10% Letter of Credit requirements consistent with the FCC Rural Digital Opportunity Fund. All of the subgrantee qualification requirements mirror the obligations providers who were awarded Rural Digital Opportunity Fund or Alternative Connect America Fund projects. A streamlined approach WSBO could use is to accept the award letter from the FCC for these programs as evidence of the necessary operational, technical and managerial requirements. Items such as audited financial statements (page 58), ownership information (page 67), and other corporate structure matters are highly confidential as it is competitively sensitive for private operators. At a minimum, we request WSBO declare this portion of the application exempt from public disclosure. The specifics of the subgrantee criteria raise some additional questions. WSBO states that they will not approve any grant unless it determines that the material submitted demonstrates the applicant's technical capability concerning the proposed project (page 61). What criteria will WSBO use to make this determination? Why does WSBO require a narrative response from the applicants regarding their operational capacity (page 65)? The BEAD NOFO is clear in its requirement of a certification, so this seems to be an unnecessary step. Given the potential for an applicant to submit multiple applications for multiple proposal areas, providing a certification on operational capacity streamlines the submission and review process. WSBO states that they would like potential applicants to provide ownership information that is consistent with the requirements set forth in 47 CFR 1.2112(a)(1)-(7) (page 67). WSBO states that they will require each applicant to disclose every broadband project that the applicant or its affiliates are undertaking or have committed to undertake using public funds (page 69). Does WSBO want us to submit all publicly funded projects or just projects in Washington? How will WSBO notify potential applicants of regulations information webinars and the postings about the regulations in sections 4.11-4.17? Does WSBO have proposed dates for the webinar(s) for the different requirements for subgrantees in sections 4.11-4.17? If an applicant has multiple vendors that perform construction related activities, is it required that all possible contractors and subcontractors provide a certificate of compliance (page 74)? Would it be sufficient for the applicant to certify its compliance, then when a contractor or subcontractor is awarded a scope of work, they then provide the certification of labor law compliance?

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

Ziply Fiber applauds the WSBO for their effort to assist low-income broadband internet users (page 112). However, the approach WSBO is taking amounts to rate setting. Under the Infrastructure, Investment and Jobs Act (IIJA), Congress included a provision that outlaws rate setting (Infrastructure Act § 60102(h)(5)(D)). WSBO runs the risk of NTIA not approving of their Initial Proposal Volume II as this provision currently stands. To satisfy the low-cost service option requirement, providers can offer a plan that does not exceed the FCC's "reasonable comparability" benchmark. This benchmark is the estimated average monthly rate in urban areas plus twice the standard deviation of rates for terrestrial fixed broadband service plans at a specific speed tier. If the rate falls within these marks, it is considered affordable, and a subscriber could then apply their ACP benefit to the plan. Ziply Fiber appreciates the flexibility for permitting providers to change prices charged to end users after 12 months and at a rate that does not exceed the Consumer Price Index for All Urban Consumers (page 115). While this is appreciated, we recommend that this extends across the board to all subscriber plans, including low–income plans. Providers need the flexibility to adjust rates to avoid unfair market interference and other factors, such as inflation. Washington should follow the lead of Virginia and Louisiana, who allow providers to mark yearly adjustments on their pricing.

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

Will WSBO initiate a statewide Tribal coordination effort to facilitate Tribal Resolutions accepting RDOF awarded areas on Reservations as "Served locations" (page 8)?   Objective 1.3 states that WSBO wants to ensure all locations (CAIs, residence, businesses) have access to reliable high-speed internet (page 8). What is considered high speed-internet to WSBO? Does this mean ensure that all locations meet the deployment speeds outlined in objective 1.1, or is there a different definition for high-speed internet for WSBO? Ziply Fiber supports Objective 1.4 – Affordability. Ziply Fiber is an Affordable Connectivity Program provider but with the uncertainty of Congress renewing funding, creation of an additional subsidy program or expanding the existing universal service subsidy programs would benefit those who struggle to pay for quality broadband. Will WSBO enhance awareness to eligible households of Federal Lifeline, Tribal Lifeline and Tribal Link Up (page 8)? Based on information in page 112, ISPs and other applicants are required to increase awareness but how will WSBO increase awareness? Are objectives 1.4-1.6 intended to be high level points that are broken down further in the Digital Equity Plan (pages 8-9)? If so, can WSBO create a footnote to help direct the readers towards the exact breakdown in the Digital Equity Plan? WSBO provides examples of ongoing broadband activities on pages 11 through 13. However, WSBO mentions a more comprehensive list of activities in the Five-Year-Action-Plan (FYAP). The more comprehensive list is spread out between pages 31 and 42 of the FYAP. Why did WSBO choose to omit the full comprehensive list? Ziply Fiber believes it is important to highlight all ongoing activities to showcase collaboration with stakeholders. In Table 1, WSBO references City of Anacortes Investments for Public Works and Economic Development Facilities as an example of an Ongoing Broadband Activity (page 11). The project funded through this activity overbuilt the existing Ziply Fiber infrastructure. How will WSBO ensure grant money is not awarded to projects that would overbuild existing infrastructure from private investment? WSBO states that a key theme from the listening sessions, surveys and focus groups is that the respondents want the state government to take a more active role, using effective regulation and starting new programs to address service provider deficiencies (page 15). While reviewing the Digital Equity Forum Report from footnote 5, the survey responses on page 27 do not indicate a need or a desire from the respondents for WSBO to take a more regulated approach. Where does this key theme come from? What were the suggested regulations? We caution WSBO from acting based on the sentiments of fewer than 5,000 Washingtonians. The vast majority of Washingtonians have access to broadband today without the intervention of WSBO. In a state of more than 7.7M people, the biases of those who were aware and participated in such sessions would be a gross overstatement to the millions who have not raised such issues nor participated. We urge WSBO to expand its outreach and engagement before embarking on a path to increase its regulatory presence. WSBO states that they will continue to conduct outreach and engagement efforts through future programs, as described in its BEAD 5 Year Action Plan and Digital Equity plans (page 16). When will potential applicants and other stakeholders be notified of these events and programs and how will they be notified? When will WSBO host the public comment session on workforce development mentioned (page 19)? How will the stakeholders be made aware of when and where the event will take place? How and when throughout the process will WSBO engage with providers as stakeholders (page 20)? How will the stakeholders be informed of the engagement opportunities? The reference to the State Digital Navigator Program as providers working with underrepresented communities, as an excellent opportunity for outreach is commendable (page 21). However, the majority of awarded programs offer services in more populated communities. How will the less served, more rural communities be engaged? WSBO encourages the use of the OMWBE website to solicit contractors and subcontractors. How does the WSBO suggest applicants identify OMWBE's that are possibly eligible to perform work under contract (page 74)?   Prevailing wage is set based upon the date of a contract execution. Using parodies such as an application, posting a job classification and wage from the Washington Labor & Industries wage website is purely conjectural. Providing wage scales and overtime pay information is insufficient as a measure of the true prevailing wage and should not be allowed (page 77).   WSBO has acknowledged one of the biggest challenges that will be faced during broadband infrastructure deployment is potential workforce shortage. However, WSBO asks applicants to utilize a local, skilled workforce (page 79). What if there are not skilled workers available locally to complete awarded projects?   WSBO states that a a subgrantee should utilize worker with necessary job skill to meet safety requirements (page 79). This includes workers who have completed apprenticeships, training programs, or on-the-job training. What are some examples that would make the worker qualified and how will applicants gain knowledge of their existence? If there are no workers engaged, what are the necessary steps required to waive this provision?   By what measure is a worker credentialed (page 79)? Does an in-house training program satisfy this provision?   Are the legally binding commitments in addition to an applicant's submitted plan, or is the commitment part of the award contracting process (page 79)? WSBO requests that an applicant identifies entities that we plan to contract or subcontract the scope of work (page 84). However, the duration of time between application submission and when a project is ready for construction will be many months. Having those details at the time of application ignores how networks are built. An alternative approach would be for the contracting process to be outlined so that WSBO can have assurance that the applicant has the process understood and can act upon it at award. WSBO discusses the creation of a Broadband Workforce Development Taskforce that promotes worker skills training, marketing of these opportunities and to monitor subgrantee labor standards and performance (page 92). However, collective bargaining agreements between our union partners and Ziply Fiber are confidential, and we would not publish this information. We would recommend not enacting this provision. What are the key metrics a sub-awardee must track as it pertains to work with underrepresented enterprises (page 96)? Will these metrics be determined in a subgrantee agreement or identified in the application process? Ziply Fiber agrees that reducing barriers, streamlining permit process and access to right of ways is a great way to decrease costs and increase efficiency in the deployment of fiber (page 99). Will WSBO provide guidance or best practices to local governments regarding the streamlined permit process?   WSBO suggests using HB 1216 as a model to determine which broadband deployment projects will receive an expedited permitting process (page 100). While Ziply Fiber applauds WSBO for an innovative approach to expedite this process, how will WSBO determine which projects are eligible? Will the metric be projects that score the highest overall number of points based on the rubric, or will it be projects that excel in certain criteria on the rubric? We seek additional clarification.   Based on the NTIA BEAD FAQ guidance, the creation of a database is mapping and would be excluded from the allowable 2% of BEAD funding for non-deployment activities (page 100). How will WSBO pay for the cost of constructing and maintaining a centralized broadband database? In the Local Coordination Tracker Tool, WSBO marks the detail type as "Other" without including detail to the specific engagement (page 120). WSBO should detail each specific engagement. Additionally, how will this tool be kept up to date and where will stakeholders have access to it? Lastly, Ziply Fiber wants to emphasize the importance that all awards are deemed fixed amount subawards, as it is critical to ensure adherence to NTIA's guidance on Part 200.

Q16. *End of survey*

Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

Jessica Epley

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

Ziply Fiber

Q12. (Optional) What is your title?

Vice President, Regulatory and External Affairs

Q11. (Optional) What is your email address?

██████████

Q9. (Optional) What is your zip code?

███

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Multiple project areas in an application	Ziply Fiber believes the Washington State Broadband Office ("WSBO") should allow for multiple project areas in a single application to give applicants the ability to decide their own capacity. This could result in fewer applications for WSBO to process.

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

1) The open access requirement in the Priority Broadband Project Scoring Criteria table shows that an applicant can receive 3 points if "Two or more committed ISPs above and beyond the applicant with signed agreements (page 36)." Ziply Fiber seeks clarity on this scoring criterion. Does an applicant receive points for their wholesale cost per connection and then additionally, the applicant receives 3 points if there are two or more committed ISPs above and beyond the applicant? 2) The open access requirement in the Other Last Mile Broadband Projects Scoring Criteria table shows that an applicant can receive 3 points if "Two or more committed ISPs above and beyond the applicant with signed agreements (page 40)." Ziply Fiber seeks clarity on this scoring criterion. Does an applicant receive points for their wholesale cost per connection and then additionally, the applicant receives 3 points if there are two or more committed ISPs above and beyond the applicant? 3) Ziply Fiber applauds the WSBO for their effort to address affordability, as it is required by the NTIA in primary scoring criteria (page 36). However, the approach taken by WSBO amounts to rate regulation by providing up to 25 points for a provider offering a 1g/1g plan for $75 a month. Under the Infrastructure, Investment and Jobs Act (IIJA), Congress included a provision that outlaws rate setting (Infrastructure Act § 60102(h)(5)(D)). WSBO runs the risk of NTIA not approving of their Initial Proposal Volume II if this scoring criteria remains. This approach has failed in the FCC's Rural Digital Opportunity Fund auction, where certain winners claimed they could not afford to build with the rates they said they would offer and are now seeking additional funding.

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

- ○ School district boundaries
- ● County project area boundaries with broadband serviceable locations limited to approximately 1000
- ○ Other, please describe [   ]
- ○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

1) Prior to Washington Broadband grants using US Treasury Capital Project Funds, there was no requirement to document on a per address basis for connected locations (page 30). How will state agencies who have implemented broadband projects document the funded locations as they didn't previously require the addresses? 2) How will the WSBO inform potential subgrantees of the webinars that detail the application guidelines and requirements (page 31)? WSBO states that it will be provided with this information prior to the publication of the application opportunity. Does WSBO have expected dates of when these webinars will take place? 3) How will WSBO provide the template for applicants to outline requested dollars to serve locations, CAIs and matching funds (page 32)? Will they send out a notification to those who subscribe to the Internet for All Washington or are potential applicants to regularly check the website for this template? 4) How and when will WSBO notify applicants of issue clarifications based on guidance outline of Initial Proposal Volume II (page 32)? 5) What are the selection criteria for choosing the selection committee who reviews applications (page 33)? What kind of training are they required to do prior to selection? 6) How will WSBO alert potential applicants to the webinars and informational for both the EHP and BABA compliance requirements (page 46 and 48)? Does WSBO have an established date and time for both of those webinars? 7) During the Initial Proposal Volume 1 comment period, Ziply Fiber stated that the BEAD NOFO § I.C.u includes DSL as a Reliable Broadband Service, WSBO's position of not allowing providers to rebut serviceability on a challenge location basis is an error (page 50). Simply because the location is served by copper DSL does not mean that location is not receiving 1g/1g service. Ziply Fiber has invested hundreds of millions of dollars deploying fiber deeper into our network allowing us to use existing copper facilities to enhance ethernet capabilities. Within Washington State alone, many government buildings are only able to use copper infrastructure because they do not have internal wiring to support a modern fiber optic network. Many businesses and tribal communities are heavily reliant upon DSL technology to provide basic services like voice to their multiline telephone systems. We recommend WSBO DSL served locations be defined as served and allow for evidence of DSL service in a challenge rebuttal. 8) How will WSBO inform potential applicants of the additional requirements for deployment of fiber on tribal reservations (page 53)? Will there be an email sent to potential applicants or are they to regularly check-in on WSBO project website? 9) Ziply Fiber appreciates WSBO's willingness to accept an acceptable alternative rather than a traditional letter of credit (page 57). This alternative will mean more money for broadband deployment as private investment money will be caught up bank fees with the traditional letter of credit. WSBO final proposal should reflect NTIA's recently issued Letter of Credit Waiver and allow for alternatives to requiring a letter of credit, such as a performance bond to be reduced to 10% if the provider is going to be reimbursed in increments of 6 months or less and allows it to be retired with deployment. Ziply Fiber likes the Virginia model for this provision and recommends WSBO incorporates it into their own volume II (Virginia Initial Proposal Volume II). Another option would be to follow Ohio's model, as their Initial Proposal Volume II seeks a waiver from letter of credit requirement and proposed alternatives (Ohio Initial Proposal Volume II). At a minimum, Washington should propose to phase down to the 10% Letter of Credit requirements consistent with the FCC Rural Digital Opportunity Fund. 10)We find the subgrantee qualification requirements quite similar to those posed on providers awarded Alternative Connect America Funds and/or Rural Digital Opportunity Funds. WSBO states that they will not approve any grant unless it determines that the material submitted demonstrates the applicant's technical capability concerning the proposed project (page 61). What criteria will WSBO use to make this determination? Might WSBO consider acceptable, a providers' award letter from the FCC as evidence of the necessary operational, technical and managerial requirements? Items such as audited financial statements (page 58), ownership information (page 67), and other corporate structure matters are highly confidential. We request WSBO declare confidential information within the application be exempt from public disclosure. 11) Why does WSBO require a narrative response from the applicants regarding their operational capacity (page 65)? The BEAD NOFO is clear in its requirement of a certification, so this seems to be an unnecessary step. Given the potential for an applicant to submit multiple applications for multiple proposal areas, providing a certification on operational capacity streamlines the submission and review process. 12) WSBO states that they would like potential applicants to provide ownership information that is consistent with the requirements set forth in 47 CFR 1.2112(a)(1)-(7) (page 67). WSBO states that they will require each applicant to disclose every broadband project that the applicant or its affiliates are undertaking or have committed to undertake using public funds (page 69). Does WSBO want us to submit all publicly funded projects or only those projects in Washington? 13) How will WSBO notify potential applicants of regulations information webinars and the postings about the regulations in sections 4.11-4.17? 14) If an applicant has multiple vendors that perform construction related activities, is it required that all possible contractors and subcontractors provide a certificate of compliance (page 74)? Would it be sufficient for the applicant to certify its compliance, then when a contractor or subcontractor is awarded a scope of work, they then provide the certification of labor law compliance?

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

1) Ziply Fiber applauds the WSBO for their effort to assist low-income broadband internet users (page 112). While the WSBO notes the importance of increasing awareness, it also sets a criterion tied to a dollar rate. We believe this criterion establishes a rate setting action. Under the Infrastructure, Investment and Jobs Act (IIJA), Congress included a provision that outlaws rate setting (Infrastructure Act § 60102(h)(5)(D)). We suggest a way to satisfy the low-cost service option is to utilize the FCC's "reasonable comparability" benchmark. This benchmark is the estimated average monthly rate in urban areas plus twice the standard deviation of rates for terrestrial fixed broadband service plans at a specific speed tier. If the rate falls within these marks, it is considered affordable, and a subscriber could then apply their ACP benefit to the plan. 2) Ziply Fiber appreciates the flexibility for permitting providers to change prices charged to end users after 12 months and at a rate that does not exceed the Consumer Price Index for All Urban Consumers (page 115). While this is appreciated, we recommend that this extends to all subscriber plans, including low–income plans. Providers need the flexibility to adjust rates to avoid unfair market interference and other factors, such as inflation. Washington should follow the lead of Virginia and Louisiana, who allow providers to mark yearly adjustments on their pricing.

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

1) Will WSBO initiate a statewide Tribal coordination effort to help providers secure Tribal Resolutions accepting RDOF awarded locations on Reservations as "Served locations" (page 8)? 2) Objective 1.3 states that WSBO wants to ensure all locations (CAIs, residence, businesses) have access to reliable high-speed internet through at least one provider (page 8). In Objective 1.1 the WSBO notes by 2028 all businesses and residents have 150/150 Mbps. Are we correct in interpreting this to mean the WSBO definition of broadband exceeds the NTIA determination of 100/20 Mbps? 3) Ziply Fiber supports Objective 1.4 – Affordability. Ziply Fiber offers qualifying households access to federal Lifeline, Tribal Link-Up and the Affordable Connectivity Program. The current uncertainty of Congress renewing ACP funding supports the WSBO objective to create additional subsidy program(s) or expanding the existing universal service subsidy programs would benefit those who struggle to pay for quality broadband. 4) Will WSBO enhance awareness to eligible households of Federal Lifeline, Tribal Lifeline and Tribal Link Up (page 8)? Based on information in page 112, ISPs and other applicants are required to increase awareness but how will WSBO increase awareness? 5) Are objectives 1.4-1.6 intended to be high level points that are broken down further in the Digital Equity Plan (pages 8-9)? If so, can WSBO create a footnote to help direct the readers towards the exact breakdown in the Digital Equity Plan? 6) WSBO provides examples of ongoing broadband activities on pages 11 through 13. However, WSBO mentions a more comprehensive list of activities in the Five-Year-Action-Plan (FYAP). The more comprehensive list is spread out between pages 31 and 42 of the FYAP. Why did WSBO choose to omit the full comprehensive list? Ziply Fiber believes it is important to highlight all ongoing activities to showcase collaboration with stakeholders. 7) In Table 1, WSBO references City of Anacortes Investments for Public Works and Economic Development Facilities as an example of an Ongoing Broadband Activity (page 11). The project funded through this activity overbuilt existing Ziply Fiber infrastructure. How will WSBO ensure grant money is not awarded to projects that will overbuild privately invested existing infrastructure 8) WSBO states that a key theme from the listening sessions, surveys and focus groups is that the respondents want the state government to take a more active role, using effective regulation and starting new programs to address service provider deficiencies (page 15). While reviewing the Digital Equity Forum Report from footnote 5, the survey responses on page 27 do not indicate a need or a desire from the respondents for WSBO to take a more regulated approach. Where does this key theme come from? What were the suggested regulations? We caution WSBO from acting based on the sentiments of fewer than 5,000 Washingtonians. The vast majority of Washingtonians have access to broadband today without the intervention of WSBO. In a state of more than 7.7M people, the biases of those who were aware and participated in such sessions would be a gross overstatement to the millions who have not raised such issues nor participated. We urge WSBO to expand its outreach and engagement before embarking on a path to increase its regulatory presence. 9) WSBO states that they will continue to conduct outreach and engagement efforts through future programs, as described in its BEAD 5 Year Action Plan and Digital Equity plans (page 16). When will potential applicants and other stakeholders be notified of these events and programs and how will they be notified? 10) When will WSBO host the public comment session on workforce development mentioned (page 19)? How will the stakeholders be made aware of when and where the event will take place? 11) How and when throughout the process will WSBO engage with providers as stakeholders (page 20)? How will the stakeholders be informed of the engagement opportunities? 12) We applaud the WA funding of Digital Navigators; the services offered are highly valuable and tend to target typically underrepresented populations. However, the 2023 grant awards focused on NGO's serving more urban underrepresented populations. How will the state of WA leverage BEAD Digital Equity funds to facilitate Digital Navigation programs in the more rural unserved and underrepresented populations? 13) WSBO encourages the use of the OMWBE website to solicit contractors and subcontractors. How does the WSBO suggest applicants identify OMWBE's that are possibly eligible to perform work under contract (page 95)? 14) Prevailing wage is set based upon the date of a contract execution. Using parodies such as an application, posting a job classification and wage from the Washington Labor & Industries wage website is purely conjectural. Providing wage scales and overtime pay information is insufficient as a measure of the true prevailing wage and should not be allowed (page 77). 15) WSBO has acknowledged one of the biggest challenges that will be faced during broadband infrastructure deployment is potential workforce shortage. However, WSBO asks applicants to utilize a local, skilled workforce (page 79). What if there are not skilled workers available locally to complete awarded projects? 16) WSBO states that a subgrantee should utilize workers with necessary job skill to meet safety requirements (page 79). This includes workers who have completed apprenticeships, training programs, or on-the-job training. What are some examples that would make the worker qualified and how will applicants gain knowledge of their existence? If there are no workers engaged, what are the necessary steps required to waive this provision? 17) By what measure is a worker credentialed (page 79)? Does an in-house training program satisfy this provision? 18) Are the legally binding commitments in addition to an applicant's submitted plan, or is the commitment part of the award contracting process (page 79)? 19) WSBO requests that an applicant identifies entities that we plan to contract or subcontract the scope of work (page 84). However, the duration of time between application submission and when a project is ready for construction will be many months. Having those details at the time of application ignores how networks are built. An alternative approach would be for the contracting process to be outlined so that WSBO can have assurance that the applicant has the process understood and can act upon it at award. 20) What are the key metrics a sub-awardee must track as it pertains to work with underrepresented enterprises (page 96)? Will these metrics be determined in a subgrantee agreement or identified in the application process? 21) Ziply Fiber agrees that reducing barriers, streamlining permit process and access to right of ways is a great way to decrease costs and increase efficiency in the deployment of fiber (page 99). Will WSBO provide guidance or best practices to local governments regarding the streamlined permit process? 22) WSBO suggests using HB 1216 as a model to determine which broadband deployment projects will receive an expedited permitting process (page 100). While Ziply Fiber applauds WSBO for an innovative approach to expedite this process, how will WSBO determine which projects are eligible? Will the metric be projects that score the highest overall number of points based on the rubric, or will it be projects that excel in certain criteria on the rubric? We seek additional clarification. 23) Based on the NTIA BEAD FAQ guidance, the creation of a database is mapping and would be excluded from the allowable 2% of BEAD funding for non-deployment activities (page 100). How will WSBO pay for the cost of constructing and maintaining a centralized broadband database? 24) In the Local Coordination Tracker Tool, WSBO marks the detail type as "Other" without including detail to the specific engagement (page 120). WSBO should detail each specific engagement. Additionally, how will this tool be kept up to date and where will stakeholders have access to it?

Q16. *End of survey*

Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

You can find more information on the project website: https://www.commerce.wa.gov/building-infrastructure/washington-statewide-broadband-act/internet-for-all-wa/. You can also sign up for email updates or provide comments at InternetForAll@Commerce.wa.gov.

We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

> Steven Schwerbel

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

> WISPA - Broadband Without Boundaries

Q12. (Optional) What is your title?

> State Advocacy Manager

Q11. (Optional) What is your email address?

> ▆▆▆▆▆▆▆▆

Q9. (Optional) What is your zip code?

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

○ One application per project area

◉

Multiple project areas in an application	WISPA supports a "light lift" approach to applications, which will make the BEAD program more accessible to small providers that have limited staffs. Allowing providers to combine mulitple project areas into one application will offer an opportunity to streamline the process.

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

Please see full comments.

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

○ County project area boundaries with broadband serviceable locations limited to approximately 1000

● Other, please describe

WISPA appreciates WVDED's need for manageable project areas to review, and encourages WVDED to prioritize Target Areas that are as small as possible in order to mitigate against the potential for diverse geographic and soil features, as well as population densities, that would make putting together a coherent project plan more challenging. WISPA encourages West Virginia to be proactive in working with the provider community to identify independent criteria focused on respecting geographic features and population densities. Generally, prioritizing a small Target Area territory will ensure that geographic factors remain reasonably consistent and proposed projects will not have to address significant disparities in service types. In lieu of this system, WISPA offers an alternative 3-stage process by which applicants would define their own proposed funding areas. This may

lead to overlapping applications, in whole or in part, that could be resolved through deconfliction, scoring, and settlement. The goal of this process is to determine the most cost-efficient approach to serving unique geographies in a way that incentivizes more applicants to consider a given area and allowing each provider to identify the "best tool" for serving a unique population that may not conform to geopolitical or census boundaries. Deconfliction – Following the application deadline, all applicants that have filed would have a 15–30-day review period to determine whether they wish to make changes in their proposals to remove overlaps with other applicants. A brief filing window would open for applicants to remove areas from their proposal on a first come, first served basis such that only a total of "n" minus one may remove a given overlap area from their proposals, where "n" is the total number of proposals covering the overlap area. Applicants would be prohibited from eliminating locations that would create any gap in coverage between BEAD areas proposed for service. Thus, all areas initially subject to a request for funding would remain covered by at least one proposal. Scoring – Following the deconfliction period, each remaining overlap area would be separately scored on critical criteria to evaluate the optimal proposal in each such discrete area. First, any proposal that fails to provide new service to all unserved locations within an overlap area would be eliminated from further consideration in comparison to other applicants in that area that provide full coverage of these locations, regardless of cost. Second, applicants that provide coverage to underserved locations that exceed that proposed by others in the overlap area would receive a preference equivalent to a multiple of 1.5 times the

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percentage coverage of such locations by which it exceeds the coverage of each other competing applicant. Third, each applicant would receive a preference versus each other applicant based on the percentage by which its proposed cost per location served falls below that proposed by each other applicant. This scoring would create a hierarchy of proposals within each overlap area with the high scorer being provisionally assigned to that area. The scoring system ensures that all unserved locations would be covered, while providing a modest preference for even broader coverage in relation to lower cost of deployment. Once each overlap area is provisionally assigned, each area assigned to an applicant would be aggregated both with all other areas provisionally assigned to that applicant as well as those areas, if any, in which it was the only applicant proposing service. To the extent that these assignments create discrete "islands" within broader territories assigned to a different applicant, these areas would be consolidated with the "dominant" applicant over the larger territory. Each surviving applicant would be provisionally assigned its own contiguous area and no applicant would be assigned a total coverage area comprising less than 25% of its original proposal, such that in any circumstance where 75% or more of the locations would otherwise be assigned to one applicant, that applicant will instead be assigned all the territory subject to the overlap analysis. Settlement – Following the provisional assignment stage, to the extent that multiple applicants have been assigned to different territories within an initial overlap area, there would be an additional brief period within which those entities could negotiate to adjust their proposals to cede or trade areas that they

trade areas that they propose to cover. This may result in an applicant assigned a relatively small percentage of its original proposed area (25%-35%) turning that obligation over to an applicant that has been assigned the larger portion of that overlap area, or it may simply result in two entities assigned closer to 50% of a broader overlap area adjusting their respective territories to optimize efficiencies that can be gained in construction and service deployment. Although this process may be somewhat more involved on the front end, it will produce better results and give WVDED a better understanding of the best use of individual subgrantees' resources. The ability to aggregate locations that do not conform to geopolitical or census boundaries also may lead to more locations being the subject of applications, as less attractive and hard-to-serve locations could be grouped together alongside those locations that are more likely to be applied for. Additionally, undertaking this deconfliction process at the beginning of West Virginia's application process will address challenges noted in the draft Initial Proposal, in which WVDED envisions the possibility of certain areas receiving no bids, and thus requiring significant renegotiation with providers who bid on adjacent areas to expand to cover the "undesirable" territories.

○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

Please see full comments.

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

Section 2.4.1 WISPA encourages West Virginia to review pre-qualification process to focusing on employing a "light-lift" document that is easy to fill out will contribute to ensuring WVDED has insights into the kinds of providers who are planning to participate in the BEAD process and create a more manageable pool of applicants before opening the gates for full applications. The majority of WISPA members are small companies with fewer than 10 employees, and as such have less staff availability to fill out onerous forms this early in the process. These companies may also wish to position themselves to propose unlicensed spectrum FWA ("uFWA") networks in Extremely High Cost Per Location Threshold ("EHCLT") areas – given that these proposals will have less certainty of success than priority or non-priority projects, these small ISPs may struggle to justify a significant workload up-front, and thus be hesitant to participate in the pre-qualification process. The more detailed the pre-qualification process is, the more prohibitive it will be for such providers. WISPA discusses the Letter of Credit requirement in Section 2.4.11, but stresses that requirement of such a letter, especially at the pre-qualification stage, would be particularly onerous and unnecessary, and would force small providers out of the program. This would be a disappointing outcome, as increasing the range of providers who can apply for BEAD funding will give WVDED better data to show the true cost of providing service to a given area. Similarly, WISPA suggests that WVDED request a limited waiver of the 25 percent match requirement, particularly where doing so will improve affordability or increase subscription rates. While the state should prioritize ensuring that providers have "skin in the game" by using proposed grant matches to evaluate grant applications, WVDED will doubtless discover parts of the state where the matching funds requirement is not feasible, and preserving the ability to judge individual cases on their merits is a sound policy decision. This approach has been taken by other mountainous states, such as Vermont, and may serve West Virginia well in promoting expansion to the hardest-to-reach areas. If such a waiver is obtained, building the requirement into the pre-qualification phase would be inappropriate. Section 2.4.2 West Virginia's Primary scoring criteria will ensure that WVDED maximizes precious BEAD dollars by promoting cost-effective proposals – awarding 100 points to the lowest-cost projects is an appropriate weighting in this category. WISPA believes that cost can be measured not only in requested project funds, however: the opportunity cost of waiting for a broadband network to be completed is significant. In a white paper titled Getting to the Broadband Future Efficiently with BEAD Funding, MIT economist Dr. William Lehr notes that "studies have variously estimated the value of broadband at around $2,000 to $4,000 per subscriber per year. These estimates suggest that delaying the availability of broadband for two years because of the prioritization of FTTP to the 8 million unserved locations identified in the FCC mapping data may forego $32 to $64 billion in total surplus. These substantial opportunity costs cannot be overlooked" (https://www.wispa.org/docs/Lehr_White_Paper_Final.pdf). Ensuring that faster-to-deploy projects are appropriately awarded is wise policy. WISPA thus encourages WVDED to invert its scoring for "Compliance with Fair Labor Practices" and "Speed to Deployment" categories, awarding 25 points to Speed in Priority scoring. In Non-Priority scoring, WISPA suggests Speed be scored at 20, with 15 points going to Compliance. This rubric would reinforce the importance of quickly and efficiently expanding broadband access to as many West Virginians as possible. Section 2.4.3 WISPA supports WVDED's focus on finding projects that offer the greatest cost-efficiency per location; it is likely that FWA networks using licensed spectrum will be most effective in many cases. Section 2.4.4 As West Virginia contemplates approaches to reduce its permitting and licensing bureaucracy, WISPA suggests incorporating a "Broadband Ready Communities" model to give local communities an additional tool to grapple with the challenges of bureaucratic approvals and costs. This concept has states setting out a model ordinance local units of government, such as towns, cities, or counties, may voluntarily adopt to streamline the permitting process for new broadband projects. The model ordinance may include such items as identifying a single point of contact for broadband issues, commitments to timelines for project approvals, and defining reasonable fees for permits. A Pew memo (https://www.pewtrusts.org/-/media/assets/2023/04/broadband-ready-communities-ta-memo-pdf.pdf) describes the potential benefits of implementing these standards: "These programs are designed to create efficiencies in broadband deployment, provide a signal to developers and ISPs that a community is willing to work with them toward broadband expansion projects, and foster local leadership and collaboration in all broadband development efforts." Section 2.4.9 Establishing an appropriate EHCLT is a critically important policy issue for WISPA members, and will be equally important for West Virginia. If the Threshold is set too high, there will be a gap between locations funded with Priority Broadband Projects and those that do not meet the Threshold, leading providers to not bid on certain USDs. This is due in part to the demonstrably higher costs to deploy fiber than fixed wireless, as noted in the Carmel Report (https://www.wispa.org/docs/2021_WISPA_Report_FINAL.pdf). WVDED's approach to the EHCLT appears to align with an approach outlined in the Lehr White Paper (https://www.wispa.org/docs/Lehr_White_Paper_Final.pdf): instead of prejudging outcomes by establishing the Threshold "as high as possible," Dr. Lehr recommends that states "set their EHCLT to optimize the effectiveness of public funds in promoting the State's broadband and digital economy strategies, not at some artificially high threshold that leaves unserved locations unserved and wastes public funding overbuilding locations that are already served:" This is because "even assuming that a State is provided sufficient funds to serve every unserved location based on the average FTTP cost in a State (and that will be higher in higher cost States), then the more locations that have to be served that have much higher costs, the lower the EHCLT has to be set to enable a larger share of locations to be eligible for funding by fixed wireless technologies." Finally, WISPA notes that WVDED envisions potential for needing a lengthy process of negotiations before considering alternative technologies; setting a low EHCLT will obviate this need by creating more space for alternative technology solutions that can provide the same speed and technical reliability while also realizing savings in both cost and time. WISPA strongly encourages West Virginia to set EHCLT such that all technologies are competitive and focus on cost savings where all projects meet technical standards. Section 2.4.11 On November 12, 2023, the NTIA announced a conditional programmatic waiver to the letter of credit ("LOC") requirement, allowing alternatives including performance bonds and issuing funding on a reimbursement basis (https://broadbandusa.ntia.gov/funding-programs/policies-waivers/BEAD-Letter-of-Credit-Waiver). This waiver came about due to the work of a broad coalition representing the entire spectrum of broadband stakeholders, including many WISPA members. WISPA strongly encourages West Virginia to work with its provider community to adopt an appropriate alternative to the LOC model. While NTIA and West Virginia have a legitimate interested in ensuring that subgrantees have the financial capability to undertake the projects they propose, using a performance bond model or disbursing BEAD funds as reimbursements, rather than giving them out up front, would be preferable. Further discussion of the impact of the LOC requirement on minority businesses and women-owned enterprises follows in Section 2.9.1. Section 2.4.13 WISPA supports efforts to ensure proposed networks are properly designed and able to deliver the speed and reliability required by the BEAD program. However, WVDED's requirement that network design and other technical plans be "certified by a professional engineer" may be inefficient and lead to a reduction in small providers' ability to participate. Frequently, professional engineers are not best qualified to evaluate network design if they do not have significant experience in broadband network design; further, many small companies may be unable to afford the cost of engaging a professional engineer, and, as the Federal Communications Commission determined in July 2022 (https://docs.fcc.gov/public/attachments/DA-22-733A1.pdf), such qualifications are not always readily available where a provider would otherwise like to hire one. WISPA encourages WVDED to consider the waiver conditions the FCC granted to its own professional engineering certification rules and to work with the provider community to determine alternative authorities who could qualify to certify that network plans are appropriately designed. Section 2.4.17 As WISPA noted above, requesting a waiver of the match requirement may grant WVDED more flexibility to consider the needs of an individual

project; however, the approach laid out here, averaging the match over several Targeted Areas, approaches the same issue from an alternative perspective. If WVDED does not receive a waiver from the match requirement, this approach is sound. Section 2.9.1 WISPA greatly appreciates Pennsylvania's focus on the importance of minority business enterprises ("MBEs") and women's business enterprises ("WMEs"). On September 6, 2023, WISPA joined a wide range of broadband leaders in signing a memo titled "BEAD – Alternatives to the Irrevocable Standby Letter of Credit Requirement" (https://connecthumanity.fund/wp-content/uploads/2023/09/Re_-BEAD-%E2%80%94-alternatives-to-the-irrevocable-standby-letter-of-credit-requirement_Sep6.pdf). The letter makes the LOC requirement's negative impact on MBEs and WMEs clear: "by establishing capital barriers too steep for all but the best-funded ISPs, the LOC shuts out the vast majority of entities the program claims to prioritize: small and community-centered ISPs, minority and women-owned ISPs, nonprofits, and municipalities." WISPA reiterates its encouragement to use the NTIA's conditional programmatic waiver to pursue alternative mechanisms to ensure fiscal accountability in the BEAD grant process. Section 2.11 WISPA encourages WVDED to consider including climate-related concerns in its scoring model: these issues can be addressed in unique ways by FWA networks. Given the cost of trenching fiber, buried fiber will likely present significant hurdles in both cost and time, incentivizing providers to move toward aerial fiber deployments that are vulnerable to impacts from the storms, cold, and flooding that West Virginia plans to address – and even buried fiber can be vulnerable in certain conditions, such as shifting ground caused by freezing and thawing patterns. By contrast, FWA deployments utilize towers and other vertical infrastructure that can better withstand severe climate events and changes and thus do not have the vulnerabilities presented by fiber, presenting a more appealing solution to the problem of deploying high-speed solutions in challenging terrains. Indeed, fixed wireless providers are frequently called able to step in to provide emergency connectivity support for first responders battling wildfires, as their infrastructure is unaffected by these natural disasters. Further, a recent white paper from Tarana Wireless, a vendor that leads the WISP industry in innovating FWA solutions, argues that "when calculated on a per-subscriber basis, the Tarana G1 platform generates 55% less cumulative carbon emissions compared to a fiber-to-the-home deployment, and 70% less net present carbon emissions" (https://www.taranawireless.com/next-generation-fixed-wireless-a-greener-future/). Taken together with the above, FWA deployments may be part of an overall green strategy that WVDED could pursue in considering its final BEAD rules. Section 2.13.1 As it contemplates its model middle class affordability package, WISPA notes caution when deploying speed tests. Ookla and related speed tests can be meaningfully inaccurate based on network architecture. Speed tests are generally performed between an endpoint location within a network to a speed test server location determined by Ookla in its sole discretion. However, Ookla typically relies on third-party services, such as Maxmind, to characterize the topology of the tested network so that an appropriate speed test server location can be selected. Since ISPs often reuse and reassign IP addresses for network addressing efficiency, and are under no obligation to describe their network topology to Maxmind or any other third party, Ookla speed tests performed on such networks would not be reliable indications of network performance, because the routing to the speed test server could traverse out-of-date, indirect and/or inefficient paths. For this reason, any speed tests performed by Ookla should be subject to prior verification of the ISP's then-current network topology so that all speed tests rely on accurate network architecture data rather than surmise or third-party guesswork.

Q16. *End of survey*

Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

You can find more information on the project website: https://www.commerce.wa.gov/building-infrastructure/washington-statewide-broadband-act/internet-for-all-wa/. You can also sign up for email updates or provide comments at InternetForAll@Commerce.wa.gov.

We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

> Zeba Iqbal

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

Q12. (Optional) What is your title?

Q11. (Optional) What is your email address?

Q9. (Optional) What is your zip code?

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

◉ One application per project area

○ Multiple project areas in an application

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

None

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

○ County project area boundaries with broadband serviceable locations limited to approximately 1000

○ Other, please describe

○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

Q16. *End of survey*

Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

You can find more information on the project website: https://www.commerce.wa.gov/building-infrastructure/washington-statewide-broadband-act/internet-for-all-wa/. You can also sign up for email updates or provide comments at InternetForAll@Commerce.wa.gov.

We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

> Jim Walsh

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

Q12. (Optional) What is your title?

Q11. (Optional) What is your email address?

███████████

Q9. (Optional) What is your zip code?

████

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

○ One application per project area

◉ Multiple project areas in an application

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Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.
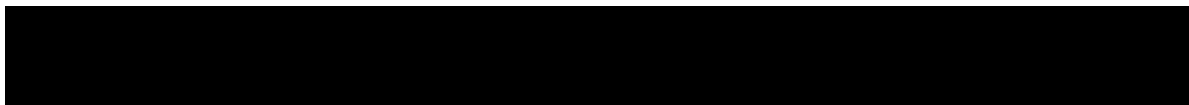
○ School district boundaries

○ County project area boundaries with broadband serviceable locations limited to approximately 1000

○ Other, please describe

○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

Incomplete detail re ability to determine list of currently unserved addresses, esp within an area where many neighbors DO have service, and how to determine if/when/how they will be addressed.

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

Availability is a necessary prerequisite to affordability, so all addresses must be served.

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

Incomplete information on plans to achieve 1.1, 25Mbps, to all residential addresses by 2024 (page 8), or how to determine if and when a particular currently non-compliant address will be addressed. Most of my immediate neighbors have high speed service, but ours doesn't. The only non-satellite broadband serving my address (unincorporated Woodinville) is 3Mb DSL, I cannot get a written bid from Comcast in years of attempts, and Ziply says cost of getting anything beyond DSL would be ~$90,000 for a fiber run.

Q16. *End of survey*
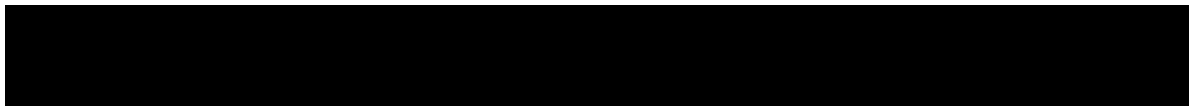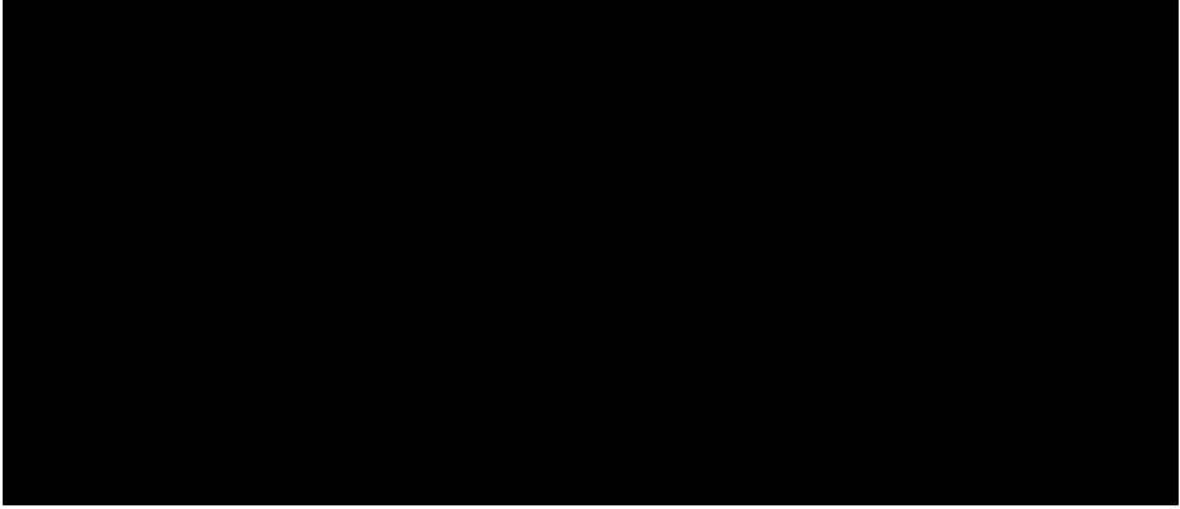
Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

Janet St Clair

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

Island County Board of County Commissioners, Island County Broadband Action Team

Q12. (Optional) What is your title?

County Commissioner, Chair

Q11. (Optional) What is your email address?

Q9. (Optional) What is your zip code?

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

◉

One application per project area	One application per project area that represents contiguous unserved areas allows the project to more likely reach completion and achieve goals of timely access to internet.

○ Multiple project areas in an application [   ]

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

I encourage continued conversation and clarity on Open Access criteria for both wholesale and retail. Other broadband partners in the state have expressed confusion as well, including the definition of unaffiliated entities. The end goal is access that incentivizes and support connectivity for customers with affordable and reliable service.

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

○ County project area boundaries with broadband serviceable locations limited to approximately 1000

◉ Other, please describe | Page 49-51: Project Area Definitions I want to thank all who have worked to define project areas, continuously identify, and update under and unserved areas and attempt to build a paradigm for future expansion. Like all paradigms, it cannot be "one size fits all" as the topography, demographics and available resources vary widely across Washington State. In considering the binary approach of counties v. school districts, I think there will be unintended consequences that can exclude eligible and needy areas, increase cost, and decrease collaboration. While it may feel apparent to set a limit of 1000 BSL's for counties, it may eliminate the innovative approach to filling in unserved deserts. This has been a concern for both Island and other counties and PUD's. In past project development, applicants have been able to use the fabric data and identified under and unserved areas, draw contiguous polygons and set areas that make

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sense from an engineering and deployment perspective. Work with Broadband Action Teams and local government, providers, and advocates to plan projects collaboratively. I strongly encourage WSBO to return to an existing, working approach if possible. If I had to weight one approach over the other, it would be a county approach. That said, a county approach in counties with unique topographical characteristics like islands may not be functional. For example, it makes no sense to define a project area with BSL's between North Camano and North Whidbey. That would be prohibitively expensive and complicated to deploy. In this case, it makes far more sense to use a County first approach with the ability to add the subset of school district(s) that are separate of combined to maximize service locations. In addition, I strongly urge WSBO to allow for multi-jurisdictional projects that leverage service locations, existing builds that enable us to reach unserved locations and have the equity benefit of hard-to-reach, more distressed areas of our counties. We already have examples of this in Washington State and my region with a CERB investment that connected to a prior Skagit Net project bringing together unserved entities in more remote areas of Eastern Snohomish, East Skagit and the Sauk Suiattle tribe. For our Island County Broadband Action Team to efficiently plan and serve our residents, we would be wise to partner with Snohomish County along the Hwy 532 corridor and to partner from North Whidbey to Fidalgo Island (Skagit County) and perhaps also leverage and help expand projects with the Samish and Swinomish tribes. Using a binary approach would limit opportunity thinking and have a limiting impact on our ability to not only

our ability to not only expand internet options but also build circular networks that enable us to have stronger redundancy and resiliency as noted in goals articulated on page 59.

○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?
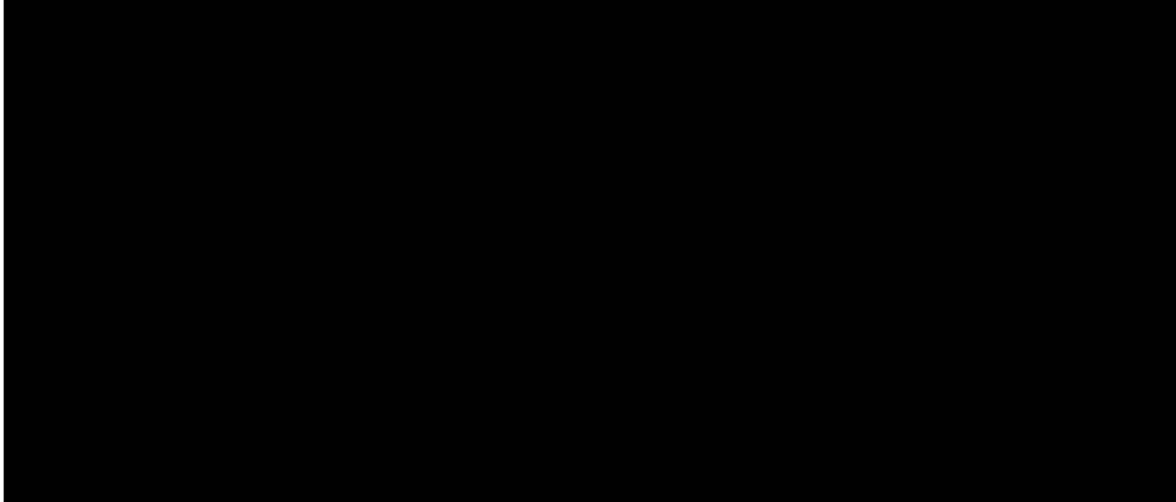
Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

Here are the full comments submitted by email: Volume II Comments: Page 8: Goal 1 I appreciate the effort by WSBO to prioritize coverage at 1GB to all anchor institutions by 2026 and 150 symmetrical to residents and businesses by 2028. While I recognize this exceeds the state standards set by the legislature of 100/20, these speeds are critical for future-proofing our broadband investments and assuring that there will be bandwidth to assure the technology for remote healthcare, capacity for economic development activity including transactions, marketing and technical assistance and finally assures our children will have access to the educational opportunities for them to also future-proof their lives. I also appreciate the emphasis on affordability and our need to advocate and educate about the Affordable Connectivity Program. Page 9: Goal 2.1 In future planning and opportunities, how will WSBO communicate and include our primary workforce partners such as Workforce Development Councils and our labor partners? Can we also expand our partnership with local public libraries and community college libraries to assure we have the right partners to leverage digital equity and inclusion with natural, trusted advocates in our communities? Page 15-29: Public Engagement I strongly encourage that public engagement in the future, especially as it relates to Digital Equity occur evenings and weekends and not during traditional work hours. Many of those who will benefit from digital outreach and engagement often work long hours to support their families and do not have the flexibility to take time off. The meeting in my region was from 10-12 in the morning and engaged mostly local advocates already working on broadband and retired residents. I also applaud efforts to intentionally use language access plans in order to reach those with limited English, low literacy or diverse abilities in sight and hearing. It is also greatly appreciated the continued outreach to local Broadband Action Teams, statewide associations and professional groups related to digital equity and expansion. Page 36: Scoring Criteria I encourage continued conversation and clarity on Open Access criteria for both wholesale and retail. Other broadband partners in the state have expressed confusion as well, including the definition of unaffiliated entities. The end goal is access that incentivizes and support connectivity for customers with affordable and reliable service. Page 39: In addition to an IRU and MOU, add public-private partnerships with contractual agreements. Page 44-45: first paragraph In prioritization of Community Anchor Institutions (CAIs) it is important to note that many of our first responders, power company and local government employees called to respond to natural disasters, weather emergencies or critical incidents live in under and unserved areas. It is important to recognize and ask for respondents to note if there are project areas assure the ability for public employees to access and respond remotely to a public emergency. I'm not sure how to gather this information but I have heard from other county leaders in my region that this is a concern and note it is a concern for Island County. Page 49-51: Project Area Definitions I want to thank all who have worked to define project areas, continuously identify, and update under and unserved areas and attempt to build a paradigm for future expansion. Like all paradigms, it cannot be "one size fits all" as the topography, demographics and available resources vary widely across Washington State. In considering the binary approach of counties v. school districts, I think there will be unintended consequences that can exclude eligible and needy areas, increase cost, and decrease collaboration. While it may feel apparent to set a limit of 1000 BSL's for counties, it may eliminate the innovative approach to filling in unserved deserts. This has been a concern for both Island and other counties and PUD's. In past project development, applicants have been able to use the fabric data and identified under and unserved areas, draw contiguous polygons and set areas that make sense from an engineering and deployment perspective. Work with Broadband Action Teams and local government, providers, and advocates to plan projects collaboratively. I strongly encourage WSBO to return to an existing, working approach if possible. If I had to weight one approach over the other, it would be a county approach. That said, a county approach in counties with unique topographical characteristics like islands may not be functional. For example, it makes no sense to define a project area with BSL's between North Camano and North Whidbey. That would be prohibitively expensive and complicated to deploy. In this case, it makes far more sense to use a County first approach with the ability to add the subset of school district(s) that are separate of combined to maximize service locations. In addition, I strongly urge WSBO to allow for multi-jurisdictional projects that leverage service locations, existing builds that enable us to reach unserved locations and have the equity benefit of hard-to-reach, more distressed areas of our counties. We already have examples of this in Washington State and my region with a CERB investment that connected to a prior Skagit Net project bringing together unserved entities in more remote areas of Eastern Snohomish, East Skagit and the Sauk Suiattle tribe. For our Island County Broadband Action Team to efficiently plan and serve our residents, we would be wise to partner with Snohomish County along the Hwy 532 corridor and to partner from North Whidbey to Fidalgo Island (Skagit County) and perhaps also leverage and help expand projects with the Samish and Swinomish tribes. Using a binary approach would limit opportunity thinking and have a limiting impact on our ability to not only expand internet options but also build circular networks that enable us to have stronger redundancy and resiliency as noted in goals articulated on page 59. Page 78-79: Labor Standards I applaud the effort of WSBO to recognize our workforce development councils, labor unions and educational institutions in assure a skilled and ready workforce to build our state networks. I support the effort to support prevailing wages and the Davis-Bacon Act. I did have questions regarding "appropriately credentialed workforce" and want to make sure we set standards that are inclusive of training by the entities noted above as well as in-house training by providers in our state so that we don't slow down deployment by unnecessary bureaucracy. Page 97-99: Barriers I support efforts to leverage existing infrastructure and incentivize collaborative infrastructure planning such as "dig once" policies. I support streamline ROW and access requirement as long as existing public works infrastructure is protected and damage repair requirements are thorough and timely. I encourage all of us to work collaboratively with our utility partners to find pole access and replacement policies that are fair and consistent across the State. I encourage a collaborative policy approach on all of these barrier issues whether dealing with WSDOT, local public works or public utility districts.

Q16. *End of survey*

Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

> Mike Reagan

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

> Telecommunications Industry Association

Q12. (Optional) What is your title?

> Vice President of Business Performance

Q11. (Optional) What is your email address?

> ████████████

Q9. (Optional) What is your zip code?

> ███████

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

○ One application per project area [ ]

◉ Multiple project areas in an application [Simplicity for applicants.]

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Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

[   ]

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

○ County project area boundaries with broadband serviceable locations limited to approximately 1000

○ Other, please describe [   ]

○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

[   ]

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

[   ]

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

Section 16.4, Page 129 of the Volume II Draft: The Telecommunications Industry Association ("TIA") appreciates the opportunity to submit these comments regarding volume 2 of Washington's Initial Proposal, as required under the National Telecommunications and Information Administration's ("NTIA") Broadband Equity Access and Deployment ("BEAD") program. TIA is the leading trade association for the information and communications technology ("ICT") industry, representing companies that manufacture or supply the products and services used by the owners and operators of communications networks across all technology platforms. TIA is both a standards development organization ("SDO") and an advocate for the ICT industry. As such, TIA and our members are working towards the shared goal of connecting every American with high-speed, resilient, secure, and reliable broadband networks. To that end, TIA has developed the first-ever ICT industry standard for supply chain risk management and cyber security – SCS 9001TM. Utilizing the SCS 9001 standard can: Empower the state/EE with a comprehensive and systematic approach to evaluate the responses received from potential sub-grantees. Provide clear guidance to each prospective sub-grantee on the expected elements when outlining their C/SCRM plans. Enable the state/EE to showcase their compliance with the requirements outlined in the NOFO to the NTIA. Access to broadband services has never been more central to American life, and the investments under the BEAD program offers a historic opportunity to connect Americans in unserved and underserved communities. Companies providing broadband service using BEAD funding must deploy networks that provide consumers with the high speeds needed to thrive in our society, with resiliency and security built into them. It is no secret that we are in an era of increasing cyber attacks on the ICT industry, both from sophisticated non-state and government adversaries. This rising threat comes with growing costs for industry and governments – A recent industry report found that a single data breach can cost a company just shy of $10 million on average in 2022. Additionally, innovation across all sectors increasingly rely on open-source platforms to enable rapid prototyping and deployment, interoperability, and cost savings. Open-source code is also often co-created by multiple developers with a range of expertise and without security oversight or standardization. In 2022, more than 80% of analyzed open-source code contained at least one vulnerability, with more than 50% having high-risk vulnerabilities. NTIA understood these concerns when drafting their NoFO for the BEAD program last year and, for the first time, required subgrantees to adopt plans focused on Cybersecurity and Supply Chain Risk Management ("SCRM") in order to receive BEAD funding. States and federal territories, as Eligible Entities ("EEs"), will have to require subgrantees to attest that these plans are operational and public by the time an award is granted. Requiring subgrantees to have operational cyber and SCRM plans is essential to

ensuring that networks are built with resiliency. Still, given the multitude of jurisdictions that will be building networks across the country with BEAD funding, TIA urges states to consider a standardized approach to ensuring BEAD cyber and SCRM requirements are met. In the NoFO's section on Cybersecurity and SCRM, NTIA seeks to impose baseline security requirements for subgrantees and allows EEs to adopt additional rules as they see fit. The NoFO requires all subgrantees to establish cyber and SCRM plans which, among other requirements, must map to the provisions of four existing government documents: the National Institute of Standards and Technology's ("NIST") Framework for Improving Critical Infrastructure Cybersecurity, the standards and controls from Executive Order 14028, NISTIR 8276 Key Practices in Cyber Supply Chain Risk Management: Observations from Industry, and NIST 800-161 Cybersecurity Supply Chain Risk Management Practices for Systems and Organizations. Taken together, these documents constitute over 400 pages of guidance that subgrantees must adhere to in order to receive BEAD funding. Although comprehensive, these four documents do not provide a clear and concise methodology for organizing and evaluating a sub-grantee's SCRM plan. TIA's SCS 9001TM Supply Chain Security Management System, aligns very well with NTIA's intent and the requirements outlined in the four referenced documents and will allow for precise measuring and certifying of performance. In addition to requiring guidance from existing federal cyber and SCRM documents, the NoFO requires the subgrantee's cyber and SCRM plans to be reevaluated "on a periodic basis" and ensure that the plans meet the latest version of the federal security documents listed in the NoFO. This requirement means that EEs will be required to review and audit subgrantees for compliance with existing federal requirements cited by the NoFO on a routine basis. As each EE will most likely have multiple sub-grantees and several prospective sub-grantees vying for an award, having a single methodology to evaluate alignment versus the standard and compare responses will be of great value. Building a SCRM checklist of specific requirements, captured from the four referenced documents, into the Final Proposal will enable each potential sub-grantee to make a clear and concise response and allow the EE to compare and contrast responses more easily. Over fifty EEs will have to implement cyber and SCRM requirements for BEAD funding that align with these four federal documents, as well as determine how compliance will be audited. As such, we strongly believe that a standard set of guidance on security will simplify EEs' requirements under the BEAD NoFO and promote the construction of secure networks in jurisdictions across the country. Cyber threats do not discriminate based on state lines, and all EEs would benefit from ensuring that networks built in their localities using BEAD funding are built to the best industry-led standard regarding security. Additionally, utilizing standardized security requirements will ensure that an EE has robust competition during the application process, as potential subgrantees will benefit from a universal methodology to follow when applying for BEAD funding to build networks in potentially dozens of statewide requests. As an SDO that has developed hundreds of standards for building networks, TIA has focused on using standards to add transparency to the ICT supply chain and standardize ICT security. That led us to create SCS 9001 – The ICT industry's first standard focused on the ICT supply chain. SCS 9001 is a certifiable standard developed by the ICT industry. SCS 9001 is a cyber and supply chain security management standard developed by members of the ICT industry for the ICT industry. SCS 9001 was developed to provide assurance of the proper operational hygiene of network operators and vendors in delivering products and services that are inherently more secure. Additionally, there is precedence for governments requiring certification to standards -- after consultation with the U.S. Departments of Commerce and the State Department, Costa Rica released security guidelines requiring certification to SCS 9001 for their new 5G network builds. SCS 9001 contains 116 high-level requirements with most being multi-part. When fully considered, there are over 750 individual requirements. Further, SCS 9001 contains 60 controls and also specifies seven measurements for those organizations electing to participate in TIA's Industry Benchmarking program. SCS 9001 was developed to help evaluate and provide higher assurance that vendors: operate their businesses with integrity, transparency, and trust, conduct all aspects of operations with a high level of security consideration, develop products and services with security built in from conception and considered throughout the entire product lifecycle and have made requisite investments to support products through their entire lifecycle, including the ability to quickly identify, mitigate and resolve vulnerabilities found post-deployment. Most importantly, SCS 9001 is a standard that already works to operationalize existing government initiatives, including the four documents cited by the NoFO. By certifying to SCS 9001, subgrantees can demonstrate that they've taken steps to operationalize their cyber and SCRM plans in line with NTIA's intent to ensure projects funded by BEAD are deployed in a transparent, accountable, and, above all, secure manner. SCS 9001 certification scales in relation to an entity's size and operational complexity, meaning certification would work for large internet service providers ("ISPs") and smaller, more regional ISPs. A subgrantee's certification would also meet the NoFO's requirements to demonstrate the "technical capabilities of the subgrantee" while fulfilling an EE's requirement of "ensuring that subgrantees are competent" as they will have already completed certification for cyber and SCRM baseline requirements within SCS 9001. EEs could also utilize SCS 9001's routine audits as part of an entity's certification that could be used as a basis for a state's need to "conduct audits of subgrantees" to show that cyber and SCRM plans remain up to date and operationalized. TIA believes that a subgrantee's certification to SCS 9001 will satisfy the security requirements of the BEAD NoFO while aiding potential subgrantees by offering clarity for how these requirements can be met statewide and nationwide. SCS 9001 furthers the idea that security must be built in by design rather than bolted on as an afterthought, and a subgrantee that has met the comprehensive requirements of the standard will have met the needs of most if not every, state administering BEAD programs. Similarly, mapping the security requirements for BEAD funding to SCS 9001 allows EEs to manage the NoFO's auditing obligations more uniformly as the SCS 9001 certification process includes routine audits which would satisfy a state's need to "conduct audits of subgrantees" cyber and SCRM plans as opposed to solely relying on a self-attestation. TIA appreciates this opportunity to provide feedback on volume 2 of Washington's Initial Proposal, and we look forward to continuing to work towards the shared goal of connecting every American with trusted, high-speed networks. We believe this goal would be best served by taking a uniform, industry-led approach to security that will result in Americans being connected with secure and trusted networks. We welcome any questions or further opportunities to discuss the work of TIA and our members and how to ensure the BEAD program is a lasting success. Please do not hesitate to contact me with any questions. Sincerely, Mike Regan Vice President of Business Performance

Q16. *End of survey*
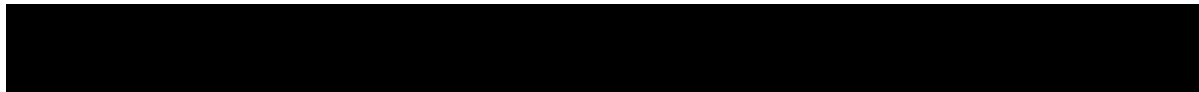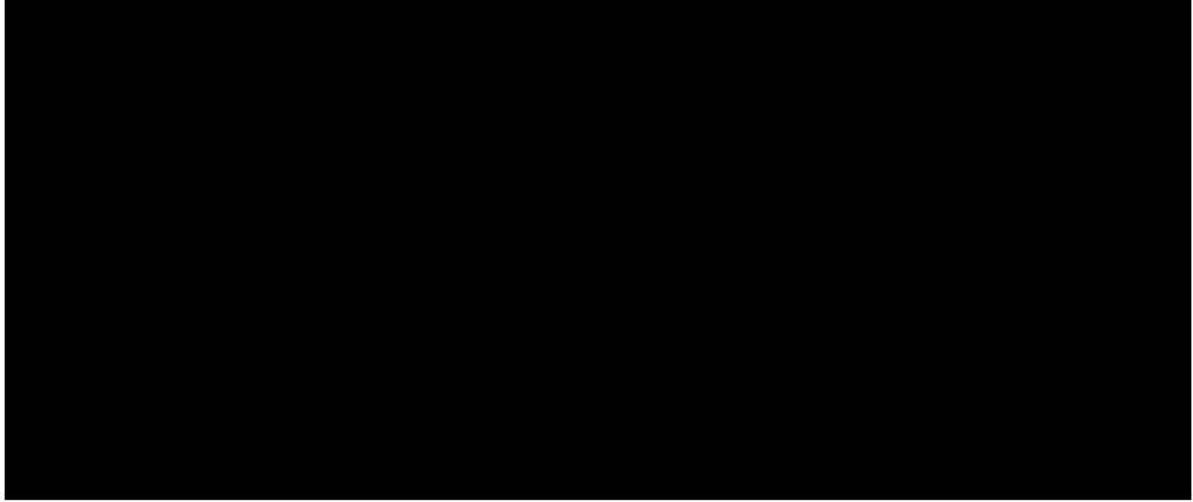
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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

Kevin Curran

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

International Brotherhood of Electrical Workers

Q12. (Optional) What is your title?

Q11. (Optional) What is your email address?

████████████

Q9. (Optional) What is your zip code?

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

◉

One application per project area	Each area may have different needs, the requirement to provide cost estimates, network designs and diagrams for each application is better serving each area. This would also allow an applicant to apply for multiple areas, and each application could be evaluated and considered for approval.

○ Multiple project areas in an application [   ]

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

> Fair Labor Practices need to have a higher weight than 10, additional comments are included under general comments

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

○ County project area boundaries with broadband serviceable locations limited to approximately 1000

○ Other, please describe [   ]

◉ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

[   ]

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

[   ]

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

On behalf of the 24,334 active members of the International Brotherhood of Electrical Workers (IBEW) in the state of Washington, I write to respectfully submit the IBEW's comments on the state's plan to implement the federal Broadband Equity, Access and Deployment (BEAD) program. As you know, BEAD represents the critical buildout of the telecommunications network called for in the Bipartisan Infrastructure Law and its $65 billion investment in expanding high-speed internet access and adoption. Nationally, the IBEW represents approximately 39,000 permanent employees working for telecommunications companies as well as thousands of construction workers who perform contract work for internet service providers. Historically playing a significant role in the telecommunications industry, the IBEW is one of the largest labor unions representing workers for incumbent local exchange carrier providers, the largest building trade in the telecommunications sector, and as a labor representative for workers manufacturing and assembling telecommunications equipment. IBEW's reach extends to every corner of the United States, representing workers in multiple other industries such as railroad, utility, broadcasting and government. Comments on Labor Standards With such a widespread available workforce, the IBEW has the membership depth to complete the state of Washington buildout, indeed addressing one of the biggest challenges states report in accomplishing the goals of BEAD: the shortage of trained and skilled workers. According to the Initial Proposal, Volume 2, the state is only considering the subgrantee's fair labor practices history as 10% percent of its score. The IBEW believes this should have a much higher priority. Specifically, the IBEW submits that to be eligible, subgrantees must demonstrate consistent past compliance with federal labor and employment laws and written disclosure of any violations. The Initial Proposal, Volume 2, stipulates that the state will not mandate any of the following labor protections: ☐ Using a directly employed workforce, as opposed to a subcontracted workforce ☐ Using project labor agreements (i.e., pre-hire collective bargaining agreements between unions and contractors that government terms and conditions of employment for all workers on a construction project) ☐ Use of local hire provisions ☐ Commitments to union neutrality ☐ Use of labor peace agreements ☐ Use of an appropriately skilled workforce (e.g., through Registered Apprenticeships or other joint labor-management training programs that serve all workers, particularly those underrepresented or historically excluded) ☐ Taking steps to prevent the misclassification of workers.   The IBEW firmly believes that the state should mandate these labor standards for grantees and subgrantees that receive BEAD funds.   The IBEW believes that the state should favor grantees and subgrantees that will employ unionized residents of Washington and be wary of grantees and subgrantees that plan to subcontract a significant portion of the BEAD work, particularly if they will subcontract it to an out-of-state, nonunion company. Background from other IBEW BEAD priorities Requirements of the BEAD Program include documented, certified consultation and coordination with labor unions, labor law compliance and a highly skilled workforce. The use of prevailing wages is strongly suggested, along with a workforce trained via registered apprenticeship programs. The IBEW and its construction-employer partners are the largest private sector trainer of electrical workers in the United States, jointly operating nearly 300 construction training centers in the United States. This partnership invests $200 million annually on training, at no cost to participants or taxpayers. The BEAD Program also encourages the use of labor peace agreements. As the Bipartisan Infrastructure Law makes clear that it is in the public interest for broadband infrastructure to be built expeditiously and in a way that ensures reliability and resilience, labor peace agreements protect employers against labor disputes to ensure that projects are completed on-time and on-budget.   The IBEW is the largest utility sector labor union in the United States, representing approximately 250,000 workers directly employed by public utility districts, investor owned and municipal utilities or utility cooperatives. IBEW members in this sector have a high level of familiarity and expertise with middle-mile broadband infrastructure, which is often utilized by electrical utilities to provide communications systems to monitor and support the reliable delivery of electricity and other critical utility services. The IBEW has made great strides in recruiting historically underrepresented populations. The union's success in membership inclusion and diversity is borne out in a comprehensive nationwide 2022 survey that found that the number of Black and Hispanic members has doubled over the past five years. A quarter of all Black IBEW members are female and 1 in 3 active male apprentices identify as minority. IBEW members look forward to working with Washington to create good-paying jobs through the once-in-a-generation investment closing the digital divide. Please contact Telecommunications International Representative Kevin Curran via phone at 202-728-6160 or by email at kevin_curran@ibew.org. Together, we can ensure that all citizens of Washington have access to affordable, reliable high-speed broadband and a network worthy of the 21st century.

Q16. *End of survey*
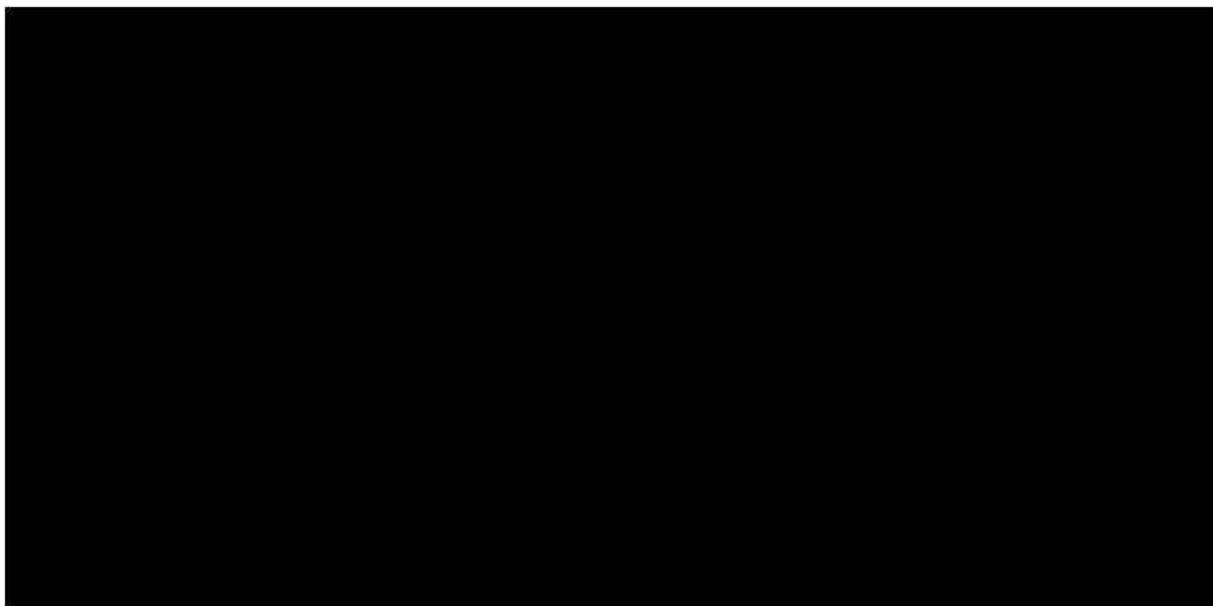
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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

Stephanie Cassioppi

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

UScellular

Q12. (Optional) What is your title?

Sr. Director, Government Affairs

Q11. (Optional) What is your email address?

███████████

Q9. (Optional) What is your zip code?

████

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

○ One application per project area [   ]

◉

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Multiple project areas in an application	Allowing an applicant to include multiple project areas within a single application will be easier for applicants. Additionally, bundling multiple project areas may allow an ISP to connect a greater number of locations in total, as they could bundle areas with better economics that could support areas with more challenging economics for the provider. That said, if this approach is adopted, there will need to be a means for the ISP applicant to note if project areas can be separated or not – e.g., there could be a situation in which an ISP can only commit to connecting Project Area A if they are awarded Project Area B as well (i.e. without Area B, Area A becomes financially untenable for the applicant). If the WSBO envisions needing to award only part of a multi-project area application, then the process needs to care for this nuance.

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

> Regarding the proposed scoring approach for a joint fiber and alternative technology application, we seek clarification on which scoring rubric will be leveraged given the project area will connect some locations via fiber and some via an alternative technology. A joint technology project could be the best and most flexible proposal for an area and should be scored appropriately. The State should consider another category of scoring for projects using both fiber and an alternate technology, to take into account the benefits of cost and deployment efficiencies, and other capabilities. Scoring a joint technology application by either the priority rubric, or the non-priority rubric, skews the scoring for those projects relying on a single technology.

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

○ County project area boundaries with broadband serviceable locations limited to approximately 1000

◉

Other, please describe	The mission of BEAD is to cover all unserved and underserved locations. While we understand the importance of first focusing on the unserved locations and ensuring all unserved can be connected, it is important to remember that many projects, of all technology types, will address both unserved and underserved locations together. We appreciate WSBO's acknowledgement that some project applications may include a mix, and allowing for this mix will lead to efficiencies versus trying to limit a project to just unserved locations. With regard to project area boundary definitions, UScellular believes that subgrantees should have flexibility in defining project areas as this is more likely to result in the most cost-effective proposals as it allows providers to maximize the efficiency of the new infrastructure within their existing network. With that said, if specific project area boundaries are going to be used, UScellular prefers using county area project boundaries as opposed to political boundaries that are subject to changes.

○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

| 4.11 Deployment Subgrantee Qualifications: Financial Capability (pp 58-59) The sustainability and pro forma analysis elements outlined by WSBO are burdensome and subject to change during the course of the project timeline, so as to render them outdated before the required timeline is complete. The NOFO provides a robust process to ensure an ISPs financial and operational capabilities are sound, without requiring complete business plans for a period of several years. We agree that sustainability of subgrantee financial and operational capabilities is critical to the success of BEAD but suggest relying on the requirements to prove and monitor the critical functions outlined in the NTIA NOFO. |
|---|

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

UScellular agrees with WSBO that affordability is important for the success of BEAD projects. We participated in, and agree with, comments filed by our industry organization, CTIA, in this proceeding. In Washington, UScellular offers a variety of affordable plans, including plans supported by both Lifeline and ACP. We suggest WSBO simply require participation in ACP to ensure low-income affordability service is provided rather than the suggested low-cost service option of $25 or less. This pre-determined price creates risk that the business case economics for the provider can no longer be supported. At a price point of $25, the full ACP discount cannot be applied to the rate plan, as it is not possible to take a customer's account to a credit balance through the application of the ACP discount. Any price plan should have adjustments to a measurable inflation benchmark such as CPI and not be unlimited in duration. Additionally, we seek clarity regarding which customers are eligible for the low-cost affordability plan. Is eligibility based on the customer qualifying for ACP or Lifeline? The plan should not be mandated for a larger swath of customers.

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

We would encourage WSBO to focus on the key goal of internet for all as they work to design and execute their BEAD program. The State goal of providing 150/150 Mbps speeds to all business and residences does not align to the realities of customer usage patterns. Even during the pandemic, usage patterns showed that consumers were much more reliant on download streams than upload streams (trending around 12-14x DL to UL ratio). CTIA has often leveraged a graphic that points to a typical family of five that can simultaneously be video conferencing, and streaming entertainment, with the total bandwidth needed to support this activity of just 40/8 Mbps (https://www.ctia.org/news/5g-the-missing-ingredient-to-closing-the-digital-divide). Symmetrical speeds are unnecessary and do nothing but eliminate optionality and flexibility. We encouraged WSBO to approach their BEAD program in a way that encourages technological optionality as that will allow for the most efficient use of BEAD funds. Relying on unneeded speed standards ignores the needed benefits that an alternative technology such as Fixed Wireless Access is able to provide to the rural areas of the state. Surveys show that, given the choice, customers prefer the BEAD standards of 100/20 Mbps that will meet all their broadband needs, and the added benefits of increased wireless mobility. The benefits that FWA brings to rural areas outweigh speed requirements in excess of BEAD. UScellular is committed to partnering with the Washington Office ("WSBO") in helping bridge the digital divide in Washington. We appreciate the opportunity to submit these comments. Additionally, as an active member of CTIA, the wireless industry association, UScellular was involved in drafting its comments and fully supports what CTIA submitted. UScellular appreciates the opportunity to comment on Washington's Initial Proposal Volume 2. We commend the State for its efforts to bridge the digital divide in Washington, and we look forward to further discussions on these issues and the ability to participate in State's BEAD program to bring broadband to all citizens.

Q16. *End of survey*
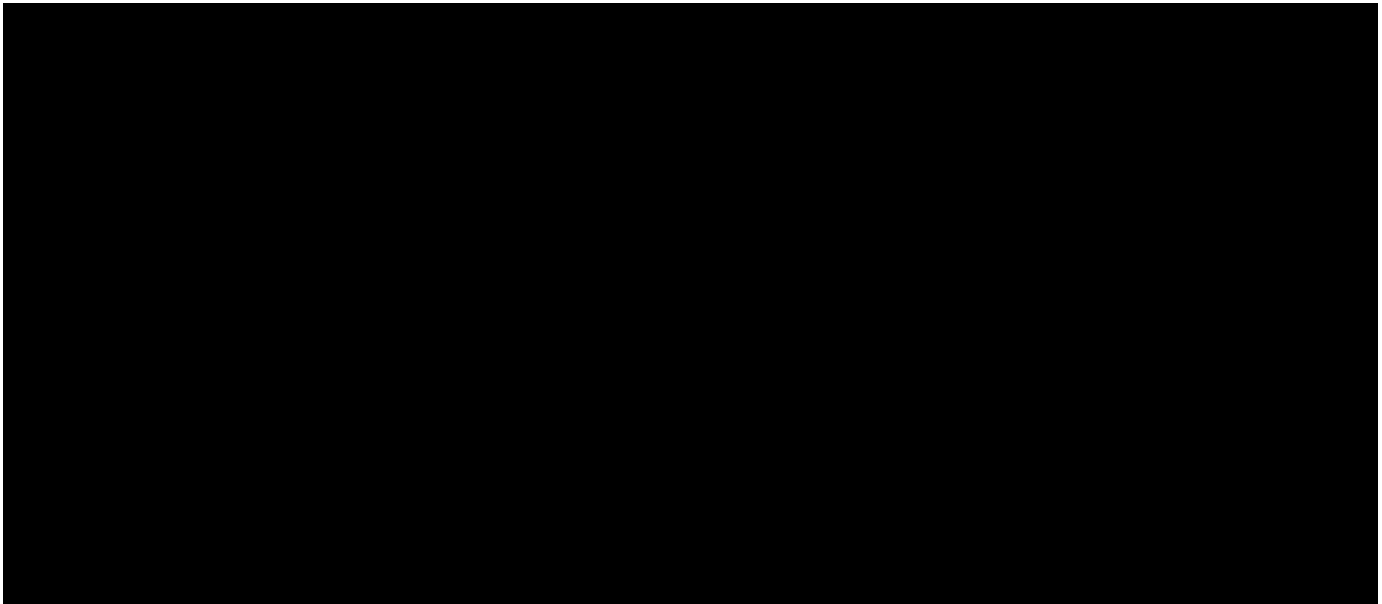
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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

> Tim Alborg

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

> EducationSuperHighway

Q12. (Optional) What is your title?

> Director

Q11. (Optional) What is your email address?

> ███████████

Q9. (Optional) What is your zip code?

>

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

- ○ One application per project area
- ○ Multiple project areas in an application

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

[   ]

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

○ County project area boundaries with broadband serviceable locations limited to approximately 1000

○ Other, please describe [   ]

○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

[   ]

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

[   ]

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

EducationSuperHighway Comments for Washington's BEAD Initial Proposal, Volume 2 EducationSuperHighway welcomes the chance to provide feedback on the WSBO's draft BEAD Initial Proposal Vol. 2. We commend the WSBO's commitment to addressing the persistent challenge of broadband affordability within Washington and its openness to utilizing inventive strategies. We are particularly supportive of the WSBO's intention to promote and endorse initiatives that enhance universal access to affordable broadband. By adopting cost-effective solutions like Apartment Wi-Fi, a managed Wi-Fi solution, the WSBO has the potential to effectively tackle both affordability and connectivity for many Washingtonns living in multi-dwelling units (MDUs). Comment on Requirement 8: Deployment Subgrantee Selection Project Areas that contain both MDU BSLs and non-MDU BSLs One challenge with bidding at the county Project Areas (PAs) level is that with 1,000 BSLs, these areas will likely contain both MDU BSLs and non-MDU BSLs, such as a single-family home. In situations like these, a partnership of subgrantees may be necessary to adequately address the needs of Washingtonians residing in that PA, especially those households living in MDUs. In most cases, last-mile providers will only deliver a "pass-by" to the MDU (i.e., drop a connection off to the MDU at the building level but not to the units themselves). Or, in the case of the Managed Service Providers (MSPs) specializing in property-wide, managed-Wi-Fi solutions, they may have the perfect solution for the MDU but not necessarily for connecting single-family homes. Should the WSBO go with the County as the chosen Project Area option, it is important to set up guardrails to ensure the problem of "MDU pass-bys" does not occur and that all the units of an MDU BSL get served. To accomplish this, you can require any proposed solution from subcontractors bidding in that PA demonstrate how they will connect all Washingtonians within each MDU. In the event that the WSBO is persuaded by their constituents to use school districts for Project Area boundaries instead of counties, the same requirement should be applied. EducationSuperHighway will comment similarly on all states' Volume 2, invoking the NOFO language that asks "how the Eligible Entity intends to ensure that every resident has access to a reliable, affordable, high-speed broadband connection." Cost per unit versus cost per BSL Connecting all the units in a multi-dwelling unit (MDU) will be more expensive compared to connecting a standalone single-family home. We therefore recommend that the WSBO assess the costs for MDUs based on a per-unit basis rather than a cost per BSL. This approach will enable a more precise comparison of costs for MDUs and ensure that each family living in a specific unit is connected. Normalization of proposal costs & consumer pricing Accordingly, the WSBO should consider a request for a detailed breakdown of costs per unit in any proposal involving MDU BSLs to accurately identify the most competitive and cost-effective solution. Additionally, proposals should include a breakdown of the price per customer served

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(e.g., price per unit in MDUs) to facilitate comparisons, especially for MDUs that may present pricing differences, such as bulk pricing (charges to the property owner) versus retail pricing (charges to the unit). Scoring criteria Evaluating for affordability EducationSuperHighway applauds the WSBO's acknowledgment of affordability's significance in addressing the digital divide in Washington. The WSBO's proposed scoring rubric admirably awards up to 25 points for applicants who commit to less than $75 per month plan for one symmetrical Gbps service, six points for a wholesale 1 symmetrical Gbps circuit, and goes further by requiring subgrantees to offer a $25 Low-Cost Broadband plan should the ACP funding be expended and no program be left in its place. EducationSuperHighway implores the WSBO to go even further by assigning additional points to solutions that are committed to offering free service during the performance period of BEAD. ACP has shown that free broadband service for residents is a powerful solution for the affordability barrier to adoption since it reduces and/or eliminates many of the obstacles to home internet adoption, such as financial commitments, credit checks, and enrollment paperwork. As such, we invite the WSBO to consider incentivizing solutions that provide a free service tier and help reduce the need for resource-strapped families to choose between paying for their internet bill and paying for food. EducationSuperHighway acknowledges the real challenge providers face in maintaining profitability due to pricing constraints imposed by BEAD. We recognize that annual increases in plan costs relative to inflation can incentivize providers to serve these markets. However, given that affordability is the leading cause of today's digital divide, we recommend requiring, or at least scoring higher, proposals that commit to not raising the rate of the low-cost option through the performance period of BEAD. MDU Internal Wiring Ownership Referring to the NOFO language, "It also requires all projects to…further prioritize proposals that improve affordability to ensure that networks built using taxpayer dollars are accessible to all Americans. Prioritizing long-term competition is crucial for addressing affordability. In the case of MDUs, if property owners, rather than providers, own the internal wiring infrastructure, property owners can engage with the wider marketplace without access restrictions. EducationSuperHighway suggests mandating or giving higher scores to solutions that lead to property owner ownership of internal wiring within an MDU. Evaluating Service Quality In addition, EducationSuperHighway urges the WSBO to include in its selection criteria considerations that make a solution more "affordable," even if this goes beyond strict cost factors. Examples explicitly called out in the NOFO a "broadband service option should address" are "reliability commitments" and "download and upload speeds, latency, any limits on usage or availability, and any material network management practices." In this context, "material network management practices" and "reliability commitments" could include quality of technical support, enforceable Service Level Agreements, and optimized Wi-Fi spectrum design. For example, a $50/month 100Mbps symmetric Managed Wi-Fi plan is actually more affordable than a $50/month 100Mbps symmetric retail plan because Managed Wi-Fi services uniquely offer additional value through enterprise-quality network management practices and reliability commitments. Similarly, we recommend that the WSBO add additional scoring criteria to go beyond speed and award additional points for solutions that provide superior network management practices like superior technical support, enforceable Service Level Agreements, and optimized Wi-Fi spectrum design, all practices provided as a standard for enterprise quality networks like those provided by Managed Wi-Fi. Another means we recommend for incentivizing a high-quality network is to include these network management practices as part of the minimum criteria of the recommended low-cost and middle-class service options, such as the requirement for outage credits to the consumer (e.g., measured at 1/30 of the monthly rate per day for an outage of over 12 hours) included in the Kansas Office of Broadband proposal. Public benefits of a Managed Wi-Fi Solution The BEAD NOFO emphasizes that "competition among broadband providers has the potential to offer consumers more affordable, high-quality options for broadband service." Unlike the traditional model of relying on one or two broadband providers, BEAD can leverage these providers to serve as backhaul connections for companies offering consumer-facing solutions like managed Wi-Fi Service Providers. And MSPs can then be sourced nationwide, many of which include minority-, women-, or veteran-owned companies. Community Anchor Institutions (CAI) EducationSuperHighway appreciates WSBO's drive towards universal coverage by prioritizing unserved locations before awarding funds to underserved locations and eligible CAIs. And applauds the WSBO's understanding that some project applications may include a mix of unserved, underserved, and eligible CAIs to optimize network design, minimize BEAD outlay costs, and increase speed to deployment. EducationSuperHighway also recommends including a similar approach to Wyoming's Broadband Office, which also prioritizes proposals that maximize the potential future inclusion of CAIs by scoring higher designs that include the most CAI pass-bys. By efficiently building out networks to priority projects of underserved locations by considering the buildout's proximity to CAIs, CAIs like public and affordable housing are more likely to be served. EducationSuperHighway invites WSBO to consider one further expansion of the definition of CAI – to augment the current definition of public housing to include low-income community housing as well. Concretely, this would take WSBO's current definition of Public housing organizations in its Initial Proposal and changing it to: "Public housing organizations and/or low-income community housing: Public housing as determined by state Public Housing Agencies or housing listed on the National Housing Preservation Database, as well as other sources." (emphasis added) We propose that WSBO use the following definition for low-income community housing, taken from the ongoing California Public Utilities Commission's (CPUC) proceedings and used to define low-income community housing in the CPUC's California Advanced Services Fund Broadband Public Housing Account Program: "Low-income community housing" is a. A publicly supported housing development b. Farmworker housing c. Other housing development d. Mobile home park e. One or more Census block group(s), each with a median household income at or below 80 percent of the statewide median income or with median household incomes at or below the county-specific threshold designated as "low-income" by the Department of Housing and Community Development's list of state income limits adopted pursuant to Section 50093. C. "Other Housing Development" is (a) any multi-dwelling unit development in which all units are owned by the same entity(ies) and that has 80% or greater residential units that are "low-income;" (b) tribal housing, including developments funded with Housing and Urban Development (HUD) funding or through a Tribally Designated Housing Entity (TDHE). Naturally, the language cited above includes references to California regulations; WSBO could find the corresponding or closest-corresponding regulations in the state of Washington to make the definition fit best for the state. This suggested definition is meant only to give an example of how to define "low-income community housing," thereby expanding CAIs to include publicly-funded housing and other low-income housing that is not publicly funded. Conclusion EducationSuperHighway appreciates the opportunity to submit comments to WSBO as Washington develops its plans aimed at ensuring affordable, reliable, high-speed internet access. We look forward to supporting the state's ongoing efforts and stand ready to provide pro-bono support and resources for this crucial work.

Q16. *End of survey*

Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

Andrew Mincheff

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

INCOMPAS

Q12. (Optional) What is your title?

Government Relations Director

Q11. (Optional) What is your email address?

Q9. (Optional) What is your zip code?

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

○ One application per project area

○ Multiple project areas in an application

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

Preparing for the future by clearing the way for both high-speed fixed and mobile networks, including 5G networks, is critical, and INCOMPAS is a proponent that fiber serves as the foundation for these networks. Every technology in the broadband ecosystem needs access to fiber—including fixed wireless, cable, cellular (mobile & 5G), and satellite. Building more fiber helps all, and fiber densification throughout the U.S. is critical for winning the race to 5G. INCOMPAS also acknowledges that fiber to the premises may not be technically and geographically possible in certain unserved and underserved locations in Washington. Therefore, INCOMPAS posits that the U.S. Treasury's final guidance on the American Rescue Plan struck the right balance by encouraging recipients to prioritize investments in fiber infrastructure wherever feasible and also requiring recipients "to design projects to, upon completion, reliably meet or exceed symmetrical 100 Mbps download and upload speeds" in the last mile. In those situations where it is not practicable to do so because of the extremely high cost of the project or geography or topography of the area to be served by the project, projects must reliably meet or exceed the 100/20 Mbps standard and be scalable to a minimum of symmetrical 100 Mbps download and upload speeds. In defining the "Extremely High Cost Per Location Threshold" for project funding areas, the Washington State Broadband Office (WSBO) should follow Treasury's example and continue to set speeds at a level that spurs competition by retaining the standard of at least 100/20 Mbps while also encouraging scalability up to 100/100 Mbps to help deliver reliable home broadband in a time-efficient way that does not leave thousands of Washingtonians on the wrong side of the digital divide. This funding represents an historic opportunity to provide every American with reliable, affordable broadband, so states should set their scoring of applications judiciously to guarantee that BEAD funds go towards the appropriate mix of fiber and other hybrid, cost-effective alternative technologies—such as next generation Fixed Wireless Access solutions—to ensure that all unserved and underserved families and communities are granted access to high quality broadband. To award scalability and promote other future-proof technologies, INCOMPAS encourages that the WSBO also consider possible speed tiers of service for wireless to ensure the bids selected are most able to provide a competitive or fiber-equivalent service. Specifically, in those circumstances where the subgrantee's alternative technology such as Fixed Wireless Access has proven it can exceed 100/100 Mbps for serving high-cost areas, the state could award applications with added points for going beyond the speed of service requirements and reaching certain speed levels (ex. 200/50 Mbps, 400/100 Mbps, etc.), as well as for attaining a lower cost per location within the applied-for project funding area(s).

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

○ County project area boundaries with broadband serviceable locations limited to approximately 1000

○ Other, please describe [   ]

○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

INCOMPAS believes it is critical that this infrastructure investment be made in robust and reliable networks that can offer greater connectivity today and higher speeds in the future, and projects must be able to scale to meet consumer and business demand over time. Indeed, it is important to deploy for today and the future so that the networks can serve both high-speed fixed and mobile networks. The WSBO should also consider those grantees who can continue to scale and have proven experience meeting their community's needs. This should include successful experience offering broadband internet access service or partnering with entities who do so, serving other businesses, community anchor institutions, and residences, and a demonstrated willingness to hire within the community and support the local economy with the BEAD program. Such entities must also be able to deliver on the project both financially and technically in a timely fashion. Regarding additional prioritization factors to evaluate broadband project awards, the BEAD program will not achieve the objective of ensuring the availability of affordable, high-quality broadband service in unserved and underserved areas unless the WSBO exercises its authority to adopt rules promoting competition. The networks funded by the BEAD Program will likely be the only broadband facilities in the unserved and underserved areas that the program was designed to target, and the high entry barriers in those areas make it unlikely that another competing service provider will deploy network facilities in the same area. Customers served by networks funded by the BEAD Program will likely have no choice of providers. This absence of competition poses a serious threat to ensuring affordable and high-quality services. It is therefore critically important that Washington adopt Open Access as a Secondary Criterion for selecting among Priority Broadband Projects. To further enable and promote increased competition in both unserved and underserved areas, Washington must ensure a competitive, open bid process as required by the IIJA. We urge the WSBO to clearly set forth that the BEAD Program be awarded through a competitive process and must permit competitive broadband and infrastructure providers, as well as others, to participate and without tilting the playing field in a way that discourages participation by private sector entities. The framework or details for the competitive process should be publicly available, with clear rules from the beginning that are published and in compliance with NTIA's requirements. INCOMPAS' members have successfully entered the market in many different types of communities and situations. They have built networks in rural areas where no providers were offering service and did so with no public sector support or funding. They have partnered with towns and cities to deliver fiber-based connectivity for the first time which has transformed communities. INCOMPAS believes that there is no need to preference certain types of entities in the grant process. Rather, transparent deployment and service requirements stated in the grant process will allow all entities that could deliver such service to compete, and taxpayers benefit from a more efficient program when there is competition for it. INCOMPAS supports the WSBO thoroughly vetting and reviewing subrecipients to ensure that they have the technical and financial experience to deliver on the grant projects. INCOMPAS also believes that potential recipients should not be discriminated against for being a private sector company. Prioritizing one class of recipient over others is not in the public interest and prevents all applicants from having meaningful and robust opportunities to compete for funding. Recipients should be judged on their ability to meet the grant requirements and their proposals. Prioritizing certain types of entities (e.g., non-profits and co-ops) should be strictly forbidden.

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

The BEAD NOFO requires that Eligible Entities include a "middle-class affordability plan" in their Initial and Final Proposals. INCOMPAS believes prioritizing BEAD last-mile broadband projects that comply with Open Access would enable Washington to bridge the digital divide and to establish an efficient and effective middle-class affordability plan. INCOMPAS is submitting these comments to emphasize the benefits your state's consumers would experience if the WSBO prioritized last-mile broadband projects that commit to complying with Open Access in the BEAD Program. One of the most serious risks associated with the BEAD Program is that it will produce new local broadband monopolies across Washington and across the nation. The program will appropriately subsidize the deployment of broadband facilities in areas where new network investment has not occurred and is unlikely to occur in the future, but once BEAD-funded networks are deployed, they will face no competition from existing or potential facilities-based entrants. The result will be entrenched monopolies with essentially no incentive to provide reasonable wholesale access to competitors who can offer better service, lower prices, and more innovation and investment in the marketplace. There can be no dispute that a monopoly market structure will harm consumers and businesses in BEAD-funded areas. Over time, the newly minted broadband monopolists will provide lower quality of service and higher prices than would be possible in a competitive market, and broadband customers will suffer as a result of the lack of choice. Taxpayers are paying for the BEAD Program, and they deserve better. They have a right to broadband AND broadband competition. There are two ways in which to promote this objective. First, the WSBO could seek to replicate the effects of competition by regulating the service quality and even the prices of the broadband service that BEAD subgrantees offer. This could require that the low-cost, high-speed plans are offered to essentially all consumers or it could take the form of service quality regulations, or both. However, these forms of direct regulation are often less effective than actual competition in delivering better service and lower costs for consumers. Second, the WSBO could choose the option that NTIA specifically designed to address this problem and that it encourages Eligible Entities to adopt – prioritizing last-mile broadband projects that commit to complying with Open Access. Open Access allows Washington to rely on competition rather than regulation to ensure that consumers receive better service and potentially even lower prices than would otherwise be available under the BEAD Program. Among the many benefits of Open Access, one worth special emphasis is the way it helps to bridge the digital divide. By tailoring their service offerings to the specific needs of unserved and underserved communities, resale competitors are likely to find ways to make broadband useful and helpful to those communities. This can be done, for example, by offering complementary services, such as VoIP, cloud storage, simple billing and usage-tracking options, equipment repair, educational support, training, and other services designed for the specific needs of consumers, small businesses, and community anchor institutions in unserved and underserved communities. Monopolists have little or no incentive to innovate in these ways. By offering products and services tailored to the needs of the target communities, competitors relying on Open Access will ensure that the broadband made available via BEAD-funded networks will be more relevant and beneficial to consumers, that more consumers will subscribe to the service, and that those who do so will benefit more from it. In short, the digital divide will be more effectively bridged. Another critical area worth mentioning, the benefits of Open Access would accrue at virtually no cost. Open Access is easy to administer because Washington can rely on the pre-existing framework established for the avoided-cost discount developed pursuant to Sections 251(c)(4) and 251(d)(3) of the Communications Act. Implementing the Open Access criterion requires virtually no expenditure of administrative resources. No ratemaking proceedings are required. No complex consideration of potential implementation issues is required. Indeed, NTIA likely chose the avoided-cost definition of Open Access for this reason. NTIA was well-aware that adopting the avoided-cost discount approach to Open Access offered Eligible Entities an off-the-shelf discount framework that is easy to design and administer. Finally, there is no basis for the concern expressed by broadband providers in that Open Access would undermine investment incentives. Those opponents do not analyze the specific terms of Open Access as defined in the BEAD NOFO. If they did, they would be obligated to recognize that the Open Access discount reflects the costs that the network owner avoids when selling service at wholesale rather than retail (e.g., marketing, billing, and collection-related costs), so network owners incur no meaningful costs when selling to wholesale customers as opposed to retail customers.

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

Speeding up broadband deployment is critical for families and small businesses who need internet access. INCOMPAS' members consistently face delays in securing permits and gaining access to the public rights-of-way to deploy facilities. Speed to market is critical to meet needs as quickly as possible for the BEAD Program. Thus, INCOMPAS believes it is necessary to have the WSBO review or enact guidelines that enable faster processing to allow the deployment of broadband infrastructure more quickly; these guidelines should cover both small cells and other wireless equipment and fiber that is used by both fixed and mobile providers to connect their networks. As part of allocating the BEAD Program funds, the WSBO should encourage local authorities to review their permitting processes and determine whether they have the resources they need to process and issue permits quickly. Duplicative, slow, and costly local processes in certain jurisdictions create a significant impediment to deployment efforts, and these processes can constitute a barrier to entry to competitive providers. Accordingly, the WSBO should encourage local jurisdictions to expedite permitting, allow applicants to submit applications in batches, and keep permitting and all other fees low. The WSBO should also require that these fees be publicly disclosed, competitively and technology neutral, non-discriminatory, and based on actual and direct costs reasonably incurred. And where cities and towns need financial assistance to purchase and implement technology upgrades for speeding permitting processes, such as offering batch permit processing, or they need to hire temporary staff to handle the number of requests, the WSBO should evaluate these needs and allow for such reasonable costs to be covered by the BEAD Program funding. It is also critical for the WSBO to encourage local jurisdictions to evaluate their processes and fees for reasonableness so that project dollars are used efficiently and effectively, which will enable more fiber miles to be built. Forcing competitive providers to construct their network entirely underground in areas where existing overhead facilities are available, but where municipal right-of-way fees or requirements prohibit overhead deployment—not only creates unnecessary delay, but it also guarantees fewer fiber miles will be built. INCOMPAS members also mention the delays and difficulties with the underground utility locates process and the burden this creates for deploying networks. Recognizing the costly delays associated with locates including inaccurate markings, lack of coordination and late work completion, INCOMPAS suggests that the WSBO work with their state 811 One Call Center local authorities to evaluate their locates process to address this barrier to deployment and to help optimize projects for speed and efficiency as part of this new funding. Another challenge our members often face is accessing poles and public rights-of-way. Increasing broadband providers' access to public rights-of-way will help spur faster and more efficient deployments to unserved areas—benefiting consumers and businesses waiting for access to next-generation networks. The WSBO must work with those entities that own and/or manage the rights-of-way and the facilities located within the rights-of-way to extend fair and transparent protections to providers who need access to build out their networks. This includes those entities that own or manage utility poles, highways, and railroads. Utility poles in the right-of-way, which are typically owned by large electric utilities or incumbent telephone providers or municipal or cooperative utilities, are crucial for deploying fiber and small cells quickly and efficiently. These pole owners control "make-ready" costs—the charges that prepare the pole for a new attachment. When these costs, including costs to replace poles and charges to correct pre-existing conditions on the pole, are unreasonably high, providers may scale back their deployment or forego serving an area entirely. Some of these pole owners have a competitive interest in denying access to their facilities because they are themselves deploying broadband. For instance, INCOMPAS' members have repeatedly faced prohibitions for accessing the pole infrastructure of utility cooperatives who use their monopoly position to deny access to competitors which has disadvantaged rural areas from receiving broadband from a competitive provider. The WSBO should make clear that any grants awarded for projects are conditioned upon grantees permitting competitors reasonable, fair, and non-discriminatory access to their owned and managed utility poles and conduit. Entities receiving federal grants should not be permitted to engage in anti-competitive activity by excluding competitive providers from their service territories by actually or constructively denying them access to their poles and conduit—including by refusal to negotiate pole access agreements or charging excessively high pole attachment fees—which competitors must access in order to provide a competitive alternative. Finally, the BEAD Program and other broadband investment programs present a historic opportunity for communities large and small, urban and rural, to right the wrongs of the past and build a better future for all Americans. It is not hyperbolic to suggest BEAD projects may be the most important infrastructure activity this century for communities. To help ensure projects are done right and deployed with all deliberate speed, INCOMPAS proposes the WSBO implement a "Broadband Ready City" Checklist to help guide cities, counties, and all local municipalities. This checklist for broadband success will promote smart, fast, and cost-effective deployment as part of the BEAD Program and demonstrate a willingness to enhance competition and choice. Suggestions for developing broadband deployment ready guidelines for cities, towns, counties, and local entities include: • Broadband Money for Broadband Projects: Limit application fees to the actual, objectively reasonable costs incurred by the jurisdiction to process an application. Limit rights-of-way access fees to actual objectively reasonable cost. • Streamlined for Speed: Implement expedited or streamlined review of zoning and permitting applications that facilitate wireless and fiber deployment, including those that make efficient use of existing infrastructure pursuant to federal law. • Transparent Review: Establish procedures to allow all forms, applications and documentation related to a project to be reviewed and either approved or denied within 30 days after the application is submitted. Adopt efficient intake procedures, such as batch permitting and electronic submission. • Pro Innovation: New innovative deployment processes and construction techniques, such as micro-trenching, speed deployment and cut construction time. Investing in faster, future-proof networks that are built to last and enable an "all of the above" deployment strategy. • Smart Restoration: Working together to ensure broadband money is dedicated to internet access, smart street restoration obligations that are in scope with deployment construction projects set at the time of the application, will help communities maximize the benefits of their broadband dollars. INCOMPAS urges the WSBO to begin the process of including these deployment issues in its discussions on its rules with the implementation process. INCOMPAS' members are seeing significant delays and increases in costs prior to the public sector financing that's now available, and they are concerned that with the additional financial boost afforded by Congress, further delays are likely as those who manage/own the rights-of-way are ill-prepared for the increased demand for requests to access the rights-of-way. Agencies at the Federal, State, and Local levels all need to prepare now and begin discussions of how to avoid costly delays. INCOMPAS recommends identifying where there are current gaps, including training employees, reviewing processes that can be expedited by investing in technological upgrades, and coordinating between agencies/managers of rights-of-way as soon as possible. Better, faster internet will bring more educational opportunities, healthcare options, and attract greater investment to fuel local economic growth. More competition brings consumers and businesses more choice and lower prices.

Q16. *End of survey*

Location Data

Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

Stacy Martin

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

Washington and Northern Idaho District Council of Laborers (WANDI)

Q12. (Optional) What is your title?

Business Manager

Q11. (Optional) What is your email address?

Q9. (Optional) What is your zip code?

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

○ One application per project area

○ Multiple project areas in an application

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

The Laborers strongly urge the Washington State Broadband Office (WSBO) to revise the scoring rubric for priority broadband projects and last-mile deployment projects by allocating a maximum of 25 points to fair labor practices, workforce development, and job quality criteria. WSBO should allocate 15 points to the Fair Labor Practices criteria, and create and allocate a maximum of 10 points to a new Workforce Development and Job Quality criteria. We believe high-road labor practices, equitable workforce development, and quality job outcomes are essential to executing BEAD projects successfully and should be given a higher point allocation to support multiple program goals. Other states, such as Delaware and Pennsylvania, allocate 25% of total point allocation to labor factors. Moreover, we urge WSBO to prioritize those subgrantees and their contractors and subcontractors who have a record of compliance with labor and employment laws, a record of compliance with OSHA regulations, who can demonstrate future compliance with applicable laws and OSHA regulations, including BEAD's requirement for a workplace health and safety committee, through the use of a contractually binding document, such as a Project Labor Agreement (PLA), Community Benefits Agreement (CBA), or collective bargaining agreement, and who create high-quality jobs for local and historically underrepresented workers. Our specific recommendations are as follows: -Compliance with federal labor and employment laws (2 max points): First, we suggest WSBO increase from 2 points to 4 points the maximum allocation under this criterion. It is our view that ensuring future compliance should be weighted, at a minimum, equally with historic compliance. Second, we suggest that WSBO allocate the maximum of 4 points only to those entities who have executed a PLA or CBA with one or more labor organizations or who certify that they will employ contractors who use a unionized workforce. PLA's and union contracts not only enshrine workers' rights under the law, but they are an effective workforce development tool for building major infrastructure projects where multiple employers and construction crafts may be involved. PLAs and CBAs not only set forth the terms and conditions of employment which promotes labor-management cooperation, but they can also include hiring goals for local workers and historically underrepresented workers. We view PLAs as the gold standard for ensuring high-road labor outcomes. -Disclosure of applicant violations (2 max points): We suggest WSBO require disclosure of any violations of any federal labor and employment laws within the past three years, not just violations of applicable laws on broadband projects. WSBO should allocate the maximum of 2 points only to those applicants who do not have past violations, or non-compliant applicants who can document future compliance through a legally binding workforce agreement such as a PLA or CBA. -Disclosure of contractor and/or subcontractor violations (2 max points): WSBO should only allocate the maximum 2 points to those entities who do not have past violations, or non-compliant entities who can document future compliance through a legally binding workforce agreement such as a PLA or CBA. - Wage information (2 max points): WSBO should ensure that, at a minimum, all entities are aware of and compliant with the requirement to pay prevailing wages through regular submission of certified payrolls. We also recommend WSBO reserve the maximum 2 points to those entities that also collect and report fringe contribution rates, and the percentage of workers employed on the project who receive employer-sponsored health insurance and retirement benefits. The provision of benefits is a vital recruitment and retention tool for the construction industry, and a key indicator of job quality. -Workplace safety committees (2 max points): the NOFO requires subgrantees to "ensure the implementation of workplace safety committees that are authorized to raise health and safety concerns in connection with the delivery of deployment projects." We suggest WSBO only allow the maximum number of points to be awarded to entities that have a contractually mandated, labor-management safety and health committee. Not only does our suggested revision ensure the creation of a safety and health committee as required, but a contractually mandated committee also provides for the successful resolution of any safety and health concerns that may arise throughout the project. Moreover, contractually mandated committees also help ensure that no worker is retaliated against for raising occupational safety and health concerns. These additional requirements are even more important considering the safety risks for workers performing underground utility construction projects. According to OSHA, trench collapses or cave-ins pose the greatest risk to workers' lives. In fact, between 2020-2022, there were 71 trench-related fatalities. In fact, in 2022 in Washington State, three workers died after the trench they were working in collapsed (see: https://www.lni.wa.gov/safety-health/preventing-injuries-illnesses/workplace-injuries-fatalities/#fatality-summaries). Because underground fiber optic lines are often co-located with other utilities, including natural gas pipelines, WSBO must ensure entities have effective safety and health committees in place before and during construction. Those entities that fail to produce a detailed account of how this committee will be formed and staffed, how often it will meet, explain how it will resolve disputes, provide protection to workers who raise safety and health issues, or implement recommendations of the committee should receive no points under this factor. - New Factor: Workforce Development and Job Quality (10 max points): We encourage WSBO to include this additional criterion in order to fulfill the job quality objectives of the BEAD program, promote high-quality construction standards, and ensure timely execution of BEAD projects. In addition, we encourage WSBO to make an applicant's workforce plan binding legal commitments which can be enforced through the grant contract. We recommend the following criteria receive 2 max points each: •Applicants who ensure the use of an appropriately skilled workforce, e.g., through registered apprenticeships or other joint labor-management training programs that serve all workers; •Entities that ensure that all project workforce members will have appropriate credentials, e.g., appropriate and relevant pre-existing occupational training, certification, and licensure, including any trenching-related credentials; • Entities that use a unionized workforce; •Subgrantees who have policies or agreements in effect to ensure a percentage of the construction workforce are residents of the host community; and •Subgrantees who have policies or agreements in effect to ensure a percentage of the construction workforce are members of disproportionately underrepresented communities such as people of color, veterans, women, and members of tribal communities.

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

○ County project area boundaries with broadband serviceable locations limited to approximately 1000

○ Other, please describe [   ]

○ No preference

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Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

On p. 141, we propose WSBO lower the project threshold for requiring certain labor standards from $5 million to $1 million. In addition, WSBO should mandate subgrantees and their contractors and subcontractors submit regular certified payrolls to ensure compliance with the requirement to pay prevailing wages. We urge WSBO to publish via an online portal the plans of subgrantees and their contractors and subcontractors to comply with Requirements 11 and 12, and provide an avenue for stakeholders to alert WSBO of potential non-compliance.

Q16. *End of survey*
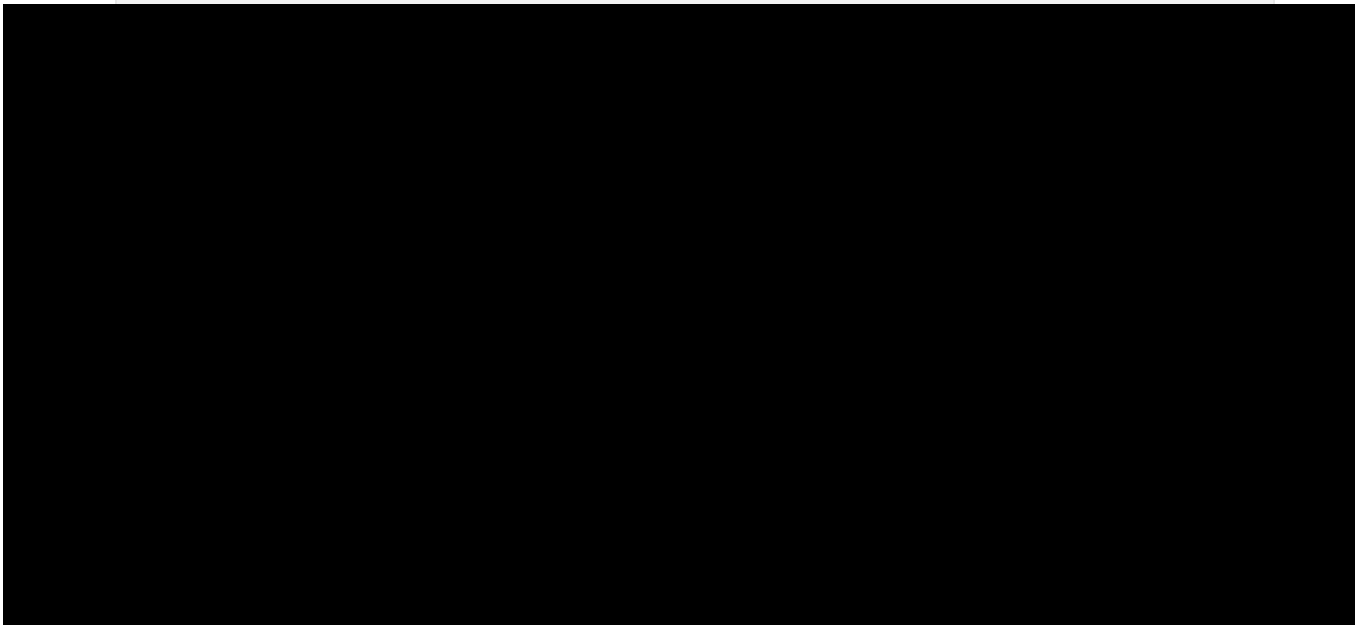
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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

Anne Goranson

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

WA State Employment Security Department

Q12. (Optional) What is your title?

Strategic Initiatives Manager

Q11. (Optional) What is your email address?

█████████████

Q9. (Optional) What is your zip code?

████

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Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

[   ]

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- ○ Other, please describe [   ]
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[   ]

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• General Comments: In addition to creating equitable on-ramps to job opportunities, outreach planning to reach community groups and non-traditional workers will be important to ensure that meaningful opportunities are not just available, but that the connections actually happen. Marketing so that potential applicants can understand the benefits of jobs they may not be familiar with will be helpful. There have been times in the past when excellent opportunities were available, but workers did not take advantage of them for a variety of reasons. Focus groups may be helpful to understand best practices. • General Comments: It might be helpful to prepare for joint workforce planning by creating some kind of cross-agency team that can stay a few steps ahead of this process in order to support applicants. The WA Quality Jobs Team would be a helpful resource. • Section 8.1.A (page 83): The third bullet under Section A cites "Whether the workforce is unionized" as a workforce plan requirement of subgrantees applying for WSBO support. Although mindful of our state administration's union bent, I think WSBO ought to take a more flexible approach that emphasizes good jobs – perhaps embracing the principles in TEGL 07-22 that are endorsed by both the federal Departments of Labor and Commerce – as opposed to prioritizing a union workforce. • Section 8.1.B (page 84): The second paragraph cites WorkSource Washington (along with WWA and LWDBs, which are one and the same, relatively speaking) as a key partner that will be asked to develop workforce training and job placement programs to support BEAD. Not sure WorkSource Washington is a readily identifiable entity – it's a confederation required WIOA one-stop system partners and programs – or what Commerce was thinking when it injected the phrase into the proposal so perhaps it ought to be disaggregated into major players like ESD, SBCTC, DVR, DSB, etc. to accompany LWDBs. • Section 8.1.B (page 84): Do we know who at ESD has volunteered to co-lead the coordination of broadband stakeholders? • Section 8.1.B – Table 10 (page 86): I think the references to Basic Food and TANF ought to also note BFET and WorkFirst, respectively, to further indicate and underscore the role of those programs in workforce upskilling and job placement amongst public assistance populations. I also think State Economic Security for All warrants inclusion in the table separate from WorkSource. • Section 8.1.B (page 88): Somewhere in the last paragraph of Section 8.1.B where they talk about secondary and postsecondary schools helping to fill the broadband workforce gap, I think it's important to note the Center of Excellence for Clean Energy at Centralia College. And since there is no mention on any secondary education initiatives, perhaps some commitment to leveraging the High School and Beyond (13th Year) Plan to discuss broadband-related careers along with other demand industries and occupations. • Section 8.1.C (page 88): The section purports to speak to maintaining job quality, but focuses on equity, inclusion and access, which I think is a different topic. The section also focuses on access to registered apprenticeship, pre-apprenticeship, and on-the-job training along with fair labor standards. All fine, but perhaps a good place to again bring underscore good jobs as per TEGL 07-22 and make a point of aligning our good/quality jobs principles with those expressed by the federal Departments of Labor and Commerce. • Section 8.1.C (page 89): Recommend considering the expansion of the Monroe Correctional Complex program to include other correctional institutions (for men and women) across Washington to increase the number of justice-impacted individuals trained to meet these workforce demands. • Section 8.1.C (page 90): The Fair Labor Standards Act is a law intended to protect workers against unfair practices. It could be mentioned as a basic requirement, much more than "encouraged." Compliance must be required by participating employers and subgrantees. • Section 8.1.D (page 90): Since this section of the proposal really talks up registered apprenticeship and pre-apprenticeship and mentions the kinds of organizations that can help with diversity, equity and inclusion in the broadband-related workforce, I'm surprised it doesn't mention prominent Washington organizations like AJAC and ANEW by name to highlights a couple of entities that are already doing this kind of work. Perhaps it should. Additionally, the WorkSource system is in a position to play a key role in spreading awareness and disseminating information about broadband career opportunities via networking, WorkSourceWA.com, and in person and virtual job fairs and hiring events.

Q16. *End of survey*

Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

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We appreciate your participation!

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Q11. (Optional) What is your email address?

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4.2 page 35 Scoring Rubric and Prioritization: WITA believes that "Priority Broadband Projects" in high-cost areas may include a small percentage of BSLs that can best be reached by alternative technologies. $1.3B is not going to fiber the whole state, and the areas that are most unserved will require some sort of wireless bridge to a fiber future meaning that we should push fiber as far out as is reasonably possible now and serve the highest cost areas with robust alternative technologies such as fixed wireless over licensed spectrum. We also encourage the WSBO to add an additional criterion to encourage providers to build in extremely low-income areas. This concept is in keeping with the NTIA's NOFO which states that "the Eligible Entity must prioritize projects...based on a strong preference for projects in high poverty areas or persistent poverty counties." (NTIA NOFO page 41). 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This approach would encourage deployment in those areas and stretch limited federal and state dollars by maximizing private funding. It would also encourage public/private partnerships. The first round of grants should focus on the best and broadest utilization of non-federal or state dollars as possible, reserving those funds for high-cost and rural areas as an incentive to encourage providers to deploy broadband in the hardest to reach areas of our state. During the first round of grants, points should only be given to applicants who bring their own money to the table. This creates a level playing field and helps meet the goal, stated in several sections of this document, of ensuring that funding goes to qualified, committed subgrantees. Requiring so little match, so little "skin in the game," is in contradiction to that goal and could result in less qualified applicants receiving funds that then result in projects they can't complete. 4.2 page 37 Affordability: Nothing in the NOFO or other NTIA guidance permits or requires the WSBO to impose specific rates on the service plans that subgrantees must offer to all customers in Washington. To the extent that the NTIA NOFO contemplates that a state might actually define a provider rate, it does so as only one example of how a state might fulfill the IIJA requirement to provide a "low-cost broadband service option" – not as a requirement that states must mandate a particular price, let alone a particular price available to all consumers. The WSBO should award full points under the affordability selection criterion for an applicant's commitment to provide broadband service in BEAD-funded project areas at rates in BEAD-funded service areas that are either: (i) consistent with the broadband pricing the subgrantee makes available in unsubsidized areas within the State; or (ii) at or below the residential rates provided in the FCC's annual URS reasonable comparability benchmark for each tier of service offered, including the symmetrical gigabit-level service specified in the NOFO. For clarity and administrative efficiency, points should be awarded on an "all or nothing" basis. Adopting this scoring method is consistent with the approach that the FCC has taken with RDOF and other USF-subsidized high-cost areas, where rates for services delivered over subsidized networks must not exceed comparable residential rates in the URS or in the provider's unsubsidized areas in the State (i.e. statewide pricing). It also will allow the WSBO to address the BEAD Program's affordability goals by prioritizing providers that will offer service plans to consumers in BEAD-funded project areas at rates that are comparable to those charged to customers in unsubsidized parts of the State. If the CBO is disinclined to adopt an "all or nothing" approach, then it could adopt a sliding scale approach under which points are deducted for service offerings with prices exceeding this "reasonable comparability" benchmark. 4.2 page 38 Open access: WITA members have offered access to their systems on transparent and equitable terms, rates and conditions for decades. We strongly support this concept, but we disagree with the way in which the WSBO is attempting to actualize it. The NTIA encourages open access, but only as an "Additional Prioritization Factor." For the WSBO to give this criteria a higher potential score than their Secondary Criterion, which is speed to deployment, seems out of step. We believe that speed to deployment should have more potential points as this often relates to the cost of the project. An existing provider, public or private, will be able to build out to areas adjacent to their existing infrastructure much faster and at much less cost. This again is a way to stretch limited federal dollars. If open access is kept as part of the WSBO's scoring matrix, we believe that it should be accorded one point as this a yes or no question. Either you agree to offer access to your system on a fair and equitable basis or you don't. As for the cost of the connections, that pricing is addressed in Affordability. A provider cannot charge $50 per connection and have that result in a per month charge to the customer of less than $75 per month. In addition, even if an applicant would like to have two or more committed ISPs at the time of their application, there are a number of variables to address between the time that the grant is awarded and the state contract is signed that could discourage ISPs from committing to a project. One of those issues is the definition of extremely high-cost areas, which could change the type of technology used by the applicant. Lastly, it's clear that open access increases the cost and challenges of deploying broadband. Connection costs increase prices for customers and reduce the reliability of ISPs who serve on those networks. Any ISP who agrees to serve on an open access network should be compelled to sign a service level agreement to avoid situations where it is unclear, particularly to the customer, which provider is responsible for maintaining the system on a 24/7 basis. The WSBO should also have a definition for ISP to avoid situations where, for example, a billing provider is listed as an ISP.

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

○ County project area boundaries with broadband serviceable locations limited to approximately 1000

◉

Other, please describe	4.3 page 44 Prioritization of Projects, Project areas: WITA warns against choosing any one particular approach to defining a project area as "one size fits all" just doesn't work in a state as vast and geologically diverse as Washington. Instead, WITA believes that applicants should define project areas as they feel are appropriate, as long as the project area is contiguous. This is in keeping with the proposal to limit each application to one project area. In past project development, applicants used the fabric data and identified under and unserved areas, drew contiguous polygons and set areas that made sense from an engineering and deployment perspective. This approach not only saved money but it also allowed for faster deployment. If a portion of one applicant's project area overlaps with another, the WSBO could decide who will be the granted that area based on the cost per location passed.

○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

> 4.1 page Selection Process: WITA agrees with the proposal to limit applications to one project area per application as have personal experience with trying to write a grant for multiple project areas. Scoring a multi-location grant application would increase the complexity of the analysis and could result in a remote, high-cost area not being awarded funding because it is combined with a lower scoring area.

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

> Given the appropriate focus on Adoption and Digital Navigation, points for that criteria should be increased. In addition, the low-pricing tier offering of at least 100/20 should be set at $30 to match federal programs.

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

WITA would like to thank the WSBO for your intensive efforts to listen to and respond to the vast array of broadband providers who have an interest in accessing BEAD funds. Our comments are aimed at offering suggestions for stretching those limited funds while at the same time encouraging deployment, by qualified providers, into the most unserved and under-served areas of our State. 3.1 page 25 Public Engagement: Regarding newsletters and attending existing social cultural events for various covered populations, WITA encourages the WSBO to include statewide associations in your examples of potential outreach methods and partners. WITA would like to be included on this list. 4.9 page 54 Extremely High-Cost Per Location Threshold Identification: this appears to encourage applicants to have all-fiber projects, regardless of the cost, and work the details out with the WSBO later. This is a back-door way of making an "Other Last-Mile Broadband Deployment Project" into a "Priority Project," even though it's clear that some alternative technology will be required. One way to avoid this would be to allow "Priority Projects" in high-cost areas to include a small percentage of BSLs that would be served by alternative technologies. 10 page 99 Cost and Barrier Reduction, Streamlining Cost-Effective Access: We applaud the WSBO's efforts to deal with this barrier to deployment. We suggest that points be given to companies who agree to avoid anti-competitive practices such as high pole attachment costs and delayed locates, among others. Pole attachments have long been used by some public entities to discourage competition and deployment of fiber by private entities. These policies also create a revenue stream for the public entity at the price of reducing broadband deployment due to the increased lack of opportunity for a return on investment for potential broadband providers. One needs only to look at the cost of pole attachments in areas where a public entity is engaged in broadband deployment and compare that to pole attachment costs in areas served by a PUD who is not interested in deploying broadband, to see how this process has been abused. Another comparison would be the cost of pole attachments charged by privately owned electrical utilities as compared to other utilities. Pole attachment prices for privately owned electrical utilities are set by the UTC and ensure that the customers of those privately owned electrical utilities do not bear any of the cost for other companies to attach lines to their poles.

Q16. *End of survey*

Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

Betty Buckley

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

Washington Independent Telecommunications Association

Q12. (Optional) What is your title?

Executive Director

Q11. (Optional) What is your email address?

██████████

Q9. (Optional) What is your zip code?

████

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

◉ One application per project area [_____]

○ Multiple project areas in an application [_____]

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Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

○ County project area boundaries with broadband serviceable locations limited to approximately 1000

◉

Other, please describe	4.3 page 44 Prioritization of Projects, Project areas: WITA warns against choosing any one particular approach to defining a project area as "one size fits all" just doesn't work in a state as vast and geologically diverse as Washington. Instead, WITA believes that applicants should define project areas as they feel are appropriate, as long as the project area is contiguous. This is in keeping with the proposal to limit each application to one project area. In past project development, applicants used the fabric data and identified under and unserved areas, drew contiguous polygons and set areas that made sense from an engineering and deployment perspective. This approach not only saved money but it also allowed for faster deployment. If a portion of one applicant's project area overlaps with another, the WSBO could decide who will be the granted that area based on the cost per location passed.

○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

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Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

Q16. *End of survey*

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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

Ariane Schmidt

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

Broadlinc

Q12. (Optional) What is your title?

Executive Director

Q11. (Optional) What is your email address?

████████

Q9. (Optional) What is your zip code?

███

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

◉ One application per project area [_____]

◯ Multiple project areas in an application [_____]

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

Yes. See Letter sent to internetforall@commerce.wa.gov

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○ School district boundaries

◉ County project area boundaries with broadband serviceable locations limited to approximately 1000

○ Other, please describe [   ]

○ No preference

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Yes. See letter sent to internetforall@commerce.wa.gov

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

Yes. See letter sent to internetforall@commerce.wa.gov

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Betty Buckley

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○ One application per project area

○ Multiple project areas in an application

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[   ]

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○ Other, please describe [   ]

○ No preference

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[   ]

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

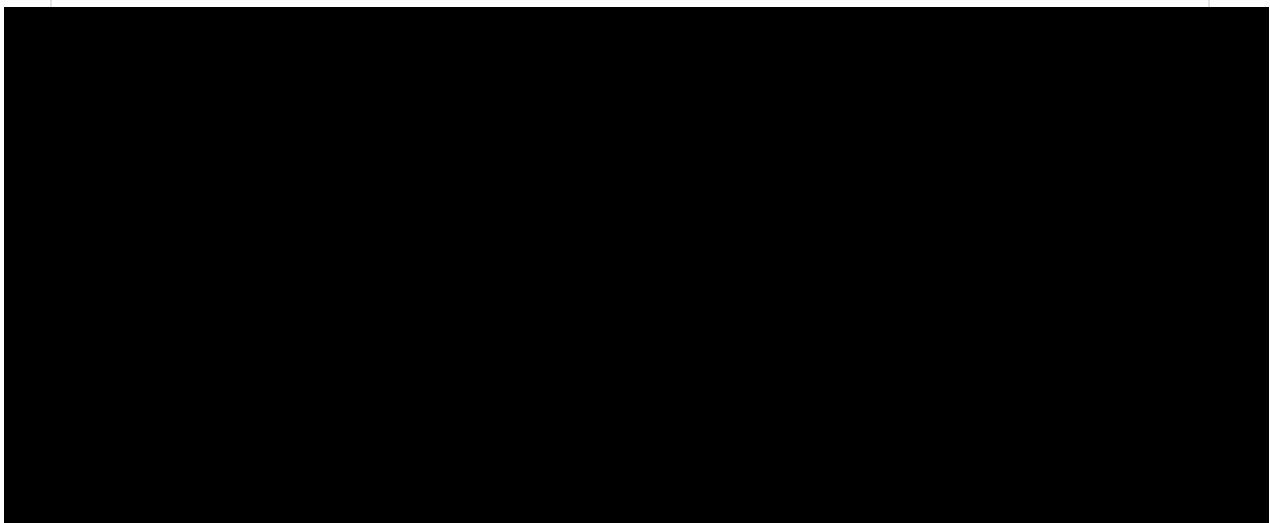[   ]

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

[10 page 99 Cost and Barrier Reduction, Streamlining Cost-Effective Access: We applaud the WSBO's efforts to deal with this barrier to deployment. We suggest that points be given to companies who agree to avoid anti-competitive practices such as inappropriate pole attachments costs and delayed locates. Pole attachments have long been used by some public entities to discourage competition and deployment of fiber by private entities. These policies also create a revenue stream for the public entity at the price of reducing broadband deployment due to the increased lack of opportunity for a return on investment for potential broadband providers. One needs only to look at the cost of pole attachments in areas where a public entity is engaged in broadband deployment and compare that to pole attachment costs in areas served by a PUD who is not interested in deploying broadband, to see how this process has been abused. Another comparison would be the cost of pole attachments charged by privately owned electrical utilities as compared to other utilities. Pole attachment prices for privately owned electrical utilities are set by the UTC and ensure that the customers of those privately owned electrical utilities do not bear any of the cost for other companies to attach lines to their poles. WITA would like to thank the WSBO for your intensive efforts to listen to and respond to the vast array of broadband providers who have an interest in accessing BEAD funds. Our comments are aimed at offering suggestions for stretching those limited funds while at the same time encouraging deployment, by qualified providers, into the most unserved and underserved areas of our State.]

Q16. *End of survey*
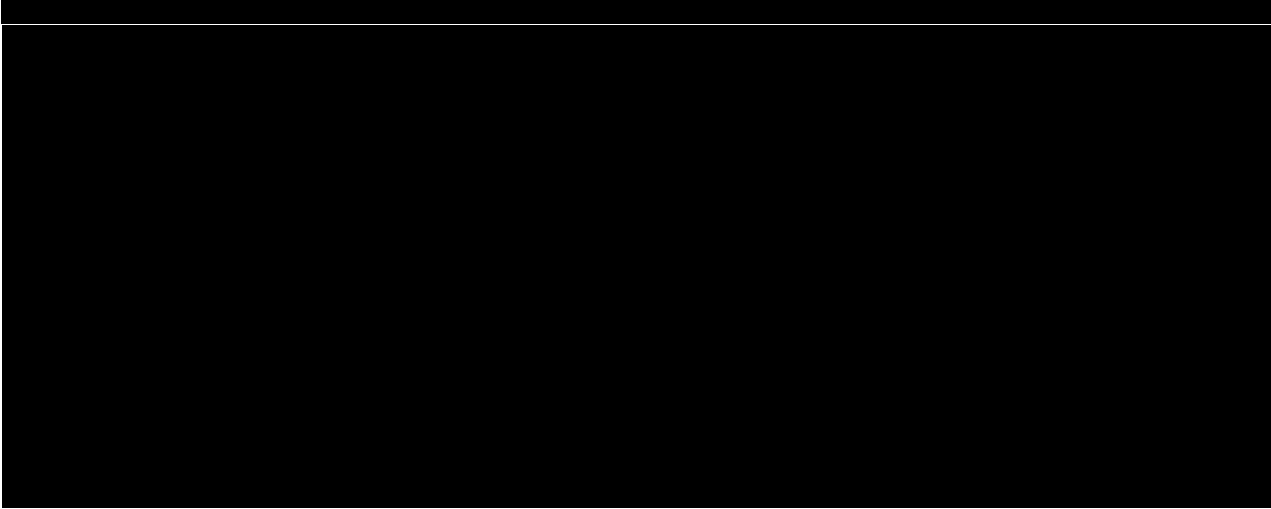
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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

> Lorie Hills

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

> Lightcurve formerly Rainier Connect

Q12. (Optional) What is your title?

> Sales & Marketing Manager

Q11. (Optional) What is your email address?

> ██████████████

Q9. (Optional) What is your zip code?

> ████

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

- ● One application per project area

> We concur with WSBO proposal that one application per project area makes project comparisons simpler.

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○ Multiple project areas in an application [   ]

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

> There is a distinct possibility that 100% end-to-end fiber optic networks may not be the most cost effective option for 100% of locations in a given project area, and serving select BSLs in a given project area with reliable alternate technologies e.g., fixed wireless over licensed spectrum, may be a compelling solution. Given the need to maximize the use of limited BEAD funding, we encourage one scoring rubric instead of two i.e., one for "priority broadband projects" and one for "other broadband projects." Under this unified scoring rubric construct, please consider an approach that can evaluate % of locations served by end-to-end fiber in a given project area with due consideration to project cost or cost per location, and prioritize projects that maximize fiber deployment while being attentive to project costs.

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

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○ School district boundaries

○ County project area boundaries with broadband serviceable locations limited to approximately 1000

◉ Other, please describe [Both school district and county boundaries may lead to inefficient design and higher costs. Please consider allowing a sub-grantee to define the project area so long as such project area is contiguous, Insofar as there is some overlap in areas between project areas submitted by separate sub-grantees, those proposals that maximize outcomes for the residents e.g., all fiber deployments, while also minimizing overall project costs can be given priority.]

○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

> We request that the Extremely High-Cost Per Location Threshold is identified but in the event that it is not, we would like consideration that it be concurrent with the issuance of the NOFO standard. 1. Scoring rubrics in Section 4.2: (A) Affordability: We applaud the intent to provide affordable service and we are committed to that principle. However, specifying rates in the scoring rubric is problematic on several fronts. Services on the network deployed will be offered for decades to come - to establish a pricing threshold now and to maintain that over the asset lifetime is not practical. The NTIA NOFO does not contemplate states imposing pricing requirements. Rather, we recommend awarding points to sub-grantees who are willing to support non-promotional market pricing for comparable services when compared to non-BEAD subsidized service areas. Indexing to market pricing from unsubsidized areas, in fact, may over time provide better pricing for customers in BEAD subsidized areas vs. setting arbitrary pricing thresholds now. (B) Open Access: We understand and support the intent of this secondary scoring criteria. We offer that requiring 2 or more committed ISPs and also setting wholesale rates is untenable and not the best way to achieve the intended objectives. We strongly recommend that the open access criteria be modified that any sub-grantee offering open access in a non-discriminatory wholesale pricing structure to anyone requesting such open access be given the points allocated to this criteria. Finally, having guidance on the Extremely High Cost Location Threshold (EHCT) prior to or at the time of inviting sub grantee applications will be of great value and also aligns with our recommendation of considering a unified scoring rubric by encouraging cost effective project proposals i.e., maximize fiber deployments but with due regard for project cost per cost per location threshold.

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

> We do not have any questions or comments regarding this section and appreciate the work done to ensure affordable access.

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

> We do not have any additional comments.

Q16. *End of survey*
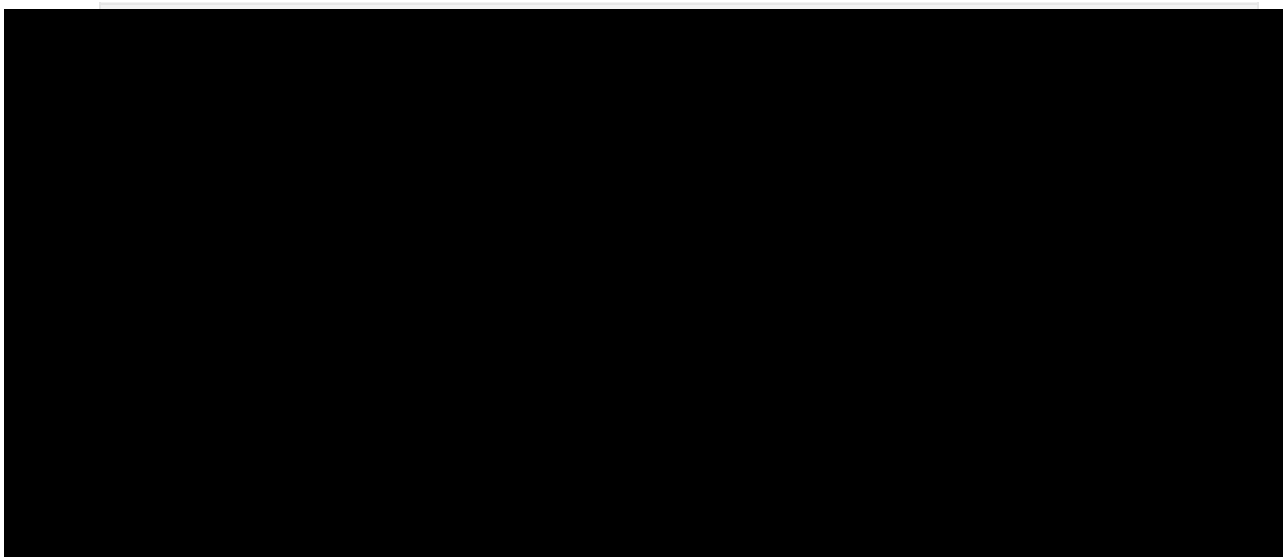
Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

Shane Milburn

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

Klick Networks, LLC

Q12. (Optional) What is your title?

Founder/CTO

Q11. (Optional) What is your email address?

███████████████

Q9. (Optional) What is your zip code?

███

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

◉

One application per project area	If you combine the areas then it makes it harder to determine which ISP would be better suited to service a given area. There are not that many areas that folks cannot submit multiple applications.

○ Multiple project areas in an application [_____]

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

> There doesn't seem to be an points for being a local Washington based company. I'm working hard to get community support and it would be nice to have points awarded for being in-state and committed to my local community for bringing broadband to the area. I don't mind competition with National ISPs but why isn't there some consideration and points for local company?

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

◉ County project area boundaries with broadband serviceable locations limited to approximately 1000

○ Other, please describe [_____]

○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

> No

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

> Having to offer a <$25 low cost plan in a rural area is going to be a challenge especially given the high cost per mile to deliver fiber in some areas. A <$50/mo plan would be more reasonable given the costs and that the consumer can also apply for ACP to further subsidize their out of pocket cost. But on such a low APRU plan I would likely need to cap their speeds at 100 vs 1G because I still have to pay for the upstream bandwidth and could likely end up losing money long-term if I had to provide the low-cost account full fiber bandwidth speeds.

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

> There are a number of providers who were awarded RFOD, CAF, ReConnect, etc awards and have yet to complete those projects. It would be nice to see WSBO take that into consideration when reviewing competing applications for an area. If you haven't completed your build out from those programs or at least have them completed 50% or greater they shouldn't get awarded more money from BEAD if there are other applicants who could serve the area. Hopefully you all review that and figure it into the selection process.

Q16. *End of survey*
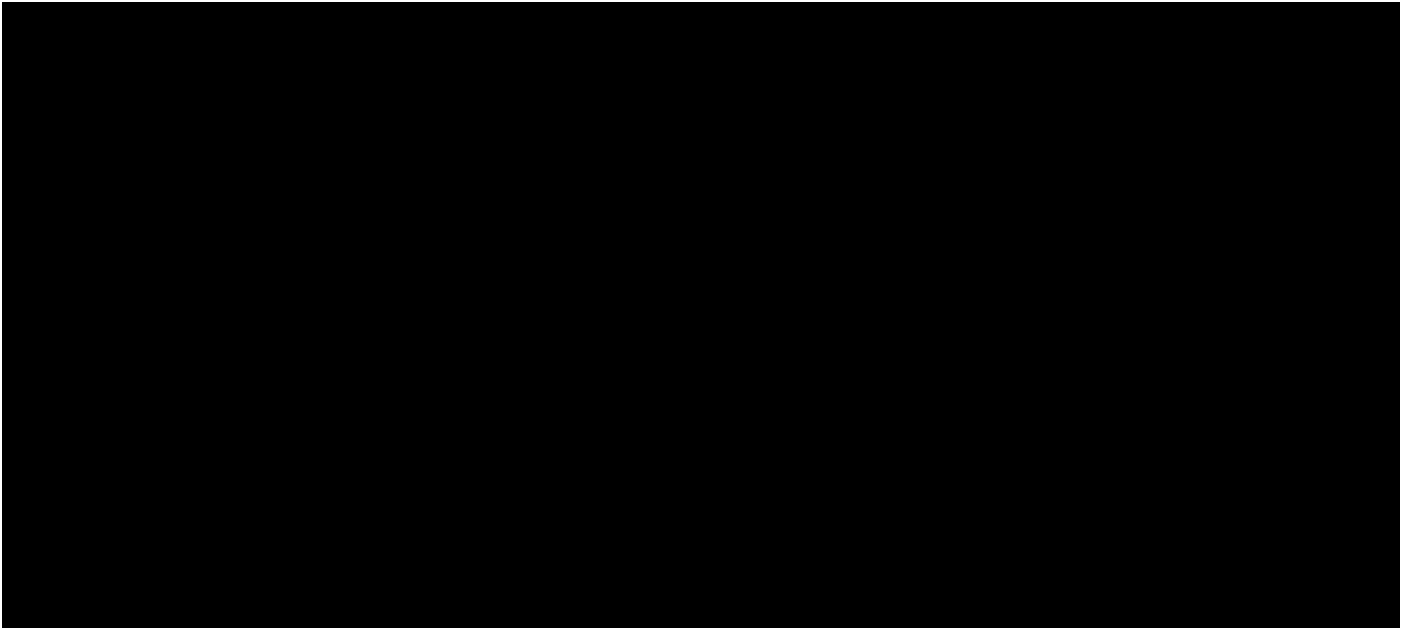
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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

Mark Janzen

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

WSDOT

Q12. (Optional) What is your title?

Assistant State Utilities Manager / Broadband Utility Coordinator

Q11. (Optional) What is your email address?

██████████

Q9. (Optional) What is your zip code?

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

○ One application per project area
○ Multiple project areas in an application

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

[   ]

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

○ County project area boundaries with broadband serviceable locations limited to approximately 1000

○ Other, please describe [   ]

○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

[   ]

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

[   ]

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

p.98 Dig Once section - WSDOT has now launched the dig once policy initiative and so the policy is now finalized. The map is now live and public as well, here is the link: https://wsdot.maps.arcgis.com/apps/webappviewer/index.html?id=0635854cd487427f9464d802dcd92d11. Since its a public link you can include it in the document if you wish or a footnote maybe? The sentence starting with, 'consequently', I have an issue with. I think it is redundant with the previous sentence and it is WSDOT's discretion to install conduit for future telecom use if a broadband company is not ready to participate in dig once. The onus is on the utility to be ready to install during WSDOT's construction project. The 'may' statement already exists in legislation, so the following sentences are trying to achieve what is already present in the legislation. If wanting to strengthen requirements within legislation, then you have to take another step forward for requiring WSDOT projects to install conduit or other means with the support of the WSBO. Another comment, the concept of a pavement cut moratorium does exist but for state highway right of way we have policy/standards stating open cut of a pavement is prohibited. A variance request is needed to approve an open cut. In order to preserve the roadway WSDOT does not allow open cuts unless it can be justified. Therefore, a dig once policy helps prevent open cut requests and helps preserve the highway while creating efficiencies of construction for the broadband company. I think this is a better way to frame the concept of dig once to show that both sides can benefit. Thanks!

Q16. *End of survey*

Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

Melissa Kephart

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

Q12. (Optional) What is your title?

Q11. (Optional) What is your email address?

Q9. (Optional) What is your zip code?

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

One application per project area	It seems better to force all applicants to be scored on exactly the same area/scope. If I combined two areas into one application I could lower overall costs which gives that company an unfair advantage over a company only bidding on a single project area. Think you would get better competition if you force it to one per area

○ Multiple project areas in an application [   ]

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

Seems well thought out. I don't see anything about Minority or Women own business criteria in the scoring. Also what about local companies vs out of state?

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

◉ County project area boundaries with broadband serviceable locations limited to approximately 1000

○ Other, please describe [   ]

○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

No.

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

Price seems a bit low. You can get DSL for that price today but the cost for fiber isn't going to be cheap. If you force companies to go too low on price they may not submit an application if they can't make the ROI pencil out long term

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

Q16. *End of survey*

Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

Jason Biermann

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

Snohomish County Executive's Office

Q12. (Optional) What is your title?

Senior Policy Advisor

Q11. (Optional) What is your email address?

█████████████████

Q9. (Optional) What is your zip code?

████

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

⦿ One application per project area
◯ Multiple project areas in an application

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Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

Extensive comments sent via email.

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

○ County project area boundaries with broadband serviceable locations limited to approximately 1000

◉ Other, please describe | We support county project area boundaries, but believe that there must be exceptions for some projects that will span jurisdictional borders.

○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?
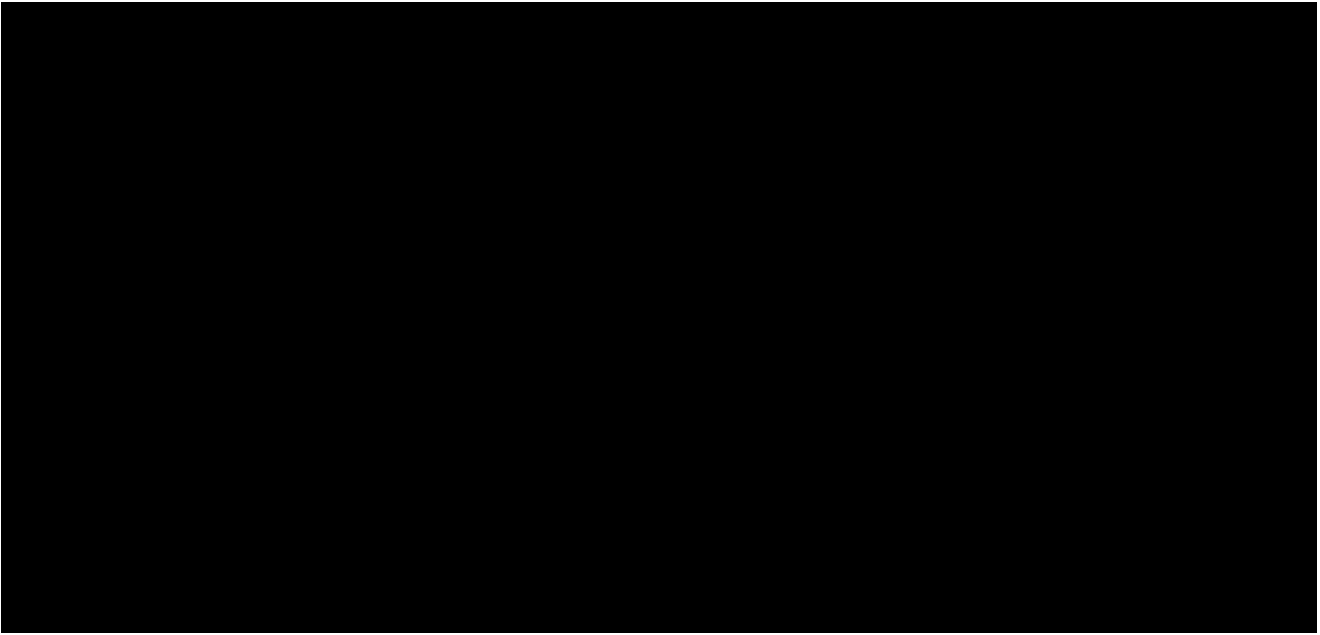
Extensive comments sent via email.

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

Extensive comments sent via email.

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

Extensive comments sent via email.

Q16. *End of survey*
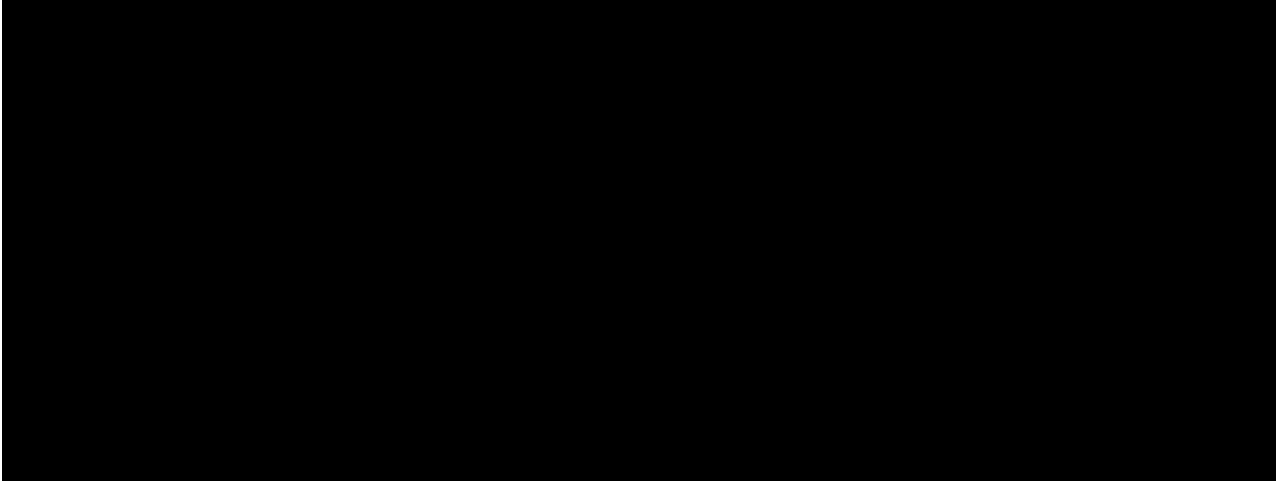
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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

Dave Wampler

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

Q12. (Optional) What is your title?

Q11. (Optional) What is your email address?

Q9. (Optional) What is your zip code?

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

○

| One application per project area | I would think it makes it easier to evaluate an application if all applications are submitted for a specific area. This way there are no mistakes if someone combines information for two areas. |

○ Multiple project areas in an application [   ]

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

seems fair

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

◉ County project area boundaries with broadband serviceable locations limited to approximately 1000

○ Other, please describe [   ]

○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

No

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

No

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

You all did a lot of work to get this done. Good job, seem comprehensive

Q16. *End of survey*

Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

Q12. (Optional) What is your title?

Q11. (Optional) What is your email address?

Q9. (Optional) What is your zip code?

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

◉ One application per project area | If you have multiple won't it make it harder to evaluate/score based on the merits of the application?

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○ Multiple project areas in an application [ ]

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

> Not really

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

◉ County project area boundaries with broadband serviceable locations limited to approximately 1000

○ Other, please describe [ ]

○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

> No

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

> No, thanks for including that

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

> None

Q16. *End of survey*
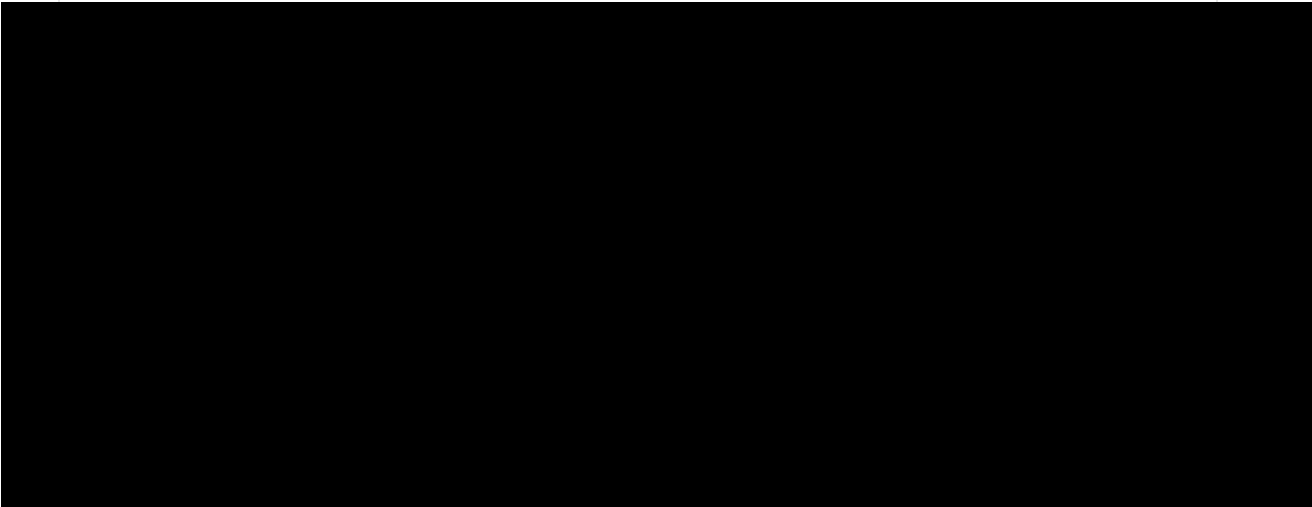
Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

> Gabriel Moran

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

> Tarana Wireless, Inc.

Q12. (Optional) What is your title?

> Government Affairs & Policy Associate

Q11. (Optional) What is your email address?

> ███████████

Q9. (Optional) What is your zip code?

> ████

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

○ One application per project area ▢

◉

Multiple project areas in an application	assuming the integrity of the project area is maintained. That is, the provider will serve all unserved and underserved BSLs in a project area.

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

2.4.1 Subgrantee Selection Process While Tarana welcomes Washington observing the NTIA's emphasis on Affordability as a scoring criteria for BEAD applications, Tarana Wireless seeks clarification as to the duration that a provider is expected to provide an affordable broadband plan. Tarana is worried that a provider could pledge to offer an affordable broadband service plan to win an application for a given project area only to hike prices back up citing market concerns once funding has been received from the state and the project is completed. Clarity from the State of Washington on this issue is of vital importance. Speed of Network: Tarana Wireless believes that the WSBO should take on neutral objective criteria to evaluate non-fiber broadband technologies. Moreover, the rationale provided by the broadband office fails to explain why certain technologies are prioritized over others. Moreover, Tarana Wireless believes that Washington is violating the BEAD Notice of Funding Opportunity by including Low Earth Orbit satellite as an eligible non-fiber technology. Page 28 of the Notice of Funding Opportunity clearly states that Low Earth Orbit satellite is not reliable broadband service. We would encourage the state broadband office to consider allowing non-reliable broadband technologies to be considered once all other applications using reliable broadband technologies have been exhausted as options. Our analysis finds that LEO satellite deployments will suffer degradation at densities beyond one household per square mile. In comparison, Tarana Wireless' G1 product offers a 300–750x improvement in density, 5x greater spectral efficiency, 4.5x more capacity, NLoS operation, and interference cancellation up to 50 dB. Furthermore Low Earth Orbit satellites suffer from latency issues which significantly hinder the quality and effectiveness of broadband service. Incentivizing providers to bid technologies that are resilient and scalable is crucial to ensure that BSLs receiving non-fiber service will receive broadband service that is reliable for the foreseeable future. Tarana Wireless believes that the speed criteria (with assumed latency below 100 milliseconds) scoring should be updated to reflect the following performance levels: 100/20 Mbps (0 points) 200/50 Mbps (6 points) 400/100 Mbps (9 points) 1 Gbps/250 Mbps (11 points) 100/20 Mbps as the baseline level set by the FCC should not be awarded any points. Non-fiber technologies should be held to a high standard and the Colorado Broadband Office should incentivize providers to deploy technologies that not just meet the FCC speed threshold, but surpass it to provide future-proof scalable service. High-frequency wireless technology, while capable of providing high speeds, typically covers shorter distances, resulting in higher costs. Unlicensed frequency bands may be considered less reliable due to potential interference affecting performance over time. Even mobile networks in licensed spectrum face resource contention, albeit in a managed manner. With the introduction of next-generation Fixed Wireless Access to the already diverse range of wireless technologies, it is essential to assess non-fiber options using objective criteria. This approach ensures that performance expectations align with the evolving landscape of broadband technologies, promoting the adoption of advanced networks that can truly meet the needs of Washington's residents. Tarana Wireless supports the WSBO's openness to allow providers to submit project applications to utilize a mix of multiple technologies. To maintain a preference for fiber, we suggest implementing limits on the number of non-fiber locations allowed per area, along with a minimum performance threshold to ensure that the entire area receives "fiber-like" service quality. While 100/20 Mbps is the FCC floor, bids that utilize a mix of technologies should be assigned additional points to non-fiber technologies able to achieve speeds above the federal minimum. We suggest the below tiers: 200/50 Mbps 400/100 Mbps 1 Gbps/250 Mbps For example, one possible rule could permit up to 20% of the BSLs in an area to be served with reliable non-fiber infrastructure, provided that these locations achieve performance levels exceeding 200/50Mbps or even 400/100Mbps. This approach would likely increase the number of bidders per area while ensuring that resources are not wasted on serving extremely challenging locations within an area, thus allowing for a more efficient extension of overall coverage and ensuring resources can be devoted to Digital Equity initiatives.

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

- ● School district boundaries
- ○ County project area boundaries with broadband serviceable locations limited to approximately 1000
- ○ Other, please describe [   ]
- ○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

How long will providers be expected to provide a low-cost broadband service option?

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

4.3 We support Washington's decision to utilize school districts or county boundaries. Tarana Wireless expresses reservations about the Washington Broadband Office's decision to limit providers to serving only the unserved locations within the project area. While we recognize the constraints imposed by Washington's BEAD allocation, coupled with the expected 25% match from providers, Tarana Wireless believes that Washington can optimize the level of service provided by subgrantees by allowing them the flexibility to deploy both fiber and other reliable broadband technologies, such as fixed wireless, as integral components of their project bids below the extremely high cost per location threshold (EHCPLT). Originally, the concept for project areas envisioned bids being exclusively either all fiber or all "other" technologies. However, this approach presents challenges in defining areas, as there may be a subset of broadband serviceable locations (BSLs) that would not typically justify fiber deployment, juxtaposed with another set that can be readily served. To address this issue and enhance capital efficiency, we propose permitting a percentage of locations to be non-fiber in below-ECHPLT fiber areas. To uphold a preference for fiber, it is crucial to establish both a ceiling on the number of non-fiber locations allowed per area and a performance floor to ensure that service for the entire area maintains a "fiber-like" quality. One potential rule to consider is allowing up to 20% of the BSLs in an area to be served with non-fiber reliable infrastructure, provided that the performance of these locations exceeds 200/50Mbps or even 400/100Mbps. This approach is likely to attract more bidders per area while ensuring that resources are efficiently allocated, especially in addressing challenging locations within an area that might otherwise impede overall coverage extension. 2.11.1.1 Climate Resiliency While traditional fixed wireless systems, such as those utilizing 3GPP or WiFi technologies, may struggle to maintain reliable broadband service in inclement weather, Tarana Wireless' next-generation Fixed Wireless Access (ngFWA) technology has effectively overcome these challenges. As Colorado looks to make investments in broadband infrastructure that is climate resilient, it should also ensure that any funded fixed wireless is robust to adverse weather. Legacy fixed wireless systems often face issues like absorption and attenuation, where shorter wavelengths are absorbed or scattered by water molecules and atmospheric moisture. Additionally, rain, snow, and fog can cause scattering and reflection, particularly in higher millimeter-wave (mmWave) bands like 60 GHz, leading to signal deviation and degradation. The molecular resonance of oxygen in the air further contributes to attenuation at 60 GHz. Tarana Wireless addresses these limitations by operating in the 3 GHz, 5 GHz, and 6 GHz bands, thereby avoiding the adverse effects associated with higher frequencies. In high wind situations, broadband service delivered by traditional fixed wireless technologies is often compromised as wind movement can introduce obstacles like tree branches or debris into the signal path. Continuous optimization of our beamforming technology ensures that our base node, situated on a vertical asset, maintains the strongest signal and connection to the remote node on a customer's home or business. Our system rapidly calculates alternative paths around these obstructions at a rate of 5,000 times per second, ensuring seamless adaptation to changes without the subscriber even realizing something has occurred. In adverse weather conditions, where traditional fixed wireless systems may encounter challenges, Tarana Wireless' ngFWA technology remains steadfast in delivering dependable broadband service.

Q16. *End of survey*
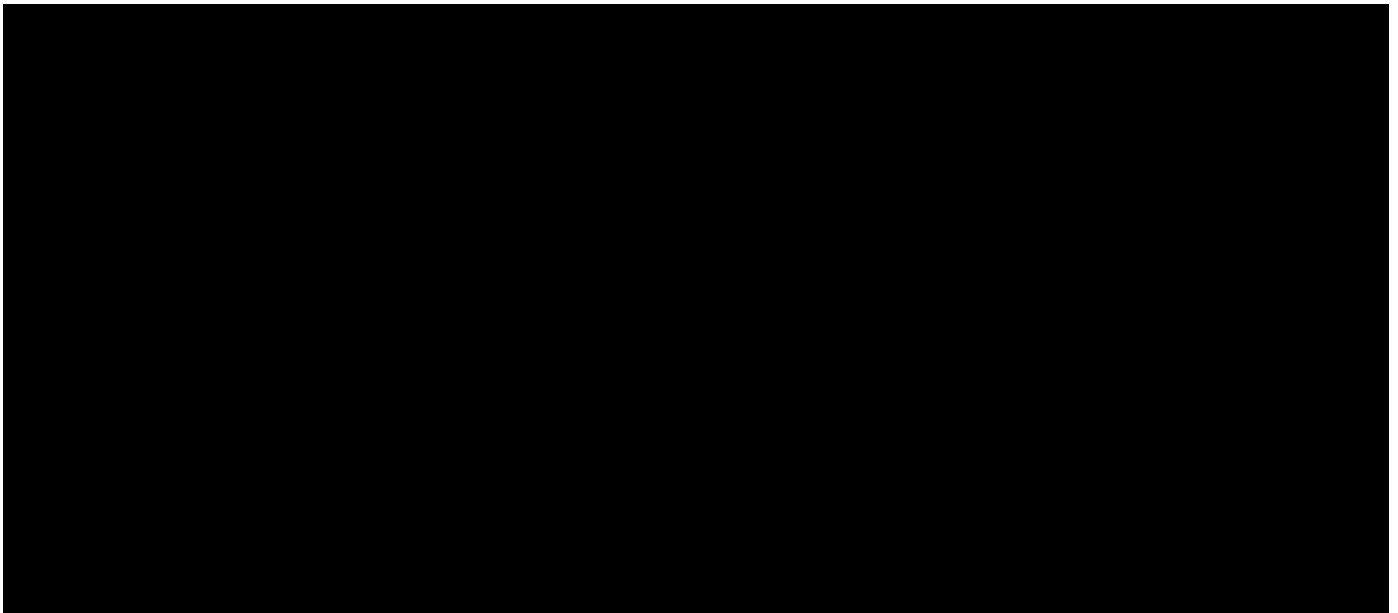
Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

> Lori Adams

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

> Nokia

Q12. (Optional) What is your title?

> Vice President Broadband Policy & Funding Strategy

Q11. (Optional) What is your email address?

> ████████████

Q9. (Optional) What is your zip code?

> ████

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

- ⦿ One application per project area [　　　　　　　]
- ○ Multiple project areas in an application [　　　　　　　]

137

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

[ ]

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

○ County project area boundaries with broadband serviceable locations limited to approximately 1000

○ Other, please describe [ ]

◉ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

Yes

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

No

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

[ ]

Q16. *End of survey*

Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

You can find more information on the project website: https://www.commerce.wa.gov/building-infrastructure/washington-statewide-broadband-act/internet-for-all-wa/. You can also sign up for email updates or provide comments at InternetForAll@Commerce.wa.gov.

We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

[   ]

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

[   ]

Q12. (Optional) What is your title?

[   ]

Q11. (Optional) What is your email address?

[   ]

Q9. (Optional) What is your zip code?

[   ]

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

○ One application per project area [   ]

● Multiple project areas in an application [   ] 140

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

[   ]

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

- ○ School district boundaries
- ◉ County project area boundaries with broadband serviceable locations limited to approximately 1000
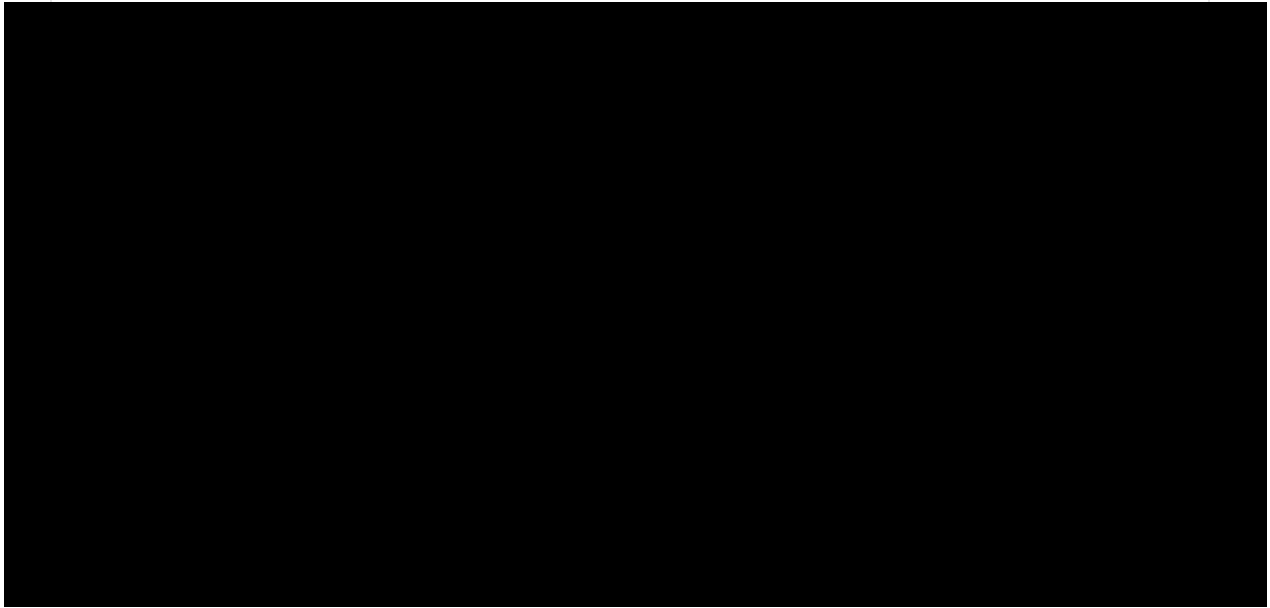- ○ Other, please describe [   ]
- ○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

[   ]

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

[   ]

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

[   ]

Q16. *End of survey*

Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

> Tommy Lee

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

> King County IT

Q12. (Optional) What is your title?

> Principal IT Manager - Broadband, I-Net, and Business Development

Q11. (Optional) What is your email address?

> ███████████

Q9. (Optional) What is your zip code?

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

○ One application per project area [   ]

◉

Multiple project areas in an application	Allow for multiple project areas in one submission to account for magnitudes of scale discounts, ie if I get all 4 that brings down my total cost. For project areas with multiple bids, multi project apps take precedence, and then remaining scoring criteria remains.

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

All of my comments around this section are included below in the chapter 4 feedback section since it's inclusive of this section.

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

○ County project area boundaries with broadband serviceable locations limited to approximately 1000

● Other, please describe   KCIT supports the response WSAC will be providing.

○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

Pg 32: unserved CAI's This needs to be clarified that CAI's are not contingent on winning the project area since the funding wouldn't even be available. This would be on the subrecipients own dime unless the state can prove they will serve all unserved and underserved first., Pg 32 second grant application period If all unserved/underserved are not accounted for then the WSBO can't award money in the first round, so having the disclaimer of "provided funding is still available" seems irrelevant. The WSBO needs to have all areas accounted for before awarding any funds., Pg. 36 Primary Criteria affordability Regarding affordability, there needs to be a built in review of the pricing every X amount of years to adjust pricing accordingly. This could be tied to the requirement around the subrecipients providing there pricing every year. Pg. 37 Minimal BEAD Program outlay There should be points awarded for applicants that provide the minimum 25% match with zero state funding match assistance. This is incentivizing the private industry to invest dollars based on the federal guidelines with no impact to Washingtonians tax dollars. If applicants want to be more competitive then they could provide an increased match percentage, but shouldn't be penalized for providing the federal guidance minimum. For the BEAD matching funding for public entities, only the amount contributed by the applicant should be taken into account for the scoring. So for example, the state shouldn't award an applicant 25% and then they put together 5%, making them eligible for 20 points on the scoring. If the intent is to get private dollar investments you cannot also then give an unfair advantage to public entities. In essence you would be rewarding the usage of more public funds by allowing contribution over a 25% threshold. If the entity only qualifies for a portion of the matching contribution, the state should only award the amount needed to hit the 25% match to make the states funding go towards helping more applicants. Pg 38 Open Access: There should be a higher priority on Adoption and Digital Navigation then Open Access. Open Access only theoretically drives prices down through competition and only addresses one aspect of adoption which is affordability. There will not be enough allocated BEAD funding to address digital equity and this provides a unique opportunity to put more of the responsibility onto the provider once they have the infrastructure in place. There should be identified adoption and digital navigation goals that can be pulled from Washington's Digital Equity Plan and built in as scoring criteria for an applicant to get the full points for "Applicant offering digital navigation services". Pg 39 Local support Executive needs to be added in addition to commissioner. Pg. 39, 42 Tiebreakers This should be Total BEAD project cost and BEAD cost per connection, because an applicant may provide more than the 25% minimum match. The applicant with the lower BEAD funding usage should prevail. Pg 58 Sustainability There should be something tied to the long term viability of the network as it relates to the increase in bandwidth consumption over a period of 10, 15 and 20 years. There should be a clear business plan around how those bandwidth demands increasing will result in capital project improvements while maintaining bullet point 2 around pricing plans. The commitment should be for the life of the agreement, not just 5 years, otherwise prices will increase immediately at that 5 yr mark and should really be for the life of the infrastructure. Need to add: minimum service level requirements (99.99, 99.9% uptime) and service credits based on outage time. Existing broadband providers should have a waiver for this requirement. For example, a company that has been in the business of providing consumer broadband for a period of 10 years or more should be excluded from this. At the very least they should be required to show some sort of minimum consumer rating metric like BBB. Pg. 50 Project area definition WSAC will be providing a response in regards to project areas that King County IT supports. In general KCIT was supportive of the county approach with some recommendations to combine certain project areas to account for naturally occurring terrain that was dividing project areas across vast geographical hurdles, like bodies of water. Engineering designs would be better if you have project areas divided amongst the same areas of land without a large body of water in the middle.

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

No

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

No

Q16. *End of survey*

Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

> Steven Schwerbel

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

> WISPA - Broadband Without Boundaries

Q12. (Optional) What is your title?

> State Advocacy Manager

Q11. (Optional) What is your email address?

> ██████████

Q9. (Optional) What is your zip code?

> ███

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

○ One application per project area [   ]

◉

Multiple project areas in an application	. Providers find opportunities the state is unable to recognize, based on their individual networks, and be able to highlight these opportunities by submitting one application that covers multiple project areas. Further, the work required for small providers to create multiple proposals may be onerous. WISPA encourages WSBO to accept proposals that contain multiple project areas, especially for small project areas where true cost can better be compared.

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

See notes on the overall subgrantee selection process

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

○ County project area boundaries with broadband serviceable locations limited to approximately 1000

◉ Other, please describe | WSBO requests feedback on defining project area boundaries, proposing to use either county boundaries or school districts: if using county boundaries, WISPA understands that counties may be divided based on a limit of 1,000 BSLs per project area, using census blocks as a starting point. Broadband costs depend significantly on factors of soil composition, topography, and population density. Generally, prioritizing a small project area territory will ensure that these factors remain reasonably consistent and proposed projects will not have to address significant disparities in service types. WISPA expresses concern that either of WSBO's proposals may be too large to be easily served

by one technology type or grant proposal, as it may comprise diverse geographic and soil features, and especially given the significant range of topographies in the state – issues which may be compounded by uneven population densities in a given project area. Providers may see approaches to building out networks that are not immediately apparent to the state, and existing networks may suggest approaches to covering grant areas in unforeseen ways, and WISPA members may have valuable input during WSBO's public comment period. WSBO should choose the option that most limits geographic, soil composition, and population density diversity and creates the most physically compact project areas. Taking this approach will yield several significant benefits: 1.) Being smaller, the range of grant proposals will likely come from more providers offering a wider range of alternatives for serving a given territory. This will increase participation by small providers. 2.) The increased number of applications will help WSBO prioritize Minimum BEAD Outlay per project area, thus finding savings to pass on to DE efforts, and identify areas where providers find it more feasible to offer a higher match percentage. 3.) In identifying more targeted areas that are extremely challenging to serve, WSBO can better prioritize its Extremely High Cost Per Location Threshold ("EHCLT") and identify opportunities to further save costs by employing alternative technologies. Fixed Wireless Access ("FWA") alternatives may be especially valuable in these areas, as they offer significant savings in both project cost and time to deployment (https://www.wispa.org/docs/2021_WISPA_Report_FINAL.pdf). WSBO is encouraged to follow the Colorado model, including a period of public comment on

proposed project areas
before finalizing its
project areas.

○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

WISPA supports WSBO's focus on "Minimum BEAD Outlay" for both Priority Broadband Projects and Other Last-Mile Broadband Deployments to Minimal BEAD Outlay. WSBO rightly recognizes that its BEAD funds are not unlimited, and that it will need to maximize its outlay wherever possible to achieve universal service. However, scoring in this category should go beyond the proposed grant match percentage to prioritize cost per location served (currently relegated to being a tiebreaker category). This factor is vital to a true understanding of the cost of universal service for a project area, and will be a significant factor in ensuring BEAD funds are wisely invested. Making cost per location the most valuable category within "Minimum BEAD Outlay" will create a stronger incentive for potential subgrantees to "put their best foot forward" by submitting their most attractive bids; further, awarding more cost-effective projects will impact affordability – building cost-effective networks will allow providers to pass savings to customers. Indeed, WSBO's focus on grant match may have the unintended negative consequence of reducing the number of bids it receives, as this criteria may be especially onerous for more difficult to serve areas. Recognizing this impact, several other states, including Oregon, Kansas, and Vermont, have requested a waiver of the matching grant criterion. While WISPA believes it is vital to ensure that providers have an appropriate level of "skin in the game" and believes the state should not be expected to fund 100 percent of any project with taxpayer funds, the ability to allow individual projects to reduce the required matching percentage will broaden the ability of communities and small ISPs to participate in Washington's BEAD program. Given WSBO's ability to control the end-user cost by controlling the cost of an awarded project and the vital importance of cost per location, WISPA encourages WSBO to adjust its Primary Criteria scoring rubric to emphasize the downstream impact Minimal BEAD Outlay will have on Affordability by scoring Outlay at 50 points, subdivided to award 35 points to cost per location and 15 points for match percentage; and 15 points to Affordability. Further, "Speed to Deployment" should be a vital priority for WSBO's Secondary Criteria: the opportunity cost of waiting for a broadband network to be completed is significant. In a white paper titled Getting to the Broadband Future Efficiently with BEAD Funding, MIT economist Dr. William Lehr notes that "studies have variously estimated the value of broadband at around $2,000 to $4,000 per subscriber per year. These estimates suggest that delaying the availability of broadband for two years because of the prioritization of FTTP to the 8 million unserved locations identified in the FCC mapping data may forego $32 to $64 billion in total surplus. These substantial opportunity costs cannot be overlooked" (https://www.wispa.org/docs/Lehr_White_Paper_Final.pdf). WISPA also encourages WSBO to revise its "Speed of Network" scoring system: it should not award points based on the technology being deployed, but on an evaluation of the network architecture being proposed. WSBO awards 3 points to "HFC DOCSIS 3.1 or higher," with only 2 points to licensed-spectrum FWA, and fails to recognize unlicensed-spectrum FWA ("uFWA"). However, reliability is a function of network design, not of technology type. The radio technology WISPA members use to provide reliable, high-speed internet service to their customers has seen dramatic innovation over the last decade, with current technology offering 1 Gbps download speeds that exceed the BEAD NOFO's minimum standards (https://airspan.com/news/resound-networks-and-airspan-networks-successfully-test-1-gigabit-per-second-fixed-wireless-access-fwa-services-using-6-ghz-spectrum/, https://nextlinkinternet.com/gigabit-6-ghz-fixed-wireless-is-a-reality/, https://www.taranawireless.com/wp/wp-content/uploads/2022/05/Tarana-G1-Data-Sheet_2022.05.23.pdf). This trend will only continue in the future. While uFWA is frequently deployed in rural areas that are less "noisy" than urban areas, innovation has continued to provide mitigation techniques to minimize interference and make frequencies more navigable. These include frequency agility technologies across a large amount of open spectrum enable providers to find "clean" open channels, with new generation equipment using noise cancelation technologies; network densification, in which the provider uses all or almost all of the unlicensed spectrum in a given market, is common among uFWA providers; and directional antennas, which are commonly used to focus the signal in a particular direction on specific frequencies, often supplemented by beamforming antennas that can further mitigate harmful interference. WSBO should not score technologies differently a priori, but should perform a sound engineering review of each plan to confirm its technical ability to deliver the proposed speeds and reliability. FWA networks of all types should not merely be seen as a second-best option, but as a powerful tool to fully close Washington's digital divide, especially in expensive, sparsely populated, and hard-to-reach areas of the state, and to realize cost savings that will allow WSBO to undertake meaningful non-deployment activities that will further bolster Washingtonians' ability to fully engage in modern digital life. Lastly in its scoring rubric, WSBO should not "offload" the NTIA's expectation that it undertake robust DE efforts by adding this burden to providers. This factor will raise costs, reduce the ability of small providers to participate, and does not live up to the spirit of the BEAD NOFO. While WISPA recognizes the important role that the ACP program has played in expanding access to economically disadvantaged households, digital navigator requirements should be removed from this section. WISPA suggests a final scoring matrix as follows: BEAD Outlay – 50 points, Affordability – 15 points, Fair Labor Practices – 10 points, Speed to Deployment – 11 points, Open Access – 8 points, Local and Tribal Coordination – 4 points, Adoption and Digital Navigation – 2 points.

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

Requirement 1: Objectives (Section 2.1) WISPA appreciates the goals the Washington State Broadband Office ("WSBO") lays out and

recognizes that the BEAD NOFO prioritizes expanding fiber networks to the extent possible. However, WISPA disagrees that BEAD-funded networks should be scalable to 150 Mbps symmetrical speeds. The FCC's recent Notice of Inquiry in GN Docket No. 22-270 proposes to define broadband at 100/20 Mbps, consistent with BEAD requirements. There is no evidence that consumers demand or will demand equivalent upload speeds, and BEAD funds should not be expended to achieve those results, at the expenses of funding unserved and underserved areas with 100/20 Mbps speeds. A white paper by the Vernonburg Group determined that, "[g]iven the current market offerings by broadband providers and the highlighted asymmetric nature of consumer demand, there is no justification for a 100/100 Mbps broadband definition, but ample justification for a 100/20 Mbps broadband definition" (https://static1.squarespace.com/static/5f5282b71117310d16e654d3/t/637c0828c164e464e07e5a34/1669072937014/Toward+Effective+Admin istration+of+State+and+Local+Fixed+Broadband+Programs+%28Nov+2022%29.pdf). Thus, premising plans for broadband expansion on symmetrical speeds will lead to wasteful spending on unnecessary infrastructure, rather than focusing on achieving the goal of universal service. WSBO should be proud of the non-deployment activities it envisions, including such critical digital equity ("DE") goals as "expand[ing] foundational digital literacy training and advance[ing] digital skills for residents entering the workforce." DE is a critical component of BEAD that should not be sacrificed. However, WSBO acknowledges, "The BEAD program allocates more than $1.2 billion to the state of Washington to expand broadband service. However, this amount will likely be insufficient given the estimated number of unserved and underserved locations and the relatively high number of high-cost locations." Taken together, this suggests that the fundamental goal of the BEAD program should be to successfully connect all unserved and underserved BSLs as quickly and cost-effectively as possible using the widest range of available technologies in order to maximize its investment. Using this "best tool for the job" approach, including robust deployments of Fixed Wireless Access ("FWA") networks using both licensed and unlicensed ("uFWA") spectrum, will ensure that savings realized through wise technology investments are able to be prioritized to non-deployment activities. WISPA's subsequent discussions will be geared toward identifying opportunities to achieve this goal. Requirement 8: Deployment Subgrantee Selection (Section 2.4) WISPA recognizes the need to contemplate implementation of Build America, Buy American (BABA) Act requirements, but encourages WSBO to support NTIA's limited non-availability waiver for certain construction materials and manufactured products, and to continue to work with Washington state's ISP community to understand the impact of supply chain issues on the potential need for other waivers that will support the swift and efficient deployment of broadband infrastructure across the state. Before contemplating a potentially lengthy negotiation process with providers to cover project areas that do not receive bids, WSBO should first add these areas to the subset of locations above the EHCLT. Given the greater flexibility the EHCLT gives WSBO to consider high-speed FWA, this issue is vitally important to WISPA members. Indeed, the EHCLT is a vital tool not merely for determining how many locations Washington's BEAD allocation can serve with fiber, but in maximizing cost savings that will allow WSBO to undertake robust non-deployment activities. In the coming weeks, WISPA will be releasing a dashboard that will give WSBO a tool that should provide greater insight into the effects of certain policy choices on the EHCLT level and the trade-offs of ubiquitous serve and DE objectives. This dashboard will clearly demonstrate that robust use of FWA will realize significant savings that can be devoted to DE. If the EHCLT is set too high, there will be a gap between locations funded with Priority Broadband Projects and those that do not meet the EHCLT, leading providers to not bid on certain project areas. This is due in part to the demonstrably higher costs to deploy fiber than FWA, as noted in the Carmel Report (https://www.wispa.org/docs/2021_WISPA_Report_FINAL.pdf). Indeed, WSBO recognizes that a fiber-only approach will lead to an unmitigated failure to realize the universal service goals promulgated by both the BEAD NOFO and the state's BEAD Goals: using a "density-based fiber-only model," WSBO projected "a budget shortfall of approximately $480 million." This would be unacceptable. WISPA suggests an approach outlined in the Lehr White Paper: instead of prejudging outcomes by establishing the EHCLT "as high as possible," Dr. Lehr recommends that states "set their EHCLT to optimize the effectiveness of public funds in promoting the State's broadband and digital economy strategies, not at some artificially high threshold that leaves unserved locations unserved and wastes public funding overbuilding locations that are already served:" This is because "even assuming that a State is provided sufficient funds to serve every unserved location based on the average FTTP cost in a State (and that will be higher in higher cost States), then the more locations that have to be served that have much higher costs, the lower the EHCLT has to be set to enable a larger share of locations to be eligible for funding by fixed wireless technologies." Staff time is another "unseen" cost of BEAD, and instead of dedicating this time to negotiations, WSBO could instead fold any project areas that do not receive applications for 100% service into its EHCLT area designation. Taking this approach would increase WSBO's ability to consider more cost-effective technologies to serve these areas, saving the state time and expense. If grant proposals by providers using uFWA still cannot serve all BSLs, further negotiation is clearly warranted: however, if an alternative technology is able to serve the entire project area, the state will save itself meaningful expense in sparing itself the work of renegotiation and in likely overall project cost. In this, WISPA encourages WSBO to consider the Colorado Broadband Office's conclusion that it must focus on alternative technologies in EHCLT areas elsewhere: "In cases where a priority broadband project area exceeds the EHCLT, the WSBO will solely consider non-priority broadband projects, even if they do not meet the criteria for reliable broadband." In discussing the Letter of Credit ("LOC") requirement, WSBO it will accept "any… alternative approved by the NTIA." While letters of credit were required under the initial BEAD NOFO, NTIA announced a conditional programmatic waiver to the letter of credit ("LOC") requirement on November 1, 2023, allowing alternatives including performance bonds and issuing funding on a reimbursement basis (https://broadbandusa.ntia.gov/funding-programs/policies-waivers/BEAD-Letter-of-Credit-Waiver). This waiver came about due to the work of a broad coalition representing the entire spectrum of broadband stakeholders, including many WISPA members. Consistent with NTIA's programmatic waiver, WISPA strongly encourages Washington to waive the LOC for all providers and to work with its provider community to adopt an appropriate alternative– preferably, either moving to a reimbursement model for subgrantees or accepting performance bonds. While NTIA and Washington state have a legitimate interested in ensuring that subgrantees have the financial capability to undertake the projects they propose, the original LOC mechanism is an inappropriate tool and would stifle, rather than encourage, applications by small business. Further discussion of the impact of the LOC requirement on minority businesses and women-owned enterprises follows in Requirement 13. Consistent with the BEAD NOFO, WISPA supports WSBO's proposal to allow unaudited financial information "if the prospective subgrantee has not been audited during the normal course of business," provided that the subgrantee commits to providing the audited documents if its proposal is selected. Opening the BEAD process in this way will allow new entrants to participate without bearing the cost of an audit as "table stakes" while ensuring that appropriately audited financial information is available at an appropriate point. Finally, in this section, WSBO notes that all project plans must be approved by a "certified professional engineer." This requirement will be inefficient and lead to a reduction in small providers' ability to participate. Frequently, professional engineers are not best qualified to evaluate network design if they do not have significant experience in broadband network design; further, many small companies may be unable to afford the cost of engaging a professional engineer, and, as the Federal Communications Commission determined in July 2022 (https://docs.fcc.gov/public/attachments/DA-22-733A1.pdf), such qualifications are not always readily available where a provider would otherwise like to hire one. WISPA encourages WSBO to consider the waiver conditions the FCC granted to its own professional engineering certification rules and to work with the provider community to determine alternative authorities who could qualify to certify that network plans are appropriately designed. Requirement 9 Washington makes clear that it "expects to exhaust all funding on deployment activities." This would be an unfortunate policy result of an inability to realize savings through FWA as a more prevalent alternative to fiber. Indeed, the BEAD NOFO makes clear that DE programs should be robust and should be seen as an integral part of the overall program. However, an appropriate EHCLT combined with a subgrantee selection scoring rubric that incentivizes opportunities for FWA projects to compete will generally increase the likelihood that the State will find enough cost savings to create a meaningful equity program. Requirement 13: Minority Business Enterprises (MBEs)/ Women's Business Enterprises (WBEs)/ Labor Surplus Firms Inclusion (Section 2.9) WISPA greatly appreciates Washington's focus on the importance of MBEs and WMEs. On September 6, 2023, WISPA joined a wide range of broadband leaders in signing a memo titled "BEAD – Alternatives to the Irrevocable Standby Letter of Credit Requirement" (https://connecthumanity.fund/wp-content/uploads/2023/09/Re_-BEAD-%E2%80%94-alternatives-to-the-irrevocable-standby-letter-of-credit-requirement_Sep6.pdf). The letter makes the LOC requirement's negative impact on MBEs and WMEs clear: "by establishing capital barriers too steep for all but the best-funded ISPs, the LOC shuts out the vast majority of entities the program claims to prioritize: small and community-centered ISPs, minority and women-

owned ISPs, nonprofits, and municipalities." WISPA reiterates its encouragement to use the NTIA's conditional programmatic waiver of the letter of credit requirements to pursue alternative mechanisms to ensure fiscal accountability in the BEAD grant process. Requirement 14: Cost and Barrier Reduction As it further considers opportunities to reduce costs and barriers to speedy deployment, WISPA encourages CPUC to create a "Broadband Ready Communities" model to give local communities an additional tool to grapple with the challenges of bureaucratic approvals and costs. This concept has states setting out a model ordinance local units of government, such as towns, cities, or counties, may voluntarily adopt to streamline the permitting process for new broadband projects. The model ordinance may include such items as identifying a single point of contact for broadband issues, commitments to timelines for project approvals, and defining reasonable fees for permits. A Pew memo describes the potential benefits of implementing these standards: "These programs are designed to create efficiencies in broadband deployment, provide a signal to developers and ISPs that a community is willing to work with them toward broadband expansion projects, and foster local leadership and collaboration in all broadband development efforts" (https://www.pewtrusts.org/-/media/assets/2023/04/broadband-ready-communities-ta-memo-pdf.pdf). Requirement 15: Climate Assessment (Section 2.11) WISPA encourages WSBO to consider including climate-related concerns in its scoring model: these issues can be addressed in unique ways by FWA networks. Given the cost of trenching fiber, buried fiber will likely present significant hurdles in both cost and time, incentivizing providers to move toward aerial fiber deployments that are vulnerable to impacts from the flooding, severe storms, wildfires, and other climate hazards that Washington plans to address. By contrast, FWA deployments utilize towers and other vertical infrastructure that can better withstand severe climate events and thus do not have the vulnerabilities presented by fiber, presenting a more appealing solution to the problem of deploying high-speed solutions in challenging terrains. Indeed, FWA providers are frequently called upon to step in to provide emergency connectivity support for first responders battling wildfires, as their infrastructure is unaffected by these natural disasters: the state will undoubtedly be able to identify climate concerns that can be better mitigated against by FWA deployments, rather than fiber. Further, a recent white paper from Tarana Wireless, a vendor that leads the WISP industry in innovating FWA solutions, argues that "when calculated on a per-subscriber basis, the Tarana G1 platform generates 55% less cumulative carbon emissions compared to a fiber-to-the-home deployment, and 70% less net present carbon emissions" (https://www.taranawireless.com/next-generation-fixed-wireless-a-greener-future/). Given Washington's "commitment to cutting statewide climate pollution and achieving net-zero greenhouse emissions by 2050" and taken together with the above, FWA deployments may be a vital part of an overall green strategy that WSBO could pursue in considering its final BEAD rules.

Q16. *End of survey*
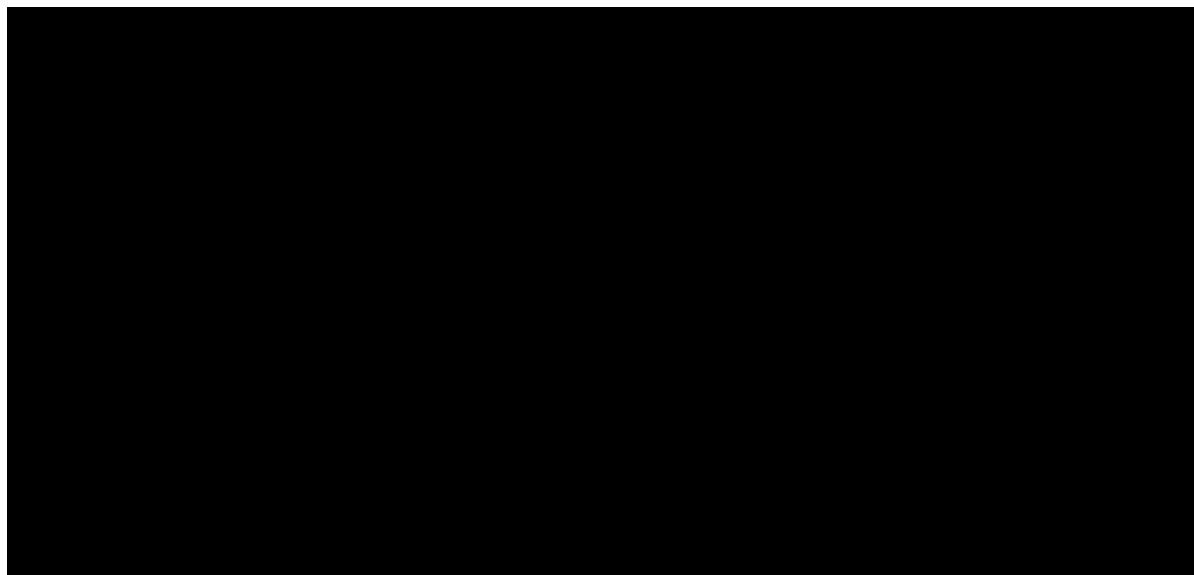
Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

> Doug Adams

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

> Think Marketing

Q12. (Optional) What is your title?

> CMO

Q11. (Optional) What is your email address?

> ██████████

Q9. (Optional) What is your zip code?

> ███

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

○ One application per project area

○ Multiple project areas in an application

153

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

[   ]

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

- ○ School district boundaries
- ○ County project area boundaries with broadband serviceable locations limited to approximately 1000
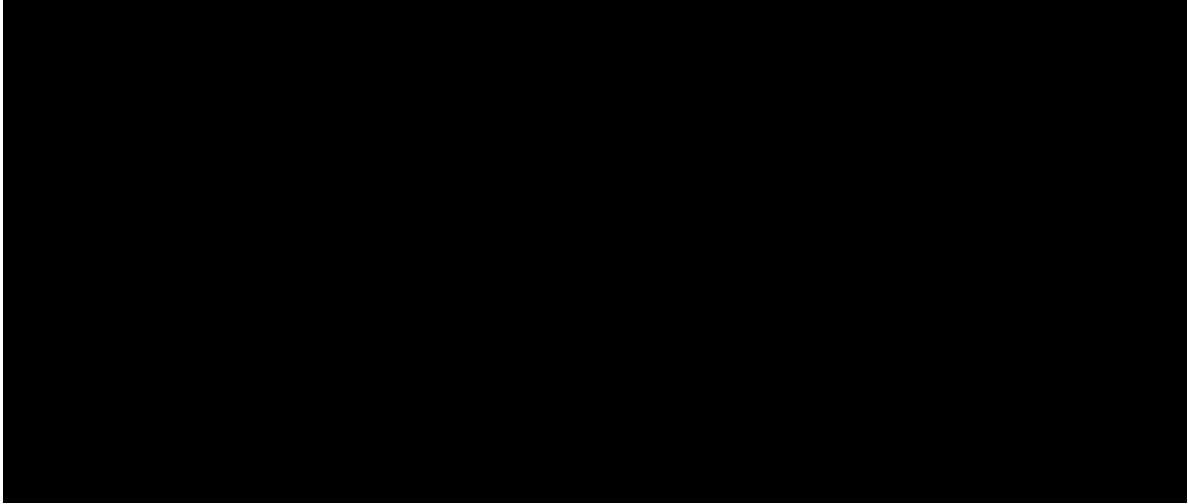- ○ Other, please describe [   ]
- ◉ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

Washington's Volume 2 does not require that recipients commit to or include a plan for marketing when applying for funding. The BEAD NOFO clearly directs States to require subgrantees to conduct public awareness and marketing in a variety of media outlets to promote broadband service made possible from BEAD investments. On page 68, section iv. Public Notice: Eligible Entities shall require subgrantees to carry out public awareness campaigns in their service areas that are designed to highlight the value and benefits of broadband service in order to increase the adoption of broadband service by consumers. Awareness campaigns must include information about low-cost service plans and any federal subsidies for low-income households such as the Lifeline Program, the Affordable Connectivity Program, and any successor programs. Further, awareness campaigns must be conducted in an equitable and nondiscriminatory manner. Subgrantees must utilize a variety of communications media (e.g., online, print, radio) and provide information in languages other than English when warranted based on the demographics of the community. As a firm experienced and adept in broadband network marketing, our recommendation is that Washington ensure subgrantees will dedicate resources to marketing and public awareness campaigns. This can be accomplished by requiring that subgrantee applicants recognize the requirement in grant applications and provide an anticipated path for how requirements will be met. Additionally, Washington should require marketing resources be identified/named and a basic marketing plan provided upon award.

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

[   ]

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

[   ]

Q16. *End of survey*

Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

You can find more information on the project website: https://www.commerce.wa.gov/building-infrastructure/washington-statewide-broadband-act/internet-for-all-wa/. You can also sign up for email updates or provide comments at InternetForAll@Commerce.wa.gov.

We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

> B Lynn Follansbee

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

> USTelecom - The Broadband Association

Q12. (Optional) What is your title?

> VP Strategic Initiatives & Partnerships

Q11. (Optional) What is your email address?

> ██████████████

Q9. (Optional) What is your zip code?

> ████

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

○ One application per project area

○ Multiple project areas in an application

156

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

Washington cannot require providers to offer a $75 1G/1G plan by only awarding full points for doing so. Not only is this impermissible rate regulations, but it is also a design only promotes a "race to the bottom" and encourages applicants to propose lower prices only in hope of winning the grant. This is precisely the defect in the FCC's RDOF auction that resulted in certain winners recently claiming they could not afford to build and are now seeking more funding within only a couple years of winning the auction. (See Emergency Petition of the Coalition of RDOF Winners, WC Docket No. 19-126 (Aug. 16, 2023). See Public Notice, FCC Rejects Applications of LTD Broadband and Starlink for Rural Digital Opportunity Fund Subsidies (Aug. 10, 2022), https://docs.fcc.gov/public/attachments/DOC-386140A1.pdf) Indeed, it is hard to image that experienced providers with the operational expertise necessary not only to build but to maintain these networks would commit to offering such artificially low prices 10 to 11 years into the future. This myopic focus on achieving the lowest price possible was another defect in the RDOF auction that has led to many bidders being rejected after winning a significant number of locations, including LTD Broadband which was the biggest winner at auction, winning $1.3 billion across fifteen states. LTD was ultimately rejected by the FCC and those 528,000 locations are likely still waiting for broadband.

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

○ County project area boundaries with broadband serviceable locations limited to approximately 1000

○ Other, please describe [   ]

● No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

USTelecom appreciates that Washington included the note that it would utilize "any acceptable alternative approved by the NTIA," instead of just a traditional letter of credit. Letter of Credit requirements generally could be a gating requirement and undermine the success of the program and the overall goal of continued investment in next-generation broadband. First, the current requirement will result in at least $1 billion dollars (and up to $2 billion) of BEAD funding going to banks in the form of fees required to issue letters of credit. This will result in less money for broadband deployment. Second, the letter of credit requirement will likely result in less private investment in broadband because providers have a finite amount of capital which they use to fund their deployments and the letter of credit will reduce their available capital. Thus, providers may have to delay or abandon their deployment plans in certain areas. Washington's final proposal should reflect NTIA's recently issued Letter of Credit waiver and allow for alternatives to requiring a Letter of Credit such as allowing the letter of credit requirement to be satisfied by either a letter of credit or a performance bond and allows the letter of credit (or performance bond) to be reduced to 10% if the provider is going to be reimbursed in increments of 6 months of less and allows the letter of credit (or performance bond) to be retired with deployment where the LOC is 25% and also allows a credit union to issue the LOC. (See https://broadbandusa.ntia.gov/funding-programs/policies-waivers/BEAD-Letter-of-Credit-Waiver). It is important to note that NTIA considers this waiver a floor and therefore states still do have the option to waive the Letter of Credit requirements as states like Virginia and Ohio have already done. USTelecom suggests that like Virginia, (see Virginia Final Initial Proposal Volume 2 at 19-21) Washington should ask NTIA to allow it to modify the letter of credit requirements consistent with the attached waterfall proposal (attachment A). The waterfall provides a staged approach that balances appropriate risk management using more objective criteria when assessing the need for a letter of credit requirement that would unreasonably divert limited capital for BEAD projects when unnecessary. It also provides for fairness and administrative ease for the state as the requirements are transparent to all and clearly set forth. Thus, all Washington needs to do is ensure the proper documentation is provided—it does not require an in-depth independent financial evaluation. This alternate solution ensures that the government's investment is protected while also setting the program up for optimal success. Another alternative would be for Washington to follow Ohio's lead in their draft BEAD Initial Plan Volume 2 wherein Ohio seeks a waiver from the letter of credit requirement and proposes alternatives. (See https://broadband.ohio.gov/static/202310-DRAFT_Ohio-BEAD-Initial-Proposal-Volume-II_vShare.pdf at 90). Ohio rightly explains that the waiver is necessary to ensure that providers of all sizes are not barred from participating in BEAD if they can otherwise prove financial stability. Ohio expects that a waiver for letter of credit requirements will help ensure wider participation from ISPs, increase competition, and thereby improve the quality of bids, which combined may ultimately help bolster effective BEAD outlay to reach universal service. Instead of a blanket requirement for letters of credit, Ohio will assess the financial, technical, and operational qualifications of the applicant to evaluate whether the applicant has sufficient financial stability to undertake the proposed project. Ohio proposes that it may require a performance bond, letter of credit, or other financial assurance if it determines that the completion of the project requires additional security based on its assessment of the complete application. USTelecom is supportive of this approach and notes that waterfall approach reference above is an excellent guide for making such evaluations and encourages Washington to follow this approach. At a minimum, Washington should propose to phase down the 10% Letter of Credit requirements consistent with the RDOF program—for every 25% milestone the provider reaches, it can reduce its letter of credit by one year's worth of BEAD funding. (See In the Matter of The Rural Digital Opportunity Fund Auction (Auction 904), Rural Digital Opportunity Fund, Order, AU Docket No. 20-34, WC Docket No. 19-126, DA 20-5, para. 98 (Jan. 30, 2020)). This will help maximize the dollars for deployment versus dollars for bank fees. Classification of Awards as Fixed Amount Subawards While further guidance from NTIA on the applicability of the Part 200 Uniform Guidance likely is forthcoming, NTIA indicated in its Request for Comment that it plans to categorize all BEAD awards as fixed amount subawards. It is important that for BEAD purposes, all awards are deemed fixed amount subawards, notwithstanding any specific reimbursement language in the subgrant agreement or state regulation. This is critical to help ensure adherence to NTIA's guidance on Part 200.

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?
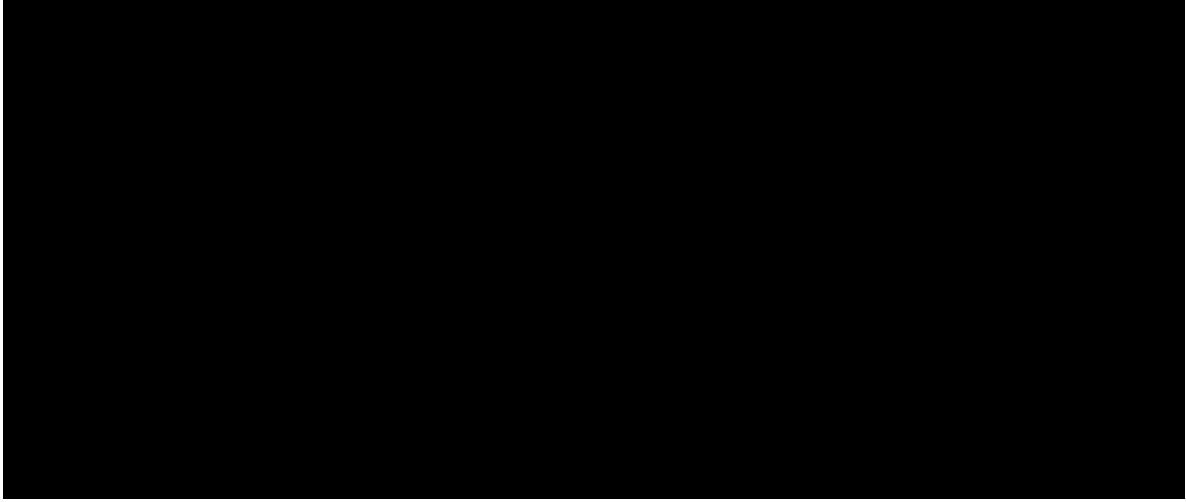
USTelecom agrees that addressing affordability is important, and it is required by NTIA to be the primary scoring criteria. However, states must do so in a way that does not violate federal law and, unfortunately, the Washington State Internet for All's draft Initial Plan Volume 2 includes a policy proposal that runs afoul of federal law by stating that full points are available only for subgrantee proposals that include price points of: $75.00 or less for 1/1 Gbps plan inclusive of all equipment, taxes and fees charged to the customer with fewer points allocated on a sliding scale up to $105 when zero points are awarded. The draft also requires providers to offer a plan of $25 or less for low-income consumers. This proposed low cost plan requirement equates to impermissible rate regulation. In the Infrastructure, Investment and Jobs Act (IIJA) section creating the BEAD program, Congress included a provision titled, "NO REGULATION OF RATES PERMITTED," which established that "[n]othing in this title may be construed to authorize" NTIA "to regulate the rates charged for broadband service." (See Infrastructure Act § 60102(h)(5)(D)). This directive extends to Washington's – and every other Eligible Entity's – BEAD program, as Congress mandated that NTIA review and approve each Eligible Entity's proposal for BEAD implementation. (See IIJA § 60102(e)(3)(D)(II) (requiring NTIA to approve an Eligible Entity's Initial Proposal) and § 60102(e)(4)(D)(II) (requiring NTIA to approve an Eligible Entity's Final Proposal)). Thus, NTIA may not approve any proposal that caps rates for BEAD broadband service without engaging in prohibited rate regulation. By placing the provision barring rate regulation in the subsection addressed to low-cost broadband service options, Congress signaled that rate caps are not an acceptable mechanism to promote affordability. (Id. § 60102(h)(5)). Given this guidance, and that, as discussed below, any such attempts to set rates are preempted by blackletter law, the first two states to publish their draft BEAD Initial Proposals Volume 2, Virgina and Louisiana, removed any set reference to pricing from their final Volume 2. (Compare Virginia Draft Initial Proposal Volume 2 at 45 (requiring low-cost offering of $30), 47 (requiring $50 100/20 Mpbs offering to satisfy middle class affordability for full points) with Virginia Final Initial Proposal Volume 2 at 49 (removing reference to requisite $30 low-cost offering and instead requiring provider to justify why their proposed rate is affordable), 52, 12 (removing reference to $50 offering and instead relying on the FCC's Urban Rate Survey); Louisiana Draft Initial Proposal Volume 2 at 95 (requiring low-cost offering of $30), 96 (requiring $100 1G offering to satisfy middle class affordability for full points) with Louisiana Final Initial Proposal Volume 2 at 101 (removing reference to requisite $30 low-cost offering and instead requiring the provider demonstrate their proposed rate is affordable), 103, 30 (removing reference to $100 offering and instead relying on FCC Urban Rate Survey)). Thus, there are other, lawful, better ways for Washington to also ensure affordability for all residents, including following the examples set by Virginia and Louisiana. For the low-cost option, in addition to its requirement that providers participate in the Affordable Connectivity Program (ACP), Washington should make clear that a provider can satisfy the low-cost service option requirement by offering a plan that does not exceed the Federal Communication Commission's (FCC) "reasonable comparability" rate benchmarks. Under the methodology adopted by the FCC, the reasonable comparability benchmark is the estimated average monthly rate in urban areas plus twice the standard deviation of rates for terrestrial fixed broadband service plans at specified speed tier. (See 2023 Urban Rate Survey – Fixed Broadband Service Methodology, available at https://www.fcc.gov/economics-analytics/industry-analysis-division/urban-rate-survey-data-resources). If the rates fall within the benchmark, they are "affordable." The subscriber could then apply their ACP benefit to that plan. Using the reasonable comparability benchmark for BEAD-funded projects is not only compliant with the terms of the IIJA and blackletter preemption law, but it also makes good policy sense. First, in addition to targeting low-income households through use of the ACP, consistency with this benchmark ensures that subgrantees' overall prices are reasonable. Second, it provides a clear way to assess affordability by use of an objective metric as opposed to

more subjective factors. Third, using the reasonable comparability benchmark also maximizes efficiencies because the methodology is well-established and updated by the FCC annually. Finally, the reasonable comparability benchmark would provide consistency. Many providers already use the benchmark for their offerings given their participation in CAF II, the CAF II Auction, RDOF, and other USF programs. Leveraging the benchmark would allow providers to adhere to one standard versus compliance with a hodgepodge of state-specific standards. Indeed, NTIA recently issued guidance stating that the middle-class affordability requirement "is not a mandated ISP service offering with defining eligible criteria; it is a strategy designed and implemented by the Eligible Entity." This guidance is consistent with Congress' clear directive to bar rate regulation as part of the BEAD program. Washington can satisfy its requirement to implement a strategy for middle class affordability by requiring applicants to confirm that their proposed rates for broadband service in a BEAD-funded area are comparable to rates charged in non-BEAD areas where there are multiple broadband providers. Washington could also follow the sound paths taken by Virginia and Louisiana and compare the applicants' broadband rates to the FCC's reasonable comparability benchmarks. If the rates fall within the benchmark, they are "affordable." For the reasons discussed above, use of the reasonable comparability benchmarks makes good policy sense. Requiring Set Rates Is Preempted. Finally, in addition to being prohibited by the Infrastructure Act, Washington's proposal to require service be offered at specified rates is preempted by federal law for multiple reasons. First, it conflicts with the federal policy of nonregulation of broadband. (See generally Gade v. National Solid Wastes Management Ass'n, 505 U.S. 88, 98 (1992) (stating that federal law preempts state law where that state law "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress" (quoting English v. General Elec. Co., 496 U.S. 72, 79 (1990))). The FCC has determined that broadband is subject to light-touch regulation as an information service under the Federal Communications Act, (See Restoring Internet Freedom, Declaratory Ruling et al., 33 FCC Rcd 311 (2017)) and that classification forecloses federal and state officials alike from imposing common carriage regulations on broadband providers, including restrictions on rates. (See Charter Advanced Servs. v. Lange, 903 F.3d 715, 719 (8th Cir. 2018) ("'[A]ny state regulation of an information service conflicts with the federal policy of nonregulation,' so that such regulation is preempted by federal law." (quoting Minn. PUC v. FCC, 483 F.3d 570, 580 (8th Cir. 2007)); N.Y. State Telecomms. Ass'ns v. James, 544 F. Supp. 3d 269, 280-83 (E.D.N.Y. 2021), appeal docketed, 21-1975 (2d Cir. 2021) (finding, at the preliminary injunction stage, that conflict preemption bars New York state law requiring broadband providers to offer low-income consumers service at or below price ceilings)). Second, Washington's proposal is preempted because federal law occupies the field of interstate broadband regulation, foreclosing the possibility of state regulation. (See James, 544 F. Supp. 3d at 284-88 ("Because the [New York law] regulates within the field of interstate communications, it triggers field preemption."); see generally Arizona v. United States, 567 U.S. 387, 399 (2012) (stating that "States are precluded from regulating conduct in a field that Congress, acting within its proper authority, has determined must be regulated by its exclusive governance")). While Washington may implement the directives of Congress and NTIA under BEAD as an Eligible Entity, that authority does not provide license to go further and restrict the rates that broadband providers may charge. Finally, Congress has expressly prohibited states from regulating rates for wireless broadband, including for fixed wireless broadband service, that may also be part of BEAD deployment. (47 U.S.C. § 332(c)(3)(A) (stating that "no State or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service or any private mobile service" absent express FCC permission grantable only in limited circumstances)). Preemption applies even though the proposed language would be part of the Washington BEAD program and not a standalone regulation, because the Broadband Office would be acting in a regulatory capacity. The Supreme Court has held that preemption will apply where the government acts as a regulator but not when it acts as a market participant. (Bldg. & Constr. Trades Council v. Associated Builders & Contrs., 507 U.S. 218, 226-227 (1993) (Boston Harbor); see also Am. Trucking Ass'ns v. City of Los Angeles, 569 U.S. 641, 650 (2013) (distinguishing "the State acting in a regulatory rather than proprietary mode")). A federal appeals court has concluded that a state action framed as a condition on funding nonetheless is regulation that may be preempted if the answer to either of the following questions is "no:" "First, does the challenged funding condition serve to advance or preserve the state's proprietary interest in a project or transaction, as an investor, owner, or financier? Second, is the scope of the funding condition 'specifically tailored' to the proprietary interest?" (Hotel Emples. & Rest. Emples. Union, Local 57 v. Sage Hospitality Res., LLC, 390 F.3d 206, 216 (3d Cir. 2004)). Here, the answer to both questions is clearly "no." The proposed approach is intended to compel providers to make broadband service less expensive for residents, i.e., it is intended to set rates, not to advance the interests of the State as a market participant. Thus, the condition neither advances the state's proprietary interest nor is it in any way tailored to that interest. Future Flexibility is Necessary. USTelecom applauds Washington for permitting providers to change prices charged to end users after 12 months and at a rate that does not exceed the Consumer Price Index for All Urban Consumers (CPI-U) 12-month percentage point change for the "All Items" category, published by the U.S. Bureau of Labor Statistics. But, Washington only references such flexibility in the context of its middle class affordability plan and this flexibility is of the utmost importance across the board because as the Biden Administration estimates, most BEAD-funded networks will not be deployed until 2030. (https://www.whitehouse.gov/briefing-room/statements-releases/2023/06/26/fact-sheet-biden-harris-administration-announces-over-40-billion-to-connect-everyone-in-america-to-affordable-reliable-high-speed-internet/). Providers will likely be submitting their proposals in or around 2024, in conjunction with the timeframe for actual build out, means that providers will be locking in any rates 10 or 11 years in advance, an impractical and unrealistic request. Indeed, requiring providers to maintain a rate for any amount of time amounts to unfair market interference. Furthermore, many of the factors that cause rates to increase are beyond a provider's control. For example, typical market adjustments due to inflation are a factor as are taxes. In addition to the proposed increase, given that Washington's proposed rates are required to be all inclusive with taxes included, if the local or state government raises taxes the provider should be permitted to adjust accordingly. Washington should instead follow the lead of Virginia and Louisiana. Both states allow providers to make reasonable yearly adjustments across the board. Virginia allows providers to make yearly adjustments of up to 4% on committed prices based on the Consumer Price Index (CPI). (See Virginia Final Initial Proposal Volume 2 at 10, 50). Louisiana allows providers to adjust their generally available offerings consistent with the FCC's reasonable comparability benchmark (see Louisiana Final Initial Proposal Volume 2 at 30) and the low-cost offering consistent with the CPI. (See Louisiana Final Initial Proposal Volume 2 at 102).

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

Q16. *End of survey*

Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

Maureen McLaughlin

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

Lumen

Q12. (Optional) What is your title?

PROGRAM MANAGER III

Q11. (Optional) What is your email address?

██████████████

Q9. (Optional) What is your zip code?

████

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

◉ One application per project area
○ Multiple project areas in an application

161

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

Comments: (1) While 75% weighting seems reasonable for the top scoring categories, (minimal BEAD outlay, affordability and fair labor practices), the Washington State Broadband Office, WSBO, should consider spreading scores more evenly across these categories. Applicants that provide highly competitive pricing and demonstrate a history of fair labor practice compliance are more likely to deploy as they have committed to and operate networks successfully for years to come. Lumen agrees states should prioritize projects based on the provider's demonstrated record of compliance with federal labor and employment laws. (2) • "The Washington State Legislature has set aside BEAD match funding for public entities, recognizing that they may not have the financial ability to meet the 25% requirement."(WSBO I.P. Vol 2). The intent of the legislature was to ensure that public entities would be able to participate in BEAD and meet the 25% match requirement. It was not the intent of the legislature to provide a blanket 25% match to all public entities and then allow the public entities to add funds to create a higher matching percentage and increase their minimal BEAD program outlay score. This would create an unfair advantage for these public entities in scoring versus other BEAD applicants. In addition, not all counties and local governments have the interest to be a public provider and they may not have a public provider in their area. If private providers are not given equal chance to win grants, unserved/underserved citizens in these areas are the ones who will be penalized. (3) • With regards to scoring for affordability, applicants that offer a higher speed service offering than the 100/20 Mbps requirement should be eligible for 'bonus' affordability scoring. (4) • With regards to scoring speed to deployment, there will be intense competition for limited resources like labor and materials. With all states on the same national timeline for BEAD buildouts, there are valid concerns about accessing these essential resources. Labor shortages may increase due to the high demand for skilled fiber technicians. Access to affordable materials and supply chain stability are major concerns. For these reasons, any promises about increasing the speed to deployment are questionable. No provider can offer a guarantee on this due to all the uncertain variables in play. (5) • The company has multiple concerns regarding how Washington has proposed to score open access. Scoring for Open Access, (9%), which is a secondary criterion, is almost equal to Fair Labor Practices, (10%), which is a primary criterion. As mentioned above, WSBO should consider spreading scores more evenly across the primary criteria category. A primary criterion's importance should be clearly delineated by the percentage of scoring in comparison to a secondary criterion. Washington, with its previous ARPA funded grant rounds, has clearly favored open access networks from public providers and not awarded funding to private providers that filed applications without a public partner. If the goal is to provide FTTP to as many unserved BSLs as possible, giving a scoring advantage to open access networks could offset the benefits of scoring the grant cost per unserved BSL. (6)

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

◉ County project area boundaries with broadband serviceable locations limited to approximately 1000

○ Other, please describe [   ]

○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

4.13 Comment: • Requiring a certified professional engineer will likely create a hardship for providers that do not staff certified engineers internally. This requirement will also increase the overall cost of the projects due to having to contract with an outside engineer. Each unnecessary cost adds up and diverts grant monies away from being used to extend broadband infrastructure to unserved areas. Most companies that will be submitting BEAD applications have a history of successfully building broadband networks and the engineers within their organization (or who they contract with) often have more experience than someone with the title of professional engineer.

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

12. Low-cost BB Service Oprion (requirement 16) Comment: • Lumen is committed to working with states and the federal government to ensure that the Affordable Connectivity Program (ACP) continues to be funded in the future. Lumen has launched a no-cost broadband plan, called "ACP Internet," to subscribers that qualify. ACP Internet offers broadband speeds of up to 200 Mbps at no charge with no data caps, surcharges, or usage-based throttling.

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

4.6 Project Area Definition - Comment: Lumen recommends that the state adopt the county boundaries definition of project area using Census Block Group (CBG) levels. CBGs fit well into existing practices for providers because they are easy to work with and are consistent with data gathering and compiling efforts that most providers use to analyze coverage. Also, it will be very difficult and much more expensive for existing providers to serve an entire county, especially given there will be some very high-cost areas within each county that will exceed the state's high-cost threshold.4.9 EXTREMELY HIGH-COST PER LOCATION THRESHOLD IDENTIFICATION - Comment: • Lumen anticipates 3rd party estimated costs, such as CostQuest, to be significantly lower than actual cost estimates determined by providers. However, we appreciate the state's multi-faceted approach to determining EHCT. Additionally, Lumen appreciates Washington's preference for fiber networks and urges the WSBO to set the extremely high cost per location threshold as high as possible to help ensure that end-to-end fiber projects are deployed wherever feasible. Fiber is sustainable, scalable, and renewable. It offers greater capacity, predictable performance, lower maintenance costs and a longer technological lifetime than coaxial cable, satellite, and fixed wireless technologies. 16. Certification of Compliance with BAD Requirements - Comment: • While we acknowledge the BEAD NOFO recommends semiannual progress reporting, Lumen recommends that Washington follow the Rural Digital Opportunity Fund and Connect America Fund II reporting process, which is annually. Additionally, the company suggests the state consider equal monthly grant payments. • Also, states should adopt audit and compliance requirements consistent with those in the BEAD NOFO or NTIA guidance to ensure uniformity with how compliance will be measured, the potential penalties they may face, and the audit processes involved among the states. 10. Cost and Barrier Reduction (Requirement 14) - Comment: • Lumen commends the WSBO for their commitment to improve existing permitting and easement processes to increase project efficiency and timeliness. This will increase the speed and reach of broadband infrastructure deployment. • The WSBO should consider prioritizing proposed projects that leverage use of the existing infrastructure and reduce costs to connect unserved/underserved locations in Washington. Additional Comments on 4.2 Scoring Rubic - • "Minimal BEAD Program Outlay" needs to include consideration of the cost per location as the BEAD NOFO suggests on page 43: "In comparing the project's BEAD outlay and the prospective subgrantee's match commitments, Eligible Entities should consider the cost to the Program per location while accounting for any factors in network design that might make a project more expensive, but also more scalable or resilient."(BEAD NOFO p.43) While the WSBO includes cost per location and total cost as tie breakers, Lumen believes the WSBO should incorporate these as 'main' criteria for scoring to ensure scoring is truly based on "Minimal BEAD Program Outlay." This will help maximize the number of unserved BSLs that will benefit from the BEAD program. Even with the $1.228 billion that has been allocated to Washington for BEAD, it is likely not enough to cover all of the unserved BSLs with fiber to the premise (FTTP). Lumen estimates that there are about 94,700 unserved BSLs in Washington. (underserved adds about another 235,000 BSLs.) Dividing $1.228 billion by 94,700 equals $1,296 average grant cost per unserved BSL. The average costs per BSLs are really low and would be much closer to what a FTTP provider would expect to pay for suburban aerial FTTP vs. buried FTTP. Also, the percentage of matching funds alone is not a relevant measurement for scoring "Minimal Bead Program Outlay" if the state wants to maximize the number of unserved BSLs that will benefit from the BEAD program. An example that demonstrates this occurred in Montana, with the 2022 ARPA funding grant program. Lumen and another provider both filed applications to provide FTTP in Forsyth, Montana: CenturyLink Application: Score 65 1,032 BSLs, requested grant: $656,500 Grant cost per BSL: $636 Awarded – Range Telephone: Score 66 766 BSLs, grant: $6,121,738 Grant cost per BSL: $7,992 The project areas were very similar, yet the cost was significantly different. CenturyLink had existing middle mile fiber into Forsyth and provided voice service in Forsyth primarily through aerial copper facilities. The company in developing its cost estimate, based that upon being able to over lash fiber cable to the existing aerial copper attachments on existing poles throughout most of the project area. Even though the company does not know the engineering plans for Range Telephone, it suspects they based their plans on having to do a large percentage of buried fiber, which would explain the significant cost difference. Range Telephone was granted an award for Forsyth because it scored 1 point higher than CenturyLink even though its grant cost per BSL of $7,922 was more than 12 times CenturyLink's $636 per BSL. This was not an isolated situation in Montana. The average grant cost for awarded BSL to CenturyLink was $953 per BLS. In comparison the overall average grant cost for awarded BSL to all awarded providers was $5,009. As learned through the Montana experience, if Washington is not willing to make appropriate changes to scoring based upon average grant cost per BSL, this will result in less than optimum allocations of the BEAD grant dollars. • Lumen has demonstrated its' commitment to Washington with significant FTTP deployment at its own expense. The company continues to aggressively build FTTP to many locations in Washington where a business case can be made. The company already has built FTTP to several hundred thousand customer locations in Washington and is planning to build hundreds of thousands more locations over the next several years. In its recent quarterly financial results, the company reported that it already has over 3.5 million FTTP customer location passings in its 16-state ILEC territory and is planning to build at least another 500,000 new FTTP customer locations next year. • The company is building FTTP in the lower cost, competitive areas so that it can be competitive with CATV providers and other FTTP providers. This benefits Washington citizens in these areas because it provides a strong competitive choice for high-speed internet (HSI). Company resources in Washington are primarily focused on building FTTP to additional areas where there is a business case to do so. The company is also interested in being awarded BEAD grants to change the economics of building FTTP in higher cost areas that otherwise will not happen. However, the company has limited resources and will be disciplined in determining which states have established BEAD program criteria that provide a reasonable opportunity for the company to be awarded funding. If Washington does not change its current focus on percentage of matching funds and overall scoring, it is very doubtful that Lumen will find many projects that will be deemed competitive for filing applications. On the other hand, if the state's scoring considers grant cost per BSL, the company believes there could be many areas where the company has existing infrastructure and would be inclined to file applications for project areas based upon the grant cost per BSL.

Q16. *End of survey*
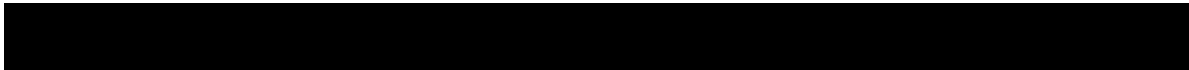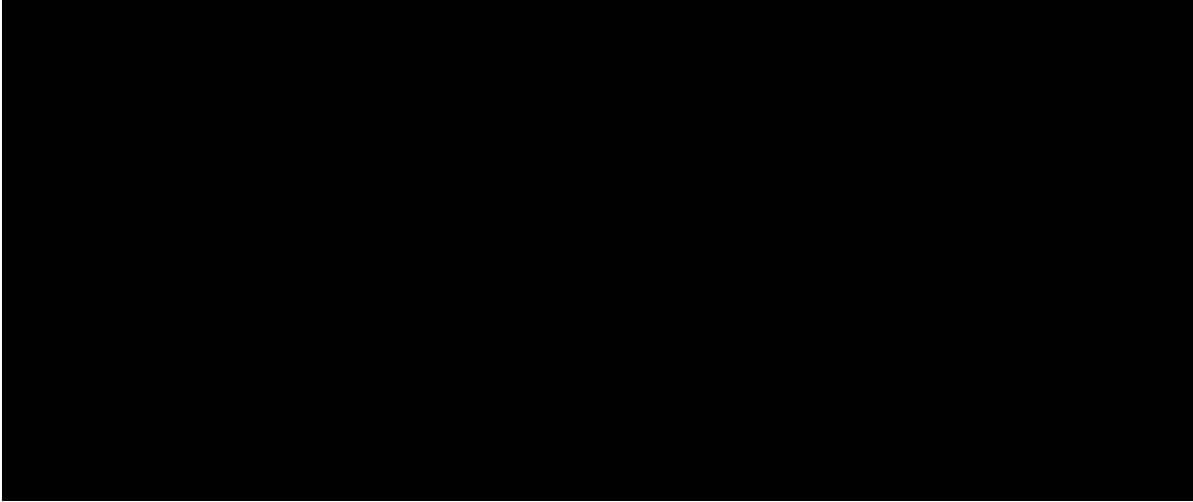
Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

You can find more information on the project website: https://www.commerce.wa.gov/building-infrastructure/washington-statewide-broadband-act/internet-for-all-wa/. You can also sign up for email updates or provide comments at InternetForAll@Commerce.wa.gov.

We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

> W. Nick Pappin

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

> Washington State University

Q12. (Optional) What is your title?

> Assistant Director

Q11. (Optional) What is your email address?

> ████████████

Q9. (Optional) What is your zip code?

> ████

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

○ One application per project area [   ]

◉

Multiple project areas in an application	I think a Bundle and a Reserved individual project area system would be best. This would allow for a provider to build the most logical network but still offer the ability to address a single project area if the bundle isn't selected. This is similar to Virginias system.

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

No.

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

○ County project area boundaries with broadband serviceable locations limited to approximately 1000

◉ Other, please describe [Spatial join of both.]

○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

I would encourage WSBO to include expertise from other institutions of higher education, such as members of the SBCTC, in addition to UW to support scoring of applications. (Pg. 33)
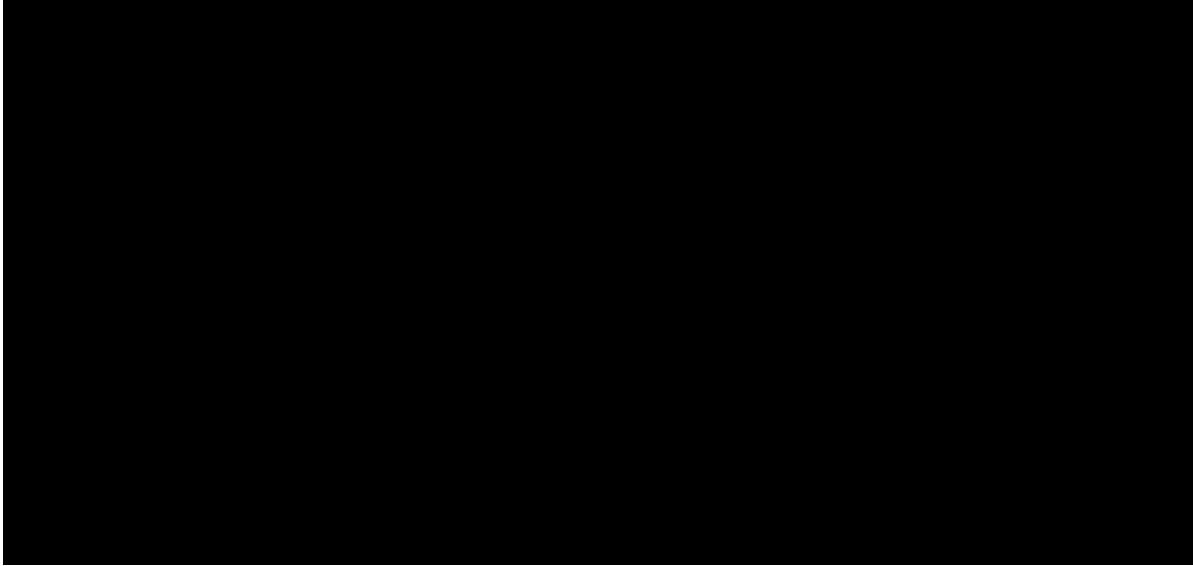
Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

No

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

Nope! Thank you for all the hard work. Further written comments provided via email.

Q16. *End of survey*

Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

William Belden

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

Washington State Board for Community & Technical Colleges (SBCTC)

Q12. (Optional) What is your title?

Policy Associate, Workforce Education

Q11. (Optional) What is your email address?

██████████

Q9. (Optional) What is your zip code?

████

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

◉ One application per project area This seems to be most seemless.

○ Multiple project areas in an application [   ] 168

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

N/A

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

- ● School district boundaries
- ○ County project area boundaries with broadband serviceable locations limited to approximately 1000
- ○ Other, please describe
- ○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?
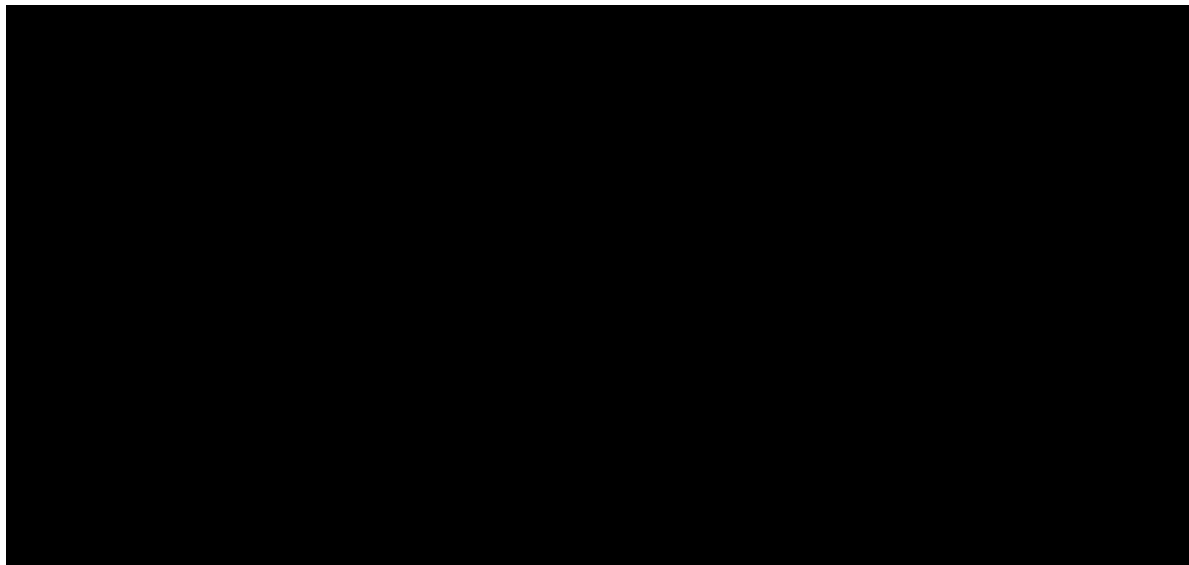
N/A

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

N/A

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

Table 4: Examples of Potential Outreach Methods and Partners for Future Engagements (p. 24) Newsletters SBCTC requests that this bullet point "State Board of Technical and Community Colleges" be revised as follows: Washington State Board for Community & Technical Colleges 8.1 EQUITABLE WORKFORCE DEVELOPMENT PLANS B. Developing and Promoting Partnerships (p. 84) SBCTC requests that this sentence "Other workforce stakeholders may include representatives for state, local government, and tribal entities, higher education institutions, community colleges and trade schools, trade representatives, state and local workforce boards, unions and worker organizations, ISPs, employers, the public workforce system, and community-based organizations" be revised as follows: Other workforce stakeholders may include representatives for state, local government, and tribal entities, higher education institutions, community and technical colleges, trade schools, trade representatives, state and local workforce boards, unions and worker organizations, ISPs, employers, the public workforce system, and community-based organizations. SBCTC requests that Education partners, specifically SBCTC/community and technical colleges and OSPI/school districts be included in conversations to develop workforce training programs within this paragraph "The WSBO will also request that the Washington Workforce Association, WorkSource Washington, tribal organizations, and regional Workforce Development Councils develop workforce training and job placement programs to support BEAD project implementation. This work will support the efforts spearheaded by WTB and ESD to encourage broader organizational inclusion. Specifically, this group will target BEAD-related opportunities for covered populations to promote greater diversity in the broadband workforce and support access to higher-paying, higher-quality jobs for historically underrepresented groups." Incorporate Registered Apprenticeships and Apprenticeship Preparation Programs (p. 89) SBCTC requests that this sentence "The WSBO will also work with the Washington State Apprenticeship and Training Council to establish additional telecommunications apprenticeship preparation programs" be revised as follows: The WSBO will also work with the Washington State Apprenticeship and Training Council and SBCTC to establish additional telecommunications apprenticeship preparation programs Support the Provision of On-the-Job Training (p. 90) SBCTC requests that this sentence "As detailed in the state's Five-Year Action Plan, the WSBO will convene discussions with community colleges, technical schools, workforce development boards, ISPs, and others to determine how on-the-job training can support Washington's broadband workforce" be revised as follows: As detailed in the state's Five-Year Action Plan, the WSBO will convene discussions with community and technical colleges, trade schools, workforce development boards, ISPs, and others to determine how on-the-job training can support Washington's broadband workforce SUBGRANTEE REPORTING REQUIREMENTS (p. 142) SBCTC requests that this bullet point "Steps taken and to be taken to ensure the Project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure construction is completed in a competent manner throughout the life of the Project (as required in Section IV.C.1.e), including a description of any required professional certifications and/or in-house training, Registered Apprenticeships or labor-management partnership training programs, and partnerships with entities like unions, community colleges, or community-based groups;" be revised as follows: Steps taken and to be taken to ensure the Project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure construction is completed in a competent manner throughout the life of the Project (as required in Section IV.C.1.e), including a description of any required professional certifications and/or in-house training, Registered Apprenticeships or labor-management partnership training programs, and partnerships with entities like unions, community and technical colleges, or community-based groups;

Q16. *End of survey*

Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

Joe Poire

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

Washington State Association of Counties

Q12. (Optional) What is your title?

CEO

Q11. (Optional) What is your email address?

███████████

Q9. (Optional) What is your zip code?

███

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

○ One application per project area [   ]

● Multiple project areas in an application | Competition will bring better services and better prices.

171

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

[ ]

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

◉ County project area boundaries with broadband serviceable locations limited to approximately 1000

○ Other, please describe [ ]

○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

[ ]

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

[ ]

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

Yes- WSAC is submitting a comment letter and a spreadsheet of proposed project area map adjustments in tandem with this survey.

Q16. *End of survey*

Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

Joe Poire

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

JRP Integrated Solutions

Q12. (Optional) What is your title?

CEO

Q11. (Optional) What is your email address?

████████████████

Q9. (Optional) What is your zip code?

████

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

○ One application per project area

● Multiple project areas in an application | This will increase competition and potentially yield lower cost projects.

174

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

[ ]

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

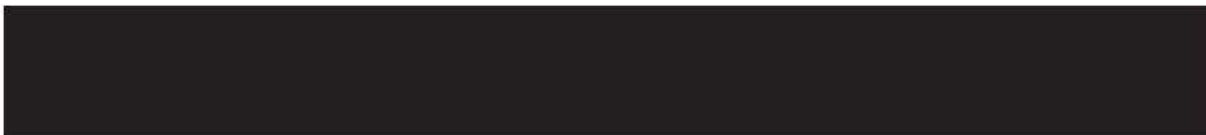*Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.*

- ○ School district boundaries
- ● County project area boundaries with broadband serviceable locations limited to approximately 1000
- ○ Other, please describe [ ]
- ○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

[ ]

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

[ ]

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

JRP Integrated Solutions will be providing, in email, a copy of all 39 counties project maps with proposed changes to 24 counties.

Q16. *End of survey*

Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

You can find more information on the project website: https://www.commerce.wa.gov/building-infrastructure/washington-statewide-broadband-act/internet-for-all-wa/. You can also sign up for email updates or provide comments at InternetForAll@Commerce.wa.gov.

We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

> Angela Bennink

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

> Kitsap PUD

Q12. (Optional) What is your title?

> General manager

Q11. (Optional) What is your email address?

> ███████████

Q9. (Optional) What is your zip code?

> ████

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

○ One application per project area _____

◉

Multiple project areas in an application	This will reduce the administrative burden on WSBO and the applicant. In addition, economies of scale should be realized when multiple projects are grouped together.

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

[   ]

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

- ◉ School district boundaries
- ○ County project area boundaries with broadband serviceable locations limited to approximately 1000
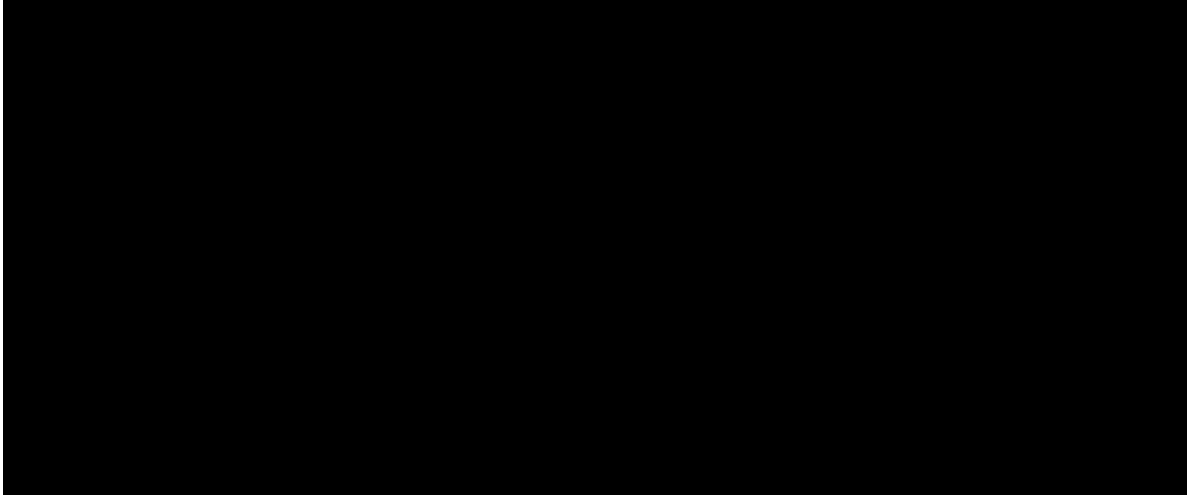- ○ Other, please describe [   ]
- ○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?
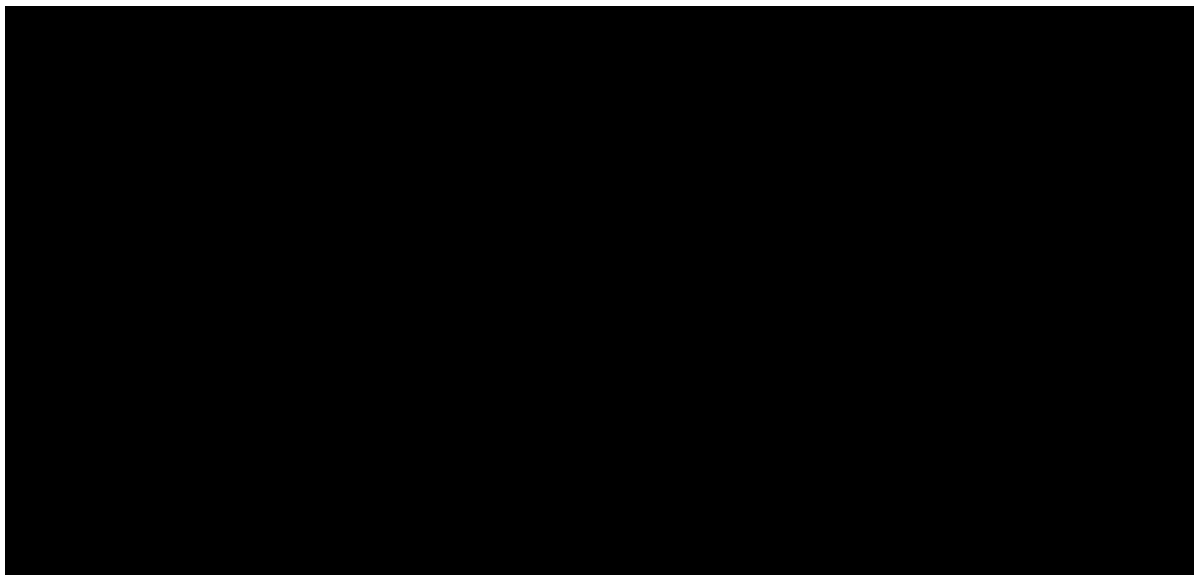
Project Area Definition In Kitsap County, both the school district and census block models would provide good project areas, with one exception: In the census model, Bainbridge Island is included in 4 different project areas. Bainbridge Island should be included in one project area or be its own project. The school district model may work better for manageable project areas that can be served by public entities as well as private entities and keeps geographic areas together in one project area. With in the project areas, a Priority Broadband Project is required to provide fiber to the home to "all BSLs in a Project Funding Area." This requirement of 100% of the BSLs being included in the project can lead to higher costs. We would request that the Broadband office consider a requirement of service to 90% of all BSLs in a Project Funding area, with the applicant providing a reason why each individual BSL was excluded: High cost, refusal to participate, etc. If the 100% requirement stays in place, then a Fiber to the Home application that only serves 90% of the BSLs in that project area would be considered a "Other Last-Mile Broadband Deployment Project." We do not believe this was the intent of the Broadband Office as fiber is not an option for scoring the rubric for Other Last-Mile Broadband Deployment Projects. An option for service to the 10% of BSLs that may be excluded from a project proposal is to use a Line Extension Consumer Assistance Program for the BSLs individually as referenced in the WSBO BEAD 5 Year Plan. Clarifications on Priority of Applications As written, Volume II of the Initial Proposal does not clarify the priority of application funding. You would assume from the name that "Priority Broadband Project" applications would come first, but this is not clear in the document. Both Priority Broadband Projects and Other Last-Mile Broadband Projects are scored based on a rubric that allows for a maximum of 100 points. Are these projects competing with each other? Will Priority Broadband Projects be funded first with Other Last-Mile Projects funding in those areas that do not have a Priority Broadband Project? Priority Broadband Projects are required to be a fiber network delivering service over fiber to each BSL. Fiber networks are shown to be capable of providing services that meet with State Broadband Goals plus. We recommend that the Broadband office clarify that Priority Broadband Projects will be evaluated and funded before considering Other Last-Mile Broadband Projects. Clarification on Matching Funds The Scoring Rubrics as proposed give a large weight to match funding. We would ask the Broadband Office to clarify in the Initial Proposal the following on matching funds: 1. NTIA NOFO allows for in-kind contributions for match. Will the Broadband Office allow in-kind contributions? If so, what restrictions will be placed on in-kind contributions? 2. It is stated in the rationale for the minimal broadband outlay that public entities will receive 25% match from the state. How will this be distributed? As there is not enough funding to match the full $1.23 Billion projects, will this funding be distributed based on Priority Broadband Projects? Timing of submittal? Overall costs? Distressed communities? The Broadband Office needs to provide clarification in the Initial Proposal as to how state matching funds will be distributed and how the Broadband Office will consider in-kind matching funds. Clarification on Scoring The scoring rubrics for the Priority and Other Last-Mile Broadband Projects do not include end user engagement. We have found that support for the end users is critical for sustainability and resiliency. We would suggest that the Broadband Office consider adding a score in the Minimum Broadband Outlay section to include evidence of end user support. Example: 1 point for every % match up to 40 points, with a minimum of 25% match. 10 Points for evidence of end user support of the project To add an additional 10 Points to the Minimal BEAD Program Outlay category, you would need to reduce the Affordability and Fair Labor Practices sections. Affordability Example: Two options: 20 Points for 1/1 Gbps Service for less than $85/month all taxes and fees included. 10 Points for 1/1 Gbps Service for more than $85/month all taxes and fees included. (It is our understanding that an average price in rural Washington including all taxes and fees is closer to $85/month.) Fair Labor Example: As these are yes or no requirements, each can be worth 1 point instead of 2. Service Level Agreements As we compare pricing for services, we need to acknowledge that not all services are the same. We would suggest that the Broadband Office consider adding a service level agreement associated with the pricing of a 1/1 Gbps service. KPUD requires this of our retail service providers so that we can ensure end users are getting the services they are paying for. KPUD's SLA is attached as an example. Open Access If the Broadband Office wants to incentivize open-access networks to provide competitive options to the end-user, it should be worth more than 3 points to have two or more committed ISPs on the network. The following would allow for 6 points to be attributed to having committed ISPs and the pricing of the wholesale network would be secondary. For the wholesale pricing, it is standard that wholesale pricing is about 30% less than retail. If you consider the retail pricing you have for the Affordability section, the wholesale pricing should be higher. If using $75/month for the retail price the wholesale prices should be; less than $58 for 3 Points and greater than $58 for 1 point. If using $85/month for the retail price including all taxes and fees, the wholesale price should be less than $65/month for 3 points and greater than $65/month for 1 point. Local and Tribal Coordination Clarification To ensure that the applicant has been working with the individuals who will be receiving the broadband services, there should be a requirement here for support from end-user and Broadband Action Teams. Other Last-Mile Broadband Deployment Projects Scoring Rubric • The Other Last-Mile as with the Priority Broadband Deployment Projects Scoring Rubric, should require funding for end user engagement. • Affordability is associated with 100Mbps download and 20Mbps upload speeds. These should be at a minimum the state goal of 150Mbps download and upload speeds. • Example: o 150/150Mbps at lower than $60/month is 20 points o 150/150MBPS at higher than $60/month is 10 points • Speed of Network This section does not allow for fiber only. A Fiber project that only serves less than 90% of the BSLs could be included and should get more points. We would suggest adding a level for Fiber of 3 points and reducing the fiber- coaxial hybrid to 2 points, and wireless to 1 point. The prioritization and scoring for applications with multiple technologies needs to be clarified. On page 43 of the Initial Proposal, it states that given the expected shortfall of funding to serve all unserved BSLs in Washington State, applications with multiple technologies will be considered if they can attain a lower costs per location. Lower costs than an all-fiber solution? The Broadband Office needs to clarify if they will be compromising speed for costs and will fiber solutions be competing with coax or wireless solutions. This topic is broached again in section 4.10 with the Extremely High-Costs threshold and allows the Broadband Office to choose a less desirable solution than fiber to the home if it is less expensive. Clarification on the process to determine what the definition of an extremely high-cost location is and the opportunity for stakeholders to provide feedback. Breaking Point Solutions, the business referenced in the Initial Proposal, has been found by many stakeholders, through the rapid design studies funded by the Broadband Office, to provide a flawed analysis of costs and revenue projects. We request that stakeholders have an opportunity to provide feedback on any analysis provided by this company.

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

State Broadband Goals In 2019, the state legislature had the foresight to set broadband goals for businesses, residents, and community anchor institutions. It is a goal of Washington State that: 1. By 2024, all Washington businesses and residences have access to high-speed broadband that provides minimum download speeds of at least twenty-five megabits per second and minimum upload speeds of at least three megabits per second; and 2. By 2026, all Washington communities have access to at least one gigabit per second symmetrical broadband service at anchor institutions like schools, hospitals, libraries, and government buildings; and 3. (3) By 2028, all Washington businesses and residences have access to at least one provider of broadband with download speeds of at least one hundred fifty megabits per second and upload speeds of at least one hundred fifty megabits per second. As the data from the FCC has shown, we are short of meeting the goal of delivering 25 Mbps download and 3 Mbps upload to all businesses and residences by 2024, by over 200,000 Broadband Service Locations (BSLs). The unserved BSL number is even greater when you set the goal at 150Mbps symmetrical speeds. The Broadband Office is given the leeway by NTIA to require all applications provide a higher minimum broadband speed than is required in the BEAD NOFO of 100Mbps download and 20Mbps upload speeds. It is shortsighted to not require our state goals be the minimum speed provided by any BEAD proposal. Administrative Suggestions In the BEAD NOFO there are a series of requirements that each applicant must meet. We would suggest that the Broadband Office consider a preapplication process to rule out providers who do not meet the minimum requirements. This could include section 4.9 – 4.17 in the proposal: 1. Financial Capability 2. Managerial Capability 3. Technical Capability 4. Compliance Capability 5. Operation Capability 6. Ownership 7. Public Funding – For projects outside of BEAD A preapplication process will allow the Broadband office to eliminate unqualified applicants early and focus on the technical proposals for the project areas. This could be done concurrently with the challenge process. Not only would this reduce the administrative burden on the Broadband Office, but it would encourage entities who cannot meet the minimum capability requirements to support applications from entities who can. Letter of Credit The letter of credit requirement section in the Initial Proposal is dated and does not include the latest guidance from NTIA. We recommend the Broadband Office consider alternatives to the letter of credit, such as replacing the letter of credit requirement with requiring construction bonds for the project from the subgrantee or contractor of the subgrantee. Dig-Once Policies KPUD applauds the Broadband Office in their effort to work with WSDOT to ensure conduit is placed where there is highway construction. This also works well when placing telecommunications conduit with conduit for electrical services: both are dry utilities. When you add in the wet utilities of sewer and water, the placement of conduit in the same trench becomes more challenging and expensive. A clarification needs to be made that the entity asking for the conduit for broadband be placed is also going to cover the additional costs for engineering and construction for placing that conduit. Application Review Process and Team KPUD is encouraged that the WSBO team in the Initial Proposal Volume II has listed a desire to engage with applicants and discuss applications to find the best solution for Washington State residents. We support the opportunity for applicants to see the scores from the review team and be able to provide clarification on less than full scoring. Additionally, we encourage a robust review team that has experience in building and operating networks. In the past, the review teams have consisted of those with experience in grant administration, but not practical experience in design and operations.

Q16. *End of survey*

Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

You can find more information on the project website: https://www.commerce.wa.gov/building-infrastructure/washington-statewide-broadband-act/internet-for-all-wa/. You can also sign up for email updates or provide comments at InternetForAll@Commerce.wa.gov.

We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

_____

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

_____

Q12. (Optional) What is your title?

_____

Q11. (Optional) What is your email address?

_____

Q9. (Optional) What is your zip code?

_____

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

○ One application per project area _____

◉

Multiple project areas in an application	It allows for diversity of approaches. No one application/project can do it all. The state should be careful when considering funding one application, as the need is great, and thus it will require different partnerships to do this work and do it right.

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

In reviewing WSBO's Volume 2, Page 143, mentions the eligible uses of funding for Deployment Projects. Specifically, it outlines eight types of projects, including # 7 'Training for cybersecurity professionals who will be working on BEAD-funded networks' and # 8) Workforce development, including registered apprenticeships and pre-apprenticeships, and community college and/or vocational training. However, upon further examination of the two scoring rubrics provided on Pages 36 and 40, it appears that applications from workforce development, such as cybersecurity training providers aiming to train cybersecurity professionals, might not be adequately considered. It's uncertain how they could meet the primary criteria regarding nonpromotional rates and minimal BEAD program Outlay criteria, which have the highest points.

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

- ○ School district boundaries
- ● County project area boundaries with broadband serviceable locations limited to approximately 1000
- ○ Other, please describe [_____]
- ○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

The scoring rubric does not align well with the 8 eligible uses of funding for deployment projects listed on page 143. The application should ask applicants to identify their type of project (from the 8 listed on page 143) and then a rubric should be created based on the type of eligible project being proposed. For example, the rubric used to rate a proposal for a deployment project that is focused on training, should not be the same for a project that is laying fiber.

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

[_____]

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

With an impressive allocation of $1.23 billion from the BEAD Program to WA, an exceptional opportunity arises not just to focus on deploying infrastructure but also to channel concerted efforts into empowering job seekers with the requisite skills to access the myriad employment opportunities spurred by this funding influx. While the BEAD funding is substantial, it might not singularly suffice to address both the infrastructural necessities and the training imperative for the broadband landscape. Emphasizing one aspect over the other, disregarding their inherent interdependence, would result in a glaring oversight. Both facets demand concurrent attention and alignment to ensure a holistic advancement in workforce development.

Q16. *End of survey*
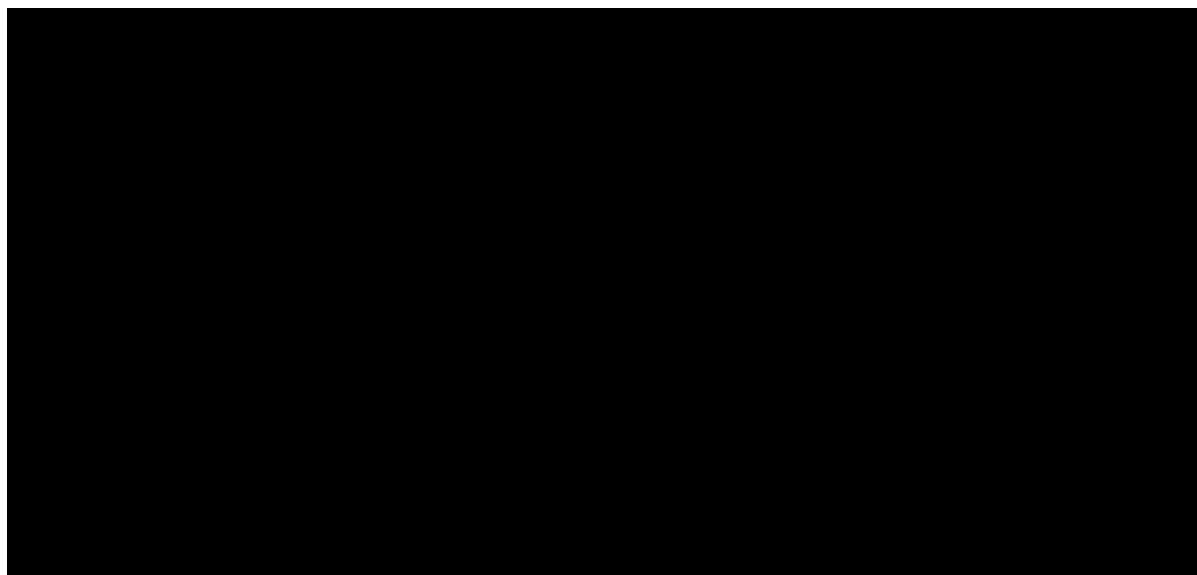
Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

Jennifer Pickel

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

Chelan County PUD

Q12. (Optional) What is your title?

Business Manager, Fiber & Telecom

Q11. (Optional) What is your email address?

Q9. (Optional) What is your zip code?

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

○ One application per project area

◉ Multiple project areas in an application   Ease of review of applications.

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Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

> The application of the open access in combination with the affordability sections for scoring. A wholesale provider has contracts with ISPs to offer retail. Is it possible to have us as the wholesale provider utilize both sections for points?

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

○ County project area boundaries with broadband serviceable locations limited to approximately 1000

◉ Other, please describe | Leave the project definition to the applicants. They have a better understanding of the current infrastructure and the requirements of the new infrastructure.

○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

> Concern with deployment schedule of 4 years, especially if it requires customer connections within the same timeframe.. Infrastructure requirements, like utility make-ready-work, in addition to the construction of the fiber infrastructure, would make it difficult to make the timeline. In addition, permitting in rural areas can be time consuming.

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

> Operating and maintaining a network could be difficult if the population a large proportion of the population qualifies. If the discounted rates only apply to the funded areas, the optics to other customers may not be received well.

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

> Concern for the Professional Engineering (PE) certification requirement on network designs required for the application. That is a costly requirement for an area that may not be funded. Also, difficult to meet in the timeframe.

Q16. *End of survey*

Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

> Frank Corbin

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

> Lewis County Broadband Action Team (LCBAT)

Q12. (Optional) What is your title?

> Chair

Q11. (Optional) What is your email address?

> ▮▮▮▮▮▮▮▮▮

Q9. (Optional) What is your zip code?

> ▮▮▮▮

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

◉ One application per project area [　　　　　]
○ Multiple project areas in an application [　　　　　]

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

[   ]

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View [preliminary project area options](#) (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

○ County project area boundaries with broadband serviceable locations limited to approximately 1000

○ Other, please describe [   ]

○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

[   ]

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

[   ]

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

[   ]

Q16. *End of survey*

Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

Frank Lewis Corbin

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

Lewis County Broadband Action Team (LCBAT)

Q12. (Optional) What is your title?

Chair

Q11. (Optional) What is your email address?

███████████

Q9. (Optional) What is your zip code?

██████

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

○ One application per project area [ ]
◉ Multiple project areas in an application [ ]

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Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

November 30, 2023 Washington State Broadband Office PO Box 42525 Olympia, WA 98504-2525 Director Vasconi, The Lewis County Broadband Action Team (LCBAT) congratulates the Washington State Broadband Office (WSBO) on the major milestone of getting Volume 2 of the Initial Proposal out for public comment and one step closer to putting $1.2 billion dollars to use to connect all the unserved and underserved people of Washington. The LCBAT has been actively convening a wide range of stakeholders across Lewis County for years. Additionally, over the past year the LCBAT has expended significant time and energy on the development of a County Broadband and Digital Equity Plan that was submitted to WSBO in support of its BEAD planning process. We continue to be grateful for the support that WSBO provided in this process through its contract with WSU Extension and for the opportunity to contribute to the state's process. These processes were paralleled in some form in every county across the state. In light of the significant contributions that BATs have made to strengthen WSBO planning process, and especially meeting requirement for support local, tribal, and regional broadband planning process (Requirement 2), the LCBAT was disappointed in the Project Scoring Criteria outlined in Initial Proposal Volume 2. In particular, we believe that Local and Tribal Coordination is under prioritized in weight and missing an important element: Under Prioritization By only assigning a weight of 4% to the Local and Tribal Coordination, we believe that this severely limits the community's input into the BEAD process. If the goal of WSBO in administering BEAD is not only to deploy infrastructure, but to encourage adoption, we believe that community support is critical to ensure that the community is consulted and has some say in how applications are reviewed and scored. Several other states have proposed weighting Local Coordination much higher, including Virginia at 10% and Georgia at 9%. We urge WSBO to add weight to this category. We believe that a weight of 4% is already too low, but our concern is amplified by the bifurcation of this weight into two separate scores: letters of support and records of consultations. By allowing half of the point for simply "engaging" with local governments, we fear that there is minimal incentive for providers to actually seek a letter of support and engage in meaningful consultation. To mitigate this outcome, WSBO should either add more weight to the letter of support or require more details from the provider on how the engagements were conducted and how those consultations are reflected in their applications. The LCBAT recognizes that adding weight to one criteria, requires a reduction to another criteria. We recommend considering a reduction in the speed to deployment. We are concerned that this incentivizes over-promising in the applications and under delivering in the deployment. Will there be any accountability for recipients that don't meet their "anticipated construction completion dates?" We urge WSBO to reconsider the weight and approach to this criteria. We do not recommend or support a reduction to the weight for the Open Access criteria. Missing Important Element - BATS In addition to the lower priority given to Local and Tribal Coordination, the LCBAT was extremely discouraged that WSBO did not list Broadband Action Teams as an entity that can provide a letter of support for an application. BATs have been a staple of local broadband coordination since long before BEAD and have played an instrumental role in the planning for BEAD. To prevent BATs from contributing is to diminish the countless hours work that these groups have dedicated to improving the state of Broadband in their communities for years. We urge WSBO to add BATs as an entity that can provide a letter of support that is considered in the scoring of applications. This is essential to recognize and utilize the immense value that these groups have provided since before BEAD and will continue to provide after BEAD. Thank you for your ongoing efforts to bring these BEAD funds to Washington and for considering our comments. Sincerely, Frank L. Corbin Chair, Lewis County Broadband Action Team (LCBAT) LCBAT Email: lewiscountybat@gmail.com

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

◉ County project area boundaries with broadband serviceable locations limited to approximately 1000

○ Other, please describe [   ]

○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

[   ]

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

[   ]

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

Q16. *End of survey*

Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

Gabriel Portugal

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

Washington State League of United Latin American Citizens

Q12. (Optional) What is your title?

State Director

Q11. (Optional) What is your email address?

███████████

Q9. (Optional) What is your zip code?

████

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

○ One application per project area

● Multiple project areas in an application | We have ten councils in the state and we were late learning about BEAD

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Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

We need more time to prepare an answer. Is this possible?

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

- ◯ School district boundaries
- ⦿ County project area boundaries with broadband serviceable locations limited to approximately 1000
- ◯ Other, please describe
- ◯ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

No questions at this time. Would like more time to prepare feedback

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?
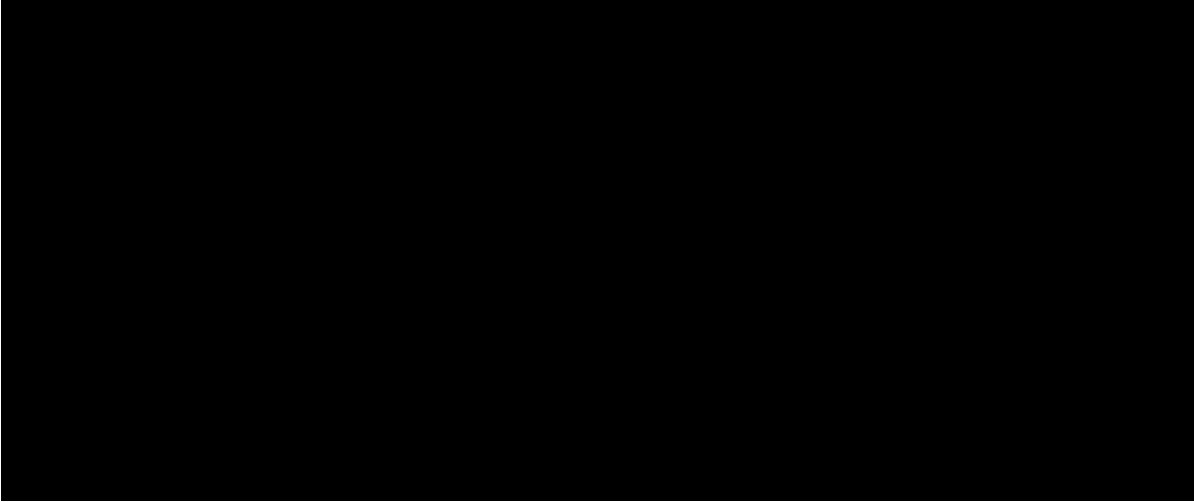
No questions at this time. Would like more time to prepare feedback

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

No questions at this time. Would like more time to prepare feedback

Q16. *End of survey*
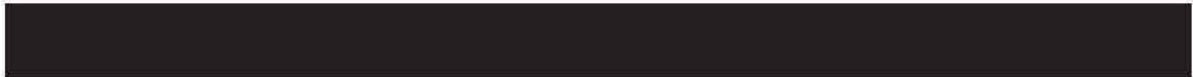
Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

> Karen Affeld

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

> North Olympic Development Council

Q12. (Optional) What is your title?

> Executive Director

Q11. (Optional) What is your email address?

> ███████

Q9. (Optional) What is your zip code?

> ████

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

○ One application per project area

◉ Multiple project areas in an application

196

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

Given the significant role that BATs and Tribes were asked to play in strengthening the state's BEAD planning process, NODC was disappointed to see that community support counts for only 4% of an applicant's score, and that 4% is divided between support letters and records of consultations. Other states are giving Local Coordination much greater weight, as high as 10%. Previous federal funding programs such as RDOF have failed to consider community support or previous performance of applicants, resulting in substantial awards to applicants with a history of poor relations with the community and poor performance in meeting project commitments. Deploying infrastructure is only useful if there is a strong adoption rate. Weighting Local and Tribal Coordination an only 4% seriously limits community input into the BEAD decision-making process, and community support is critical to the adoption rate by subscribers. NODC recommends that Local and Tribal Coordination be one of the Primary Criteria with up to 10 points awarded, and with letters of support sought from BATs and a wide range of local governments, Tribes, and community organizations. Since meeting Fair Labor Standards is a minimum eligibility requirement, it should be a check box with no points awarded, leaving ample room for increasing the weight of Local and Tribal Coordination. Alternatively, WSBO could reduce the points for Speed of Deployment. In addition, we believe that Open Access is vitally important to long-term affordability and end-user satisfaction. As such, it should have greater weight than speed to deployment, which can be affected by many factors such as delays in permitting and lack of availability of materials.

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View preliminary project area options (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

○ County project area boundaries with broadband serviceable locations limited to approximately 1000

○ Other, please describe [   ]

● No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

We recognize and appreciate the effort that WSBO invested in developing the application process and the need to balance the requirements imposed by NTIA, the diversity of potential applicants for sub-grants and the diversity of needs in the areas to be served. However, the resulting proposed application process imposes a tremendous workload, one that will, however unintentionally, advantage large, well-resourced private telecommunications companies over public and smaller private applicants. To reduce the barriers to application, NODC suggests consideration of the following: 1. Add a pre-qualification phase to address the minimum requirements of an applicant, giving applicants some assurance that they are qualified before they proceed with the labor and resource-intensive process of completing a full application. 2. Allow multiple area applications. It's a reasonable assumption that many providers will apply to serve multiple areas and allowing for submission of one application will greatly reduce the application burden. In addition, projects serving one area are likely to require use of infrastructure in adjacent areas, whether towers, rights-of-way for backhaul, or connections to existing infrastructure, especially in rural areas. By including adjacent areas in one proposal, applicants can create more efficient, less costly networks and the savings can be passed along to end-users. This will also enable development of middle mile where needed. 3. Waive the Letter of Credit requirement, to the extent allowed by BEAD program rules and waivers. The Letter of Credit, while intended to provide assurance that applicants have the financial capacity necessary to complete projects, poses a barrier for public and smaller private applicants. 4. Require that all applications, even in areas where there is only a single applicant, demonstrate substantial public support through letters from BATs, local governments, Tribes and anchor institutions, and give additional weight to this criterion. 5. While it is understandable that the application process prioritizes projects that provide end-to-end service, in Clallam County some areas will not be readily serviceable without construction of middle-mile fiber. In recognition of this need in Clallam County and other rural areas, we urge WSBO to prioritize middle mile in areas where it does not exist. In order to assure equitable and truly universal service, NODC recommends that the state broadband goals, as defined in RCW 43.330.536, serve as the minimum standard for the BEAD funding program. Unless all applicants and projects are required to be "future-proofed" by meeting the 2028 standards, there is a substantial risk that rural and harder to serve areas will continue to see broadband speed and access that is unequal to that in the rest of the state, posing economic and social barriers. NODC recommends that scoring criteria be weighted to prioritize applicants that are most closely aligned with the goals of WSBO.

Q16. *End of survey*
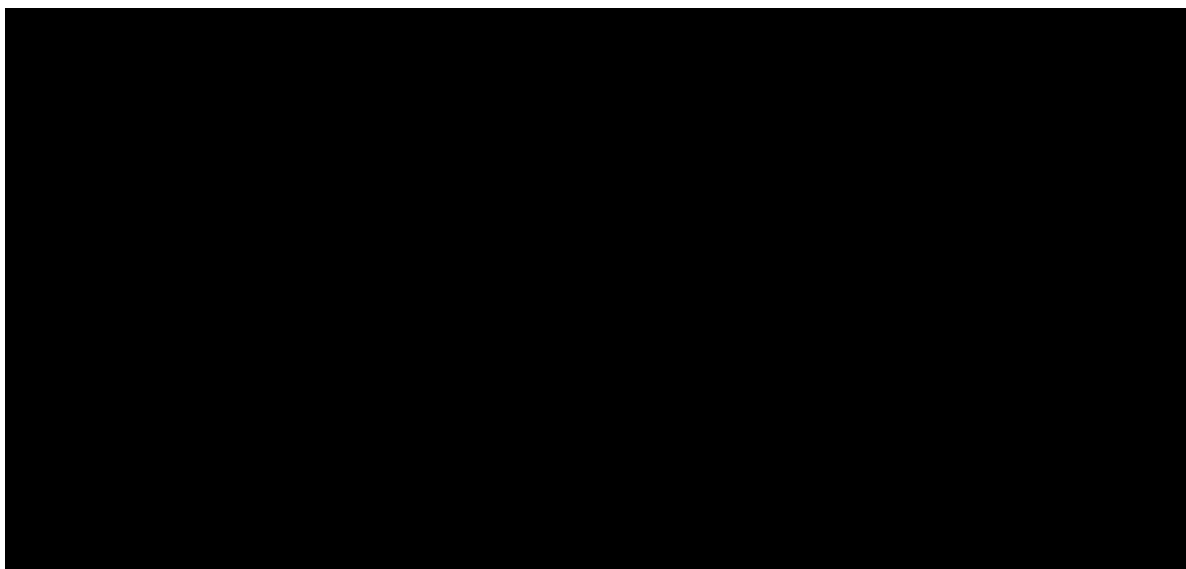
Q7. **Please let us know if you have any questions or comments on the DRAFT Initial Proposal Vol.II.** Identifying information is optional but can be included if you would like to receive updates. You can skip any of the questions and just provide general feedback if you prefer.

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We appreciate your participation!

Q10. (Optional) What is your name (first and last)?

> CHRISTOPHER JOHN WEBB

Q1. (Optional) If you are commenting on behalf of an organization, what is the name of your organization?

Q12. (Optional) What is your title?

> IT Faculty Member

Q11. (Optional) What is your email address?

> ███████████████

Q9. (Optional) What is your zip code?

> █████

Q20. Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

○ One application per project area

○ Multiple project areas in an application

Q14. Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p.35)?

[   ]

Q17. Which project area boundary definition do you prefer? (Section 4.6 Project Area Definition, p.50). View [preliminary project area options](#) (to avoid being redirected to a new page, right click and select 'open link in new tab'.)

Note: Tribal reservations will be treated as distinct project areas, regardless of project area boundary definition.

○ School district boundaries

○ County project area boundaries with broadband serviceable locations limited to approximately 1000

○ Other, please describe [   ]

○ No preference

Q13. Do you have any questions or comments on the overall subgrantee selection processes described (Ch.4 Deployment Subgrantee Selection, pp.30 to 70 and Ch.5 Non-deployment Subgrantee Selection, pp.71 to 74)?

[   ]

Q19. Do you have any questions or comments related to Ch.12 Low-cost Broadband Service Option (p.111) or Ch.13 Middle Class Affordability (p.114)?

[   ]

Q17. Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number.)

I am submitting on behalf of 3 separate constituencies in 3 submissions: Black Brilliance Research Project, Seattle Central College IT Faculty, and The Seattle Community Network. These recommendations were identified in consultation with our colleagues, community partners, and other community stakeholders. We recommend dozens of community based organizations and dozens or member organizations. These are our combined recommendations. Overall: Be bolder on language on race and other equity goals (See language in the Poverty Action Plan). Chapter 1 - Requirement 1: Objectives P7-8 Make clear that business broadband goals also applies to community-based anchor institutions including non-profits P. 8 Objective 1.4 Affordability: Broaden to low-income internet options, not just ACP Adoption - recognize whole system and consistency. P. 9 Objective 2.2 Skill development: Need to add community-based organizations as part of the provider network. Chapter 3 - Requirement 4: Local Coordination P19 Future partnership plans: Add #6 for Continued relationship building, reporting back and opportunity for input with those that participated and continued to engage communities of need. P 21 Outreach methods: Add participatory communications and additional tools & methods to be used. Effective tools include listserv, text messaging, What's App. Provide options for user-focused engagement and for them to have more choices in 2-way participation and notification. Plan to create material and use 2-way communications platforms to share materials and provide forums for participation. P39 The idea of digital navigation seems limited to helping people sign up for ACP. In previous iterations this concept included technical support – including technical training as in the Digital Stewards programs as well it seems potentially reductionist in importance that it is only accounted for 4 points out of total available. D OPTION AND DIGITAL NAVIGATION – 4 POINTS P43 Here the licensing issue limiting to licensed spectrum eliminates those previously funded by WSBO including those operating community owned and operated networks in the CBRS 5G LTE network spectrum. "SCORING FOR APPLICATIONS WITH MULTIPLE TECHNOLOGIES FOR BROADBAND SERVICE P56 Again unlicensed spectrum exclusion excluded. With low orbit satellite allowed why not mention the potential for allowing unlicensed spectrum here – these networks have been funded by WSBO in Pullman and Tukwilla previously (for example) "PROCESS FOR SELECTING A PROPOSAL THAT INVOLVES A LESS COSTLY TECHNOLOGY AND MAY NOT MEET THE DEFINITION OF RELIABLE BROADBAND P72 These objectives being established how will the state pay for and enforce the Digital Equity related priorities in the plan? Please include more specificity. 5.2 NON-DEPLOYMENT INITIATIVE PREFERENCES Chapter 4: Deployment Subgrantee Selection: Diversity in subcontracting plan: Ask for plan to parse work and to do outreach to local WMBE vendors Chapter 8 - Requirement 12: Workforce Readiness [Some of this could also apply and be incorporated into Subgrantee selection – how will this be supported by BEAD resources – or will the cost be passed onto Subgrantees? P.82-85 Add clear language about committing to people furthest from opportunity to enable a ramp to the broadband jobs - including positions supporting short term credential programs. Also, how the BEAD resources will be allocated to support them – or passed along in the cost structure of the subgrantee balance sheets P.82-85 Note that local government and tribal role in permitting will require workforce strengthening to meet needs. P.92/ Section 8.2 Include requirements for these workforce provisions: Local marketing and recruitment plan Support for workforce training in area to be served, in State. Support for internships, apprenticeships Documentation of diversity workforce development, recruitment and hiring partnerships P. 94 How will this recommendation be applied – could there be language that discourages accountability and enforcement of the requirement rather than a stated goal? 9.1 MINORITY BUSINESS ENTERPRISES (MBES), WOMEN'S BUSINESS ENTERPRISES (WBES), AND LABOR SURPLUS AREA FIRMS INCLUSION STRATEGY P 108 Include community held infrastructure and unlicensed spectrum in the CBRS and 5 G LTE spectrums previously funded by WSBO Chapter 12 - Requirement 16: Low-Cost Broadband Service Option P. 111 Revise ISP subgrantee requirements to: Ask ISP's to report their lowest 3 tiers of pricing and eligibility requirements, if any. Require ISP's to allow customer to change to a lower tier of cost and service with no penalty if they can no longer afford the pricing of the initial tier. Require ISP's to distribute annually information to households in their service area, a notification of the availability of the lower cost available tiers of service and eligibility requirements, if any, with phone number and web site link for more information. Chapter 13 - Requirement 20: Middle-Class Affordability P.115 Revise ISP subgrantee requirements to: Ask ISP's to report their lowest 3 tiers of pricing and eligibility requirements, if any. Require ISP's to allow customer to change to a lower tier of cost and service with no penalty if they can no longer afford the pricing of the initial tier. Require ISP's to distribute annually information to households in their service area, a notification of the availability of the lower cost available tiers of service and eligibility requirements, if any, with phone number and web site link for more information. Chapter 14 - Requirement 17: Use of 20 Percent Funding P. 116 Intended Use of Funds: If possible, set aside a percentage of funds to support workforce training and marketing of training and employment opportunities related to BEAD implementation and buildout. Also include Digital Stewards and Community held infrastructure including CBRS 5G and LTE Networks that support and provide coverage to underserved populations in urban and rural areas

Q16. *End of survey*
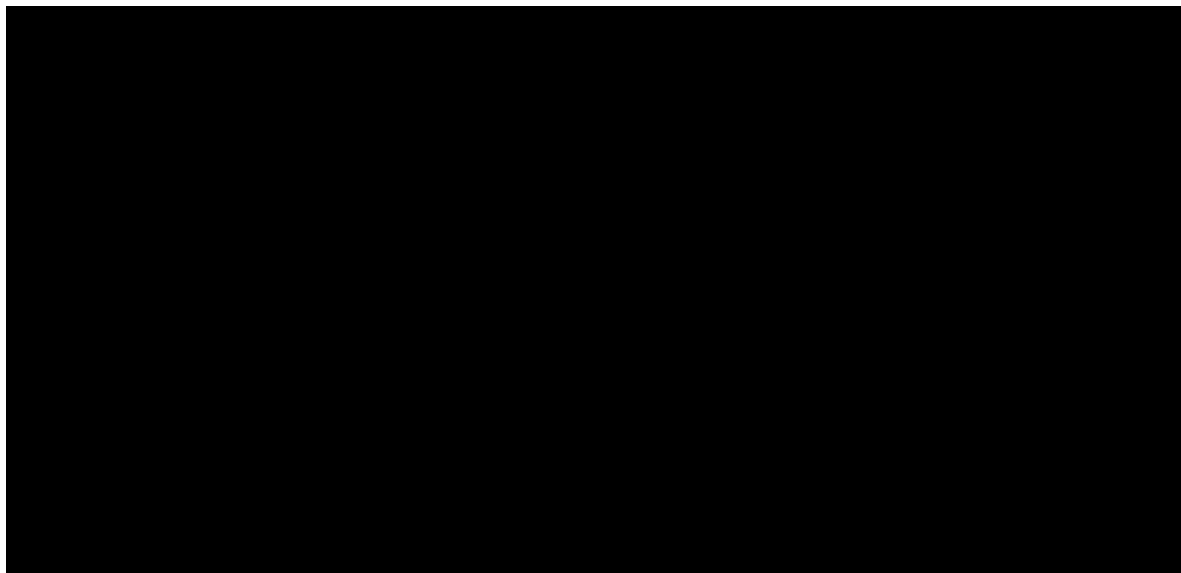
From: Carissa Hahn ████████████████

Sent: Friday, November 17, 2023 3:59 PM

To: COM Internet For All <internetforall@commerce.wa.gov>

Subject: Comments on Washington's Broadband Equity, Access, and Deployment Program (BEAD) DRAFT Initial Proposal Volume II

<div style="border: 2px solid red; text-align: center; padding: 10px;">

External Email

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1. Washington should incorporate additional factors regarding directly employed workforce, training, and local hire into its Fair Labor Practices evaluation criteria.
- Washington's proposal does require information on whether the workforce will be directly employed and on training (p. 92-93) but this information is *not* part of the evaluation rubric (p. 35).
- The Fair Labor Practices section of the scoring rubric only includes the factors required in the NOFO. As written, it appears that virtually all applicants will be able to meet these requirements, or will score very similarly given the category's structure. The category does not contribute to a more effective program if it only involves the baseline. Incorporating factors that

incentivize applicants to use high road labor practices would be a more effective use of points in this category.

- In addition to including these factors into the scoring rubric, Washington state should increase the value of this category to 20%.

- In comparison, California's Fair Labor Practices category includes consideration of subcontracting/directly employer workforce, training, job quality, and local hire in its Fair Labor Practices evaluation criteria. And, the Fair Labor Practices category in California is worth 20%. Delaware similarly includes all those criteria, and in Delaware, the Fair Labor Practices category is worth 25%. Pennsylvania also considers subcontracting/directly employed workforce, training, and local hire in its criteria, and labor factors are worth 25% in Pennsylvania (broken up into two categories, one worth 15% and one worth 10%).

2. As to workforce plan reporting, Washington should make this information available to the public online. The representations on these reports should be legally binding commitments, and the agency should regularly monitor to ensure enforcement.

- In comparison, in California and Delaware, workforce plan information will be available to the public online, and representations in the workforce plan reports will be legally binding.

- Delaware's plan outlines the additional factors it will include in Fair Labor Practices on p. 16-18 (describing what's required in the prequalification phase and stating this will go towards the scoring criteria as well)

- New York's plan puts additional factors in secondary criteria "Equitable Workforce Development and Job Quality"

- Pennsylvania's plan similarly puts additional labor factors in secondary criteria "Equitable Workforce Development and Job Quality," p. 22-23

In Solidarity,

Carissa Hahn *(she/her)*

CWA/WashTech Local 37083 Executive Vice-President

CWA Legislative and Political Coordinator, Washington State

Next Generation District 7 Lead

(1) <u>Broadband Office Competitive Grant Program</u>. The Washington State Broadband Office established in RCW 43.330.532 (the Office), in collaboration with the Public Works Board established in RCW 43.155.030 (the Board), shall establish a competitive grant program to award funding obtained from and through the Broadband Equity Access and Deployment (BEAD) Program to eligible applicants in order to promote the expansion of access to broadband service consistent with the Notice of Funding Opportunity issued by that Program (the NOFO).

(2) <u>Fair Labor Practices Criteria</u>. Consistent with the NOFO, the Office must give priority to projects based on the applicant's demonstrated record of and plans to be in compliance with state and federal labor and employment laws ("Fair Labor Practices" criteria). In determining the points or credits to be awarded to an applicant with respect to these criteria, in addition to those factors required by the NOFO, the Office shall consider the following prioritization factors:

    i.   Use of a directly employed workforce, as opposed to a subcontracted workforce. Public entity applicants may meet this criterion by use of a directly employed workforce or committing to contract with an internet service provider that will use a directly employed workforce.

    ii.   Demonstrated commitment by the applicant to robust training programs with requirements that are tied to titles, uniform wage scales, and skill codes recognized in the industry, including OSHA safety training, and commitment to continuing such;

    iii.   Demonstrated past commitment to establishing programs to promote local hire and/or training and hiring for underrepresented groups, and commitment to continuing such; and

    iv.   Having a robust record of compliance with labor and employment laws, including but not limited to the Occupational Safety and Health Act, the Fair Labor Standards Act, the Washington Industrial Safety and Health Act, Washington Industrial Welfare Act, and any other applicable labor and employment laws, for the preceding five years, or a record of having mitigated violations with labor compliance agreements and measures to ensure future labor compliance.

(c) New entrants without a record of labor and employment law compliance must be permitted to mitigate this fact by making specific, forward-looking commitments to strong labor and employment standards and protections with respect to BEAD-funded projects.

(d) In evaluating whether a particular applicant should be awarded a grant under this section, the Office should give substantial weight, amounting to at least 25 out of 100 points in any evaluation scheme for grants, to the Fair Labor Practices criteria.

(3) <u>Public Disclosure</u>**.** The Office shall publish on its website, from the date an application is received to the date an application is accepted or rejected, each applicant's disclosures and commitments and proposed labor and employment compliance plans, as set forth in and required by section (2), above, and such commitments shall become enforceable, certified commitments and conditions of any grant received. The Office shall publish the Workforce Plans as required in section (5), below, on its website.

(4) <u>Prevailing Wages</u>. All projects funded through the BEAD Program shall be subject to prevailing wage requirements in RCW 39.12.

(5) <u>Workforce Plan</u>

(a) Successful applicants shall be required to provide prior to the commencement of the work, and then update in monthly reports:

1. Whether the workforce will be or is being directly employed by the applicant or whether work will be or is being performed by a subcontracted workforce;
2. The entities that the applicant plans to subcontract to or has subcontracted to in carrying out the proposed work, if any;
3. The job titles and size of the workforce (FTE positions) anticipated and actually required to carry out the proposed work;
4. For each job title required to carry out the work, a description of
   a. Wages, benefits, applicable wage scales including overtime rates and a descriptions of how wages are calculated;
   b. Any in-house training program, including whether the training program is tied to titles, uniform wage scales, and skill codes recognized in the industry;
   c. Safety training, certification, and/or licensure requirements, including whether employees are required to have completed OSHA safety training or any training required by law;
   d. The entity employing the workforce in each job title.

(b) Following an award, the Workforce Plan and the requirement to submit ongoing workforce reports shall be incorporated as material conditions of the contract with the Office and become enforceable, certified commitments. The Office will conduct quarterly reviews to assure compliance and take appropriate measures for enforcement.

(c) In the event that successful applicants fail to meet the Program Requirements or Workforce Plan requirements, or otherwise falsify information regarding such requirements, the Office shall investigate the failure and issue an appropriate action, up to and including a determination that the applicant is ineligible for future participation in the BEAD Program.

Broadband Project Labor Standards Proposal

	Existing Washington Public Contracting Laws	CWA's Proposed Labor Standards Provisions

Labor standards prioritization provisions	**No generally applicable provisions mandate prioritization of public works proposals based on labor standards practices.**
	
	Some of CWA's proposed priority criteria do have overlap with state laws:
	
	Criterion ii. has some overlap with workplace health and safety training requirements under Washington Industrial Safety and Health Act (WISHA), Chapter 49.17 RCW and WAC 296-800-14020.
	
	Criterion iii. overlaps with RCW 49.04.100, which requires apprenticeship programs to advance state nondiscrimination principles, and the related regulations providing for equal employment opportunity and affirmative action plans in apprenticeship programs. *See* WAC 296-05-400 through 296-05-415. RCW 39.04.320 requires apprentice participation in most large public works projects, which would likely include projects under the BEAD program.
	
	Criterion iv. has some overlap with RCW 39.04.350(g), which disqualifies bidders who have been determined by a court or Labor & Industries to have willfully violated certain state wage and hour protections.
	
	The NTIA's Notice of Funding Opportunity sets baseline fair labor practice requirements and a framework onto which these additional factors would fit. The NTIA rules currently require that the Office must consider:
	1. Information on the applicant's record of compliance with federal labor and employment laws, as well as the records of any other entities that will participate
		The Office must consider the following criteria for prioritization:
		    i. Use of a directly employed workforce, as opposed to a subcontracted workforce. Public entity applicants may meet this criterion by use of a directly employed workforce or committing to contract with an internet service provider that will use a directly employed workforce.
		    ii. Demonstrated commitment by the applicant to robust training programs with requirements that are tied to titles, uniform wage scales, and skill codes recognized in the industry, including OSHA safety training, and commitment to continuing such;
		    iii. Demonstrated past commitment to establishing programs to promote local hire and/or training and hiring for underrepresented groups, and commitment to continuing such; and
		Having a robust record of compliance with labor and employment laws, including but not limited to the Occupational Safety and Health Act, the Fair Labor Standards Act, the Washington Industrial Safety and Health Act, Washington Industrial Welfare Act, and any other applicable labor and employment laws, for the preceding five years, or a record of having mitigated violations with labor compliance agreements and measures to ensure future labor compliance.

	in the project, including contractors and subcontractors. This information must include, at a minimum, information on these entities' compliance with state and federal labor and employment laws on broadband deployment projects in the last three years; and data on the applicant's historical use of contracting and subcontracting arrangements, including staffing plans, and at least one example of each contractor and subcontractor's past performance in the context of a similar project. Applicants must provide (1) a certification from an Officer/Director-level employee (or equivalent) evidencing consistent past compliance with state and federal labor and employment laws by the applicant, as well as all contractors and subcontractors, and (2) written confirmation that the applicant is disclosing any instances in which it or its contractors or subcontractors have been found to have violated laws such as the Occupational Safety and Health Act, the Fair Labor Standards Act, the Washington Industrial Safety and Health Act, Washington Industrial Welfare Act, or any other applicable labor and employment laws for the preceding five years. 2. The applicant's plans for ensuring compliance with state and federal labor and employment laws. These plans must address, at a minimum, (1) how the applicant will ensure compliance in its own labor and employment practices, as well as that of its contractors and subcontractors, including information on applicable wage scales and wage and overtime payment practices for each class of employees expected to be involved directly in the physical construction of the broadband network and (2) how the applicant will ensure the implementation of workplace safety committees that are authorized to raise health and safety concerns in connection with the delivery of deployment projects.	

Required Disclosures & Data	RCW 39.12.120 requires contractors and subcontractors in public works projects to file a copy of certified payroll records at least once per month to demonstrate compliance with the prevailing wage law.	Applicants' disclosures in connection with the criteria in subpart A shall be publicly available on the Broadband Office's website, and shall become enforceable, certified commitments and conditions of the grant.
		
		Participants in the program shall be required to provide monthly reports on the following:
		(1) Whether the workforce will be directly employed by the contractor or whether work will be performed by a subcontracted workforce;
		(2) The entities that the contractor plans to subcontract with in carrying out the proposed work, if any;
		(3) The job titles and size of the workforce (FTE positions) required to carry out the proposed work over the course of the project;
		(4) For each job title required to carry out the proposed work, a description of
		    i. Wages, benefits, applicable wage scales including overtime rates and a descriptions of how wages are calculated;
		    ii. Any in-house training program, including whether the training program is tied to titles, uniform wage scales, and skill codes recognized in the industry;
		    iii. Safety training, certification, and/or licensure requirements, including whether employees are required to have completed OSHA safety training or any training required by law;
		    iv. The entity employing the workforce in each job title.

Enforcement Provisions	Under RCW 39.12.050, penalties apply for false reports or statements and failure to pay prevailing wages. In addition to financial penalties, contractors may be barred from future public contracting.	Following an award, the Workforce Plan and the requirement to submit ongoing workforce reports shall be incorporated as material conditions of the contract with the Office and become enforceable, certified commitments. The Office will conduct quarterly reviews to assure compliance and take appropriate measures for enforcement. In the event that successful applicants fail to meet the Program Requirements or Workforce Plan Data requirements, or otherwise falsify information regarding such requirements, the Broadband Office shall investigate the failure and issue an appropriate

		action, up to and including a determination that the applicant is ineligible for future participation in the [Broadband Grant Program].
Small Business Protections	Under RCW 39.26.005, the state encourages state and agency purchase of goods and services from Washington small businesses.	The proposed workforce factors are neutral as to workforce size and can be met by both large and small businesses. The factors focus on direct employment, quality of training, and promoting a locally trained workforce. Indeed, many locally based businesses may be more competitive on these factors than large businesses. The proposed disclosures ensure that accountability for workplace standards is the case no matter the size of a business.

Name: Jessica Epley

If you are commenting on behalf of an organization, what is the name of that organization? Ziply Fiber

What is your title? Vice President, Regulatory and External Affairs

Email Address: ███████████████

What is your zip code? ██████

Do you think it will be better to have one application per project area or to allow multiple project areas in one application and why? (Section 4.1 Subgrantee Selection Process Integrity, p.32)

Multiple project areas in an application

Ziply Fiber believes the Washington State Broadband Office ("WSBO") should allow for multiple project areas in a single application to give applicants the ability to decide their own capacity. This could result in fewer applications for WSBO to process.

Do you have any questions or comments on Section 4.2 Scoring Rubric and Prioritization (p. 35)?

The open access requirement in the Priority Broadband Project Scoring Criteria table shows that an applicant can receive 3 points if "Two or more committed ISPs above and beyond the applicant with signed agreements (page 36)." Ziply Fiber seeks clarity on this scoring criterion. Does an applicant receive points for their wholesale cost per connection and then additionally, the applicant receives 3 points if there are two or more committed ISPs above and beyond the applicant?

The open access requirement in the Other Last Mile Broadband Projects Scoring Criteria table shows that an applicant can receive 3 points if "Two or more committed ISPs above and beyond the applicant with signed agreements (page 40)." Ziply Fiber seeks clarity on this scoring criterion. Does an applicant receive points for their wholesale cost per connection and then additionally, the applicant receives 3 points if there are two or more committed ISPs above and beyond the applicant?

Ziply Fiber applauds the WSBO for their effort to address affordability, as it is required by the NTIA in primary scoring criteria (page 36). However, the approach taken by WSBO amounts to rate regulation by providing up to 25 points for a provider offering a 1g/1g plan for $75 a month. Under the Infrastructure, Investment and Jobs Act (IIJA), Congress included a provision that outlaws rate setting (Infrastructure Act § 60102(h)(5)(D)). WSBO runs the risk of NTIA not approving of their Initial Proposal Volume II if this scoring criteria remains. This approach has failed in the FCC's Rural Digital Opportunity Fund auction, where certain winners claimed they could not afford to build with the rates they said they would offer and are now seeking additional funding.

Which project area boundary definition do you prefer (Section 4.6 Project Area Definition, p. 50)?

Ziply Fiber recommends a project area be defined by county boundaries rather than school district boundaries (page 43). Working with multiple local governments on a single project, as is frequently the case with rural school districts, will add complexity and have a chilling effect on the number of projects submitted for consideration.

We applaud the WSBO's thoughtful approach to defining project areas, as the key to serviceability will be proximity to existing infrastructure and density of unserved locations (page 50). Will providers have the flexibility to define project areas within WSBO defined Census Block groups? Also, what is the process WSBO will conduct to de-conflict overlapping projects?

Do you have any questions or comments on the overall subgrantee selection process described (Ch 4. Deployment Subgrantee Selection, pp. 30 to 70 and ch.5 Non-deployment subgrantee selection, pp 71 to 74)?

Prior to Washington Broadband grants using US Treasury Capital Project Funds, there was no requirement to document on a per address basis for connected locations (page 30). How will state agencies who have implemented broadband projects document the funded locations as they didn't previously require the addresses?

How will the WSBO inform potential subgrantees of the webinars that detail the application guidelines and requirements (page 31)? WSBO states that it will be provide this information prior to the publication of the application opportunity. Does WSBO have expected dates of when these webinars will take place?

How will WSBO provide the template for applicants to outline requested dollars to serve locations, CAIs and matching funds (page 32)? Will they send out a notification to those who subscribe to the Internet for All Washington or are potential applicants to regularly check the website for this template?

How and when will WSBO notify applicants of issue clarifications based on guidance outline of Initial Proposal Volume II (page 32)?

What are the selection criteria for choosing the selection committee who reviews applications (page 33)? What kind of training are they required to do prior to selection?

Ziply Fiber believes that WSBO should allow applicants to submit more than one application for a project area (page 33). This would allow applicants to go back and readjust their application to make it more competitive, and potentially stretch the grant dollars awarded to WSBO further.

How will WSBO alert potential applicants to the webinars and informational for both the EHP and BABA compliance requirements (page 46 and 48)? Does WSBO have an established date and time for both of those webinars?

During the Initial Proposal Volume 1 comment period, Ziply Fiber stated that the BEAD NOFO § I.C.u includes DSL as a Reliable Broadband Service, WSBO's position of not allowing providers to rebut serviceability on a challenge location basis is an error (page 50). Simply because the location is served by copper DSL does not mean that location is not receiving 1g/1g service. Ziply Fiber has invested hundreds of millions of dollars deploying fiber deeper into our network allowing us to use existing copper facilities to serve ethernet. Within Washington State alone, many government buildings are only able to use copper infrastructure because they do not have the inside wiring to support a modern fiber optic network. Many businesses and tribal communities are heavily reliant upon DSL technology to provide basic services like voice to their multiline telephone systems. WSBO should allow for locations

served by DSL to be considered served and allow for evidence of such DSL service to be used as a rebuttal for a challenge.

How will WSBO inform potential applicants of the additional requirements for deployment of fiber on tribal reservations (page 53)? Will there be an email sent to potential applicants or are they to regularly check-in on WSBO project website?

WSBO issued a revised guidance on ILOC on 10-23-23. Will WSBO align with revised provisions in the requirements (page 57)?

Ziply Fiber appreciates WSBO's willingness to accept an acceptable alternative rather than a traditional letter of credit (page 57). This alternative will mean more money for broadband deployment as private investment money will be caught up bank fees with the traditional letter of credit. WSBO final proposal should reflect NTIA's recently issued Letter of Credit Waiver and allow for alternatives to requiring a letter of credit, such as a performance bond to be reduced to 10% if the provider is going to be reimbursed in increments of 6 months or less and allows it to be retired with deployment. Ziply Fiber likes the Virginia model for this provision and recommends WSBO incorporates it into their own volume II (Virginia Initial Proposal Volume II). Another option would be to follow Ohio's model, as their Initial Proposal Volume II seeks a waiver from letter of credit requirement and proposed alternatives (Ohio Initial Proposal Volume II). At a minimum, Washington should propose to phase down to the 10% Letter of Credit requirements consistent with the FCC Rural Digital Opportunity Fund.

All of the subgrantee qualification requirements mirror the obligations providers who were awarded Rural Digital Opportunity Fund or Alternative Connect America Fund projects. A streamlined approach WSBO could use is to accept the award letter from the FCC for these programs as evidence of the necessary operational, technical and managerial requirements. Items such as audited financial statements (page 58), ownership information (page 67), and other corporate structure matters are highly confidential as it is competitively sensitive for private operators.   At a minimum, we request WSBO declare this portion of the application exempt from public disclosure.

The specifics of the subgrantee criteria raise some additional questions. WSBO states that they will not approve any grant unless it determines that the material submitted demonstrates the applicant's technical capability concerning the proposed project (page 61). What criteria will WSBO use to make this determination?

Why does WSBO require a narrative response from the applicants regarding their operational capacity (page 65)? The BEAD NOFO is clear in its requirement of a certification, so this seems to be an unnecessary step. Given the potential for an applicant to submit multiple applications for multiple proposal areas, providing a certification on operational capacity streamlines the submission and review process.

WSBO states that they would like potential applicants to provide ownership information that is consistent with the requirements set forth in 47 CFR 1.2112(a)(1)-(7) (page 67). WSBO states that they will require each applicant to disclose every broadband project that the applicant or its affiliates are undertaking or have committed to undertake using public funds (page 69). Does WSBO want us to submit all publicly funded projects or just projects in Washington?

How will WSBO notify potential applicants of regulations information webinars and the postings about the regulations in sections 4.11-4.17?

Does WSBO have proposed dates for the webinar(s) for the different requirements for subgrantees in sections 4.11-4.17?

If an applicant has multiple vendors that perform construction related activities, is it required that all possible contractors and subcontractors provide a certificate of compliance (page 74)? Would it be sufficient for the applicant to certify its compliance, then when a contractor or subcontractor is awarded a scope of work, they then provide the certification of labor law compliance?

Do you have any questions or comments related to Ch. 12 Low-cost Broadband Service Option (p. 111) or Ch 13. Middle Class Affordability (p.114)?

Ziply Fiber applauds the WSBO for their effort to assist low-income broadband internet users (page 112). However, the approach WSBO is taking amounts to rate setting. Under the Infrastructure, Investment and Jobs Act (IIJA), Congress included a provision that outlaws rate setting (Infrastructure Act § 60102(h)(5)(D)). WSBO runs the risk of NTIA not approving of their Initial Proposal Volume II as this provision currently stands. To satisfy the low-cost service option requirement, providers can offer a plan that does not exceed the FCC's "reasonable comparability" benchmark. This benchmark is the estimated average monthly rate in urban areas plus twice the standard deviation of rates for terrestrial fixed broadband service plans at a specific speed tier. If the rate falls within these marks, it is considered affordable, and a subscriber could then apply their ACP benefit to the plan.

Ziply Fiber appreciates the flexibility for permitting providers to change prices charged to end users after 12 months and at a rate that does not exceed the Consumer Price Index for All Urban Consumers (page 115). While this is appreciated, we recommend that this extends across the board to all subscriber plans, including low–income plans. Providers need the flexibility to adjust rates to avoid unfair market interference and other factors, such as inflation. Washington should follow the lead of Virginia and Louisiana, who allow providers to mark yearly adjustments on their pricing.

Do you have any general comments on the Initial Proposal Volume II content? (Please note if there is a specific page number)

Will WSBO initiate a statewide Tribal coordination effort to facilitate Tribal Resolutions accepting RDOF awarded areas on Reservations as "Served locations" (page 8)?

Objective 1.3 states that WSBO wants to ensure all locations (CAIs, residence, businesses) have access to reliable high-speed internet (page 8). What is considered high speed-internet to WSBO? Does this mean ensure that all locations meet the deployment speeds outlined in objective 1.1, or is there a different definition for high-speed internet for WSBO?

Ziply Fiber supports Objective 1.4 – Affordability. Ziply Fiber is an Affordable Connectivity Program provider but with the uncertainty of Congress renewing funding, creation of an additional subsidy program or expanding the existing universal service subsidy programs would benefit those who struggle to pay for quality broadband.

Will WSBO enhance awareness to eligible households of Federal Lifeline, Tribal Lifeline and Tribal Link Up (page 8)? Based on information in page 112, ISPs and other applicants are required to increase awareness but how will WSBO increase awareness?

Are objectives 1.4-1.6 intended to be high level points that are broken down further in the Digital Equity Plan (pages 8-9)? If so, can WSBO create a footnote to help direct the readers towards the exact breakdown in the Digital Equity Plan?

WSBO provides examples of ongoing broadband activities on pages 11 through 13. However, WSBO mentions a more comprehensive list of activities in the Five-Year-Action-Plan (FYAP). The more comprehensive list is spread out between pages 31 and 42 of the FYAP. Why did WSBO choose to omit the full comprehensive list? Ziply Fiber believes it is important to highlight all ongoing activities to showcase collaboration with stakeholders.

In Table 1, WSBO references City of Anacortes Investments for Public Works and Economic Development Facilities as an example of an Ongoing Broadband Activity (page 11). The project funded through this activity overbuilt the existing Ziply Fiber infrastructure. How will WSBO ensure grant money is not awarded to projects that would overbuild existing infrastructure from private investment?

WSBO states that a key theme from the listening sessions, surveys and focus groups is that the respondents want the state government to take a more active role, using effective regulation and starting new programs to address service provider deficiencies (page 15). While reviewing the Digital Equity Forum Report from footnote 5, the survey responses on page 27 do not indicate a need or a desire from the respondents for WSBO to take a more regulated approach. Where does this key theme come from? What were the suggested regulations? We caution WSBO from acting based on the sentiments of fewer than 5,000 Washingtonians. The vast majority of Washingtonians have access to broadband today without the intervention of WSBO. In a state of more than 7.7M people, the biases of those who were aware and participated in such sessions would be a gross overstatement to the millions who have not raised such issues nor participated. We urge WSBO to expand its outreach and engagement before embarking on a path to increase its regulatory presence.

WSBO states that they will continue to conduct outreach and engagement efforts through future programs, as described in its BEAD 5 Year Action Plan and Digital Equity plans (page 16). When will potential applicants and other stakeholders be notified of these events and programs and how will they be notified?

When will WSBO host the public comment session on workforce development mentioned (page 19)? How will the stakeholders be made aware of when and where the event will take place?

How and when throughout the process will WSBO engage with providers as stakeholders (page 20)? How will the stakeholders be informed of the engagement opportunities?

The reference to the State Digital Navigator Program as providers working with underrepresented communities, as an excellent opportunity for outreach is commendable (page 21). However, the majority of awarded programs offer services in more populated communities. How will the less served, more rural communities be engaged?

WSBO encourages the use of the OMWBE website to solicit contractors and subcontractors. How does the WSBO suggest applicants identify OMWBE's that are possibly eligible to perform work under contract (page 74)?

Prevailing wage is set based upon the date of a contract execution. Using parodies such as an application, posting a job classification and wage from the Washington Labor & Industries wage website is purely conjectural. Providing wage scales and overtime pay information is insufficient as a measure of the true prevailing wage and should not be allowed (page 77).

WSBO has acknowledged one of the biggest challenges that will be faced during broadband infrastructure deployment is potential workforce shortage. However, WSBO asks applicants to utilize a local, skilled workforce (page 79). What if there are not skilled workers available locally to complete awarded projects?

WSBO states that a a subgrantee should utilize worker with necessary job skill to meet safety requirements (page 79). This includes workers who have completed apprenticeships, training programs, or on-the-job training. What are some examples that would make the worker qualified and how will applicants gain knowledge of their existence? If there are no workers engaged, what are the necessary steps required to waive this provision?

By what measure is a worker credentialed (page 79)? Does an in-house training program satisfy this provision?

Are the legally binding commitments in addition to an applicant's submitted plan, or is the commitment part of the award contracting process (page 79)?

WSBO requests that an applicant identifies entities that we plan to contract or subcontract the scope of work (page 84). However, the duration of time between application submission and when a project is ready for construction will be many months. Having those details at the time of application ignores how networks are built. An alternative approach would be for the contracting process to be outlined so that WSBO can have assurance that the applicant has the process understood and can act upon it at award.

WSBO discusses the creation of a Broadband Workforce Development Taskforce that promotes worker skills training, marketing of these opportunities and to monitor subgrantee labor standards and performance (page 92). However, collective bargaining agreements between our union partners and Ziply Fiber are confidential, and we would not publish this information. We would recommend not enacting this provision.

What are the key metrics a sub-awardee must track as it pertains to work with underrepresented enterprises (page 96)? Will these metrics be determined in a subgrantee agreement or identified in the application process?

Ziply Fiber agrees that reducing barriers, streamlining permit process and access to right of ways is a great way to decrease costs and increase efficiency in the deployment of fiber (page 99). Will WSBO provide guidance or best practices to local governments regarding the streamlined permit process?

WSBO suggests using HB 1216 as a model to determine which broadband deployment projects will receive an expedited permitting process (page 100). While Ziply Fiber applauds WSBO for an innovative

approach to expedite this process, how will WSBO determine which projects are eligible? Will the metric be projects that score the highest overall number of points based on the rubric, or will it be projects that excel in certain criteria on the rubric? We seek additional clarification.

Based on the [NTIA BEAD FAQ](#) guidance, the creation of a database is mapping and would be excluded from the allowable 2% of BEAD funding for non-deployment activities (page 100). How will WSBO pay for the cost of constructing and maintaining a centralized broadband database?

In the Local Coordination Tracker Tool, WSBO marks the detail type as "Other" without including detail to the specific engagement (page 120). WSBO should detail each specific engagement. Additionally, how will this tool be kept up to date and where will stakeholders have access to it?

Lastly, Ziply Fiber wants to emphasize the importance that all awards are deemed fixed amount subawards, as it is critical to ensure adherence to NTIA's guidance on Part 200.

The Wireless Infrastructure Association

Comments related to Washington State Initial Proposal Volume II

Broadband Equity, Access, and Deployment Program

November 27, 2023

The Wireless Infrastructure Association(WIA)
WIA appreciates the opportunity to submit comments on Washington State Broadband Office (WSBO) − Initial Proposal Volume II Broadband Equity, Access, and Deployment Program.

WIA represents the companies that make up the wireless broadband infrastructure ecosystem in the United States. Our members are the businesses that develop, build, own, and operate that nation's wireless broadband infrastructure. WIA member companies include wireless carriers, infrastructure providers, and professional services firms that collectively own and operate more than 135,000 telecommunications facilities around the globe.

WIA is offering its technical and industry expertise to states as they develop their broadband plan for the BEAD funding and its specific plans for broadband workforce training and education. The overriding vision of the WIA's broadband workforce initiative is to attract new students and workers to the broadband workforce, build a diverse and highly-skilled broadband workforce that encompasses the fundamental knowledge base applicable to a rapidly changing technology landscape, develop specific occupation credentials that are relevant to the changing job demands and criteria, and provide pre-apprentice and apprentice training that result in quality, sustainable broadband jobs as identified by industry demand.

WIA comments on Workforce Readiness (Requirement 12)

WIA concurs and appreciates the recognition for broadband workforce in WSBO introduction on page 80 of volume 2, "A highly skilled workforce is both a necessity and an opportunity to meet Washington's goals for universal access, economic development, and scalable and sustainable broadband infrastructure. Even before the Infrastructure Investment and Jobs Act, which includes funding for the Broadband Equity, Access, and Deployment (BEAD) program, anticipated demand for new broadband sector jobs was around 850,000 nationwide through 2024. With the addition of BEAD- funded broadband infrastructure projects, there will be more demand for broadband sector jobs. The U.S. Government Accountability Office predicts that the

BEAD program could create tens of thousands of new jobs for skilled telecommunications workers. To effectively capitalize on the workforce and economic development benefits of increased broadband access, Washington state must support the development of a highly-skilled, diverse workforce prepared to deliver upon broadband deployment goals."

On page 72, the WSBO however states, "If Washington has remaining funds to allocate towards non-deployment activities, the WSBO will use the Digital Equity Plan's needs assessment and proposed activities as a guide. This will serve as an initial basis to identify non-deployment initiatives to address the goal of universal access beyond access to infrastructure."

One of the highlighted needs identified is Workforce Development.

"Increasing equitable, diverse, and inclusive on-the-job broadband workforce training program opportunities aligned to broader workforce goals, including emerging areas such as cybersecurity and other information technology-related fields."

Consistent with our previously filed comments to Washington State's 5-Year Plan, WIA commends WSBO for continuing to highlight the need for Workforce Development in Volume II. However, the use of funds for workforce development questions persists. A*s stipulated by the U.S. Department of Commerce National Telecommunications and Information Administration (NTIA), workforce development is an approved deployment activity, and as such, it can be prioritized as the first use of funds versus being addressed only if additional funds are available. Furthermore, dependent on activities, workforce development can also be eligible for use as a non-deployment activity. Recently, NTIA offered States further guidance on funding workforce development and training*: https://broadbandusa.ntia.doc.gov/sites/default/files/2023-11/Workforce_Costs_in_BEAD_IP.pdf.

WSBO also clearly outlines the need to continue engaging with diverse stakeholders.

"While the BEAD and Digital Equity Planning processes established some preliminary needs, ongoing engagement with diverse state stakeholders and tribal governments will be important to help adjust priorities if needed throughout both programs. Local and tribal coordination efforts described in Chapter 3 - Local Coordination will inform the selection of eligible non-deployment activities. The WSBO will rely on partnerships to implement activities and to secure additional funding to address federal funding gaps and support the sustainability of activities."

WIA supports the establishment of a statewide broadband ecosystem as the best means for addressing the skills gap and meeting the immediate and long-term workforce needs of the broadband industry. WIA can support WSBO's workforce development strategy to ensure a ready highly skilled and diverse workforce as follows:

WIA Offers to Complement Washington's Broadband Workforce Strategy

WIA offers technical and industry expertise to the states and U.S. Territories as they develop their overall broadband plan for the BEAD funding, including specific plans for broadband workforce training and education. The overriding vision of the WIA's broadband workforce initiative is to attract new students and workers to the broadband workforce, build a diverse and highly-skilled broadband workforce that encompasses the fundamental knowledge base applicable to a rapidly changing technology landscape, develop specific occupation credentials that are relevant to the changing job demands and criteria, and provide pre-apprentice and apprentice training that result

in quality, sustainable broadband jobs that support reliable, robust, and resilient broadband networks.

Establishment of Broadband Sector Partnerships

WIA is the ***U.S. Department of Labor's National Telecommunications Industry Intermediary contractor*** and can partner with WSBO to build a statewide broadband workforce ecosystem that includes the critical connection between employers, academia, and government**.** In this role, WIA can offer Washington its expertise and experience in forming such a central convening entity that allows regional partnerships to be forged while eliminating duplicate efforts. Doing so will allow regions to complement strengths and mitigate weaknesses, share assets and burdens, and distribute best practices to stakeholders throughout the state.

The Role of the Industry Intermediary (WIA)

As the National Telecommunications Industry Intermediary, WIA brings vast expertise and experience to carry out primary functions:

- The Intermediary will work to identify the workforce required to meet the deployment needs.
- The Intermediary would design and implement outreach initiatives to raise awareness of the industry and career opportunities.
- The Intermediary will work to identify the skills gaps needed to meet the deployment needs.
- The Intermediary will align high-quality work-based learning (WBL) programs with state education-to-occupation pathway priorities.
- The Intermediary will translate the industry demand of skilled workforce and competencies and map that to existing and new educational degree and non-degree programs.
- The Intermediary will bring key industry influencers and employers to the schools and colleges to establish educational programs that meet the industry's need for classroom and hands-on training.
- The Intermediary will address diversity needs head-on through careful attention to each step of the pipeline from community to advancing in good-paying job and career pathway for growth opportunities.
- The Intermediary will play the role of convener and work with different stakeholder groups – students, teachers, unions, employers, and government agencies that need to be connected and work together with shared responsibilities.

To solve workforce gaps, Washington State must deliver the right talent, at the right capacity, and at the right time. The creation of a Broadband and 5G Sector Partnership can accomplish this objective. This proposed Sector Partnership would be led by an industry intermediary that understands the industry, education, and government – and the mandate to remain technology-neutral.

Training and Career Pipelines

One of the most significant barriers to large-scale broadband and 5G infrastructure deployment is the lack of labor, thus creating the need for education and training programs.

The primary focus of the partnership is to launch broadband workforce, education, training, and career pipeline programs to meet the state's broadband deployment needs, universal service goals, and to bridge the digital divide. WIA is uniquely suited to assist WSBO enhance its broadband education, training, and apprenticeship programs.

WIA is the leading developer of training and curriculum for the broadband industry, offering 40+ courses through its **Telecommunications Education Center (TEC)** tailored to the training, education, and professional development needs of the industry. Further, WIA's **Broadband & 5G Readiness Program** is a first-of-its-kind program that provides industry-approved curriculum on the design and deployment of 5G and broadband infrastructure. The fast-track training is packaged for companies and education institutions to attract and train candidates for a career in Broadband.

WIA is also the recipient of a four-year grant from the U.S. Department of Labor's **Closing the Skills Gap program**. The project work places emphasis on building training programs with community colleges and placing graduates with apprenticeships with TIRAP participating employers.

Further, **WIA is the National Sponsor of the Telecommunications Industry Registered Apprenticeship Program (TIRAP)**, as awarded by the US Department of Labor. WIA can partner with Washington State to enhance its existing apprenticeship program. Since 2017, the TIRAP program has had more than 4,300 apprentices from more than 101 employers nationwide. The suite of occupations—currently numbering 15 and continuing to grow—focus on high-growth, high-demand occupations, including fiber optic technicians, broadband technicians, and small cell and in-building technicians that are crucial to broadband deployment. These are intended to meet employers' occupational and skills development needs to create an in-demand workforce ready to support the design, build, and maintenance of telecommunications infrastructure. Re-skilling, upskilling through training, and TIRAP-defined career paths in a growing number of critical occupations enable accelerated local economic growth through good jobs for current and future employment opportunities for the unrepresented and underrepresented population.

The education, training, and apprenticeship programs are part of a professional pipeline that allows for continued employment and growth and to meet the broadband deployment needs.
Digital Equity, Diversity, and Inclusion

WIA has long been committed to promoting inclusion, diversity, and outreach to underserved and underrepresented populations including people of color, veterans, women, people with disabilities, and workers aged 50+. The funding provided by BEAD allows for an opportunity to maximize multiple access points to assessment, wraparound support for trainees/apprentices, preparation in pre-apprenticeship programs, and a broader array of apprenticeship occupations reflecting the breadth of the telecommunications industry.

WIA has developed effective outreach strategies for encouraging private and public sector initiatives to promote apprenticeship, including multiple MSI Apprenticeship Accelerators. WIA is currently working with MSIs and industry partners in Alabama, the District of Columbia, Florida, Georgia, Maryland, New Mexico, Ohio, Puerto Rico, Tennessee, and Virginia. WIA has developed relationships with senior leadership at 15 Historically Black Colleges and Universities (HBCUs)

for developing apprenticeship programs. WIA has partnered with Virginia State University to create a consortium of HBCUs for this purpose. The same ideas can be extended to MSIs.

In addition, WIA's annual Supplier Diversity Summit (held during its annual convention) advocates and encourages the inclusion of veteran, women, and minority-owned businesses in the wireless broadband infrastructure industry. Procurement officers have an opportunity to participate in one-on-one matchmaking meetings with diverse suppliers. Each procurement professional will have 10+ meetings with potential suppliers – adding up to hundreds of meetings over the year.

WIA can offer WSBO its expertise and experience in supporting digital equity, diversity, and inclusion throughout the telecommunications sector.

Model Program -- Ohio Broadband and 5G Sector Partnership

As a model reference, **WIA is leading the Broadband and 5G Sector Partnership in Ohio.** In March 2022, Ohio Lt. Governor Husted announced the establishment of the Ohio Broadband & 5G Sector Partnership. The Sector Partnership is "housed" at The Ohio State University and is led by WIA as the industry intermediary. WIA provides insight into the telecommunications skills gap and industry needs and works with the state and academic community to align with local priorities. The Sector Partnership works to design and distribute broadband curricula and training programs across the state and promotes career awareness to supply the industry with a skilled workforce – utilizing WIA's industry-approved broadband curriculum and TIRAP expertise.

Since the partnership was launched, Ohio has announced 11 new programs across the state. These programs are located at career centers, colleges, and universities, and will prepare participants for a variety of jobs in the telecommunications industry. The Sector Partnership will continue to lead the development and distribution of additional education and training programs across the state. Watch a brief video celebrating the 1-year anniversary of the Ohio Broadband & 5G Sector Partnership with WIA and Ohio State University. Ohio's Broadband and 5G Workforce Strategy Report is also available: Broadband & 5G Workforce Strategy Report.

NTIA Workforce Planning Guide for States

The NTIA BEAD guidelines for workforce development are based on years of successful workforce practice around the country. The NTIA handbook on workforce development plans includes, on page 47, a "Best Practices Checklist for Telecommunications Training and Workforce Development Programs" Guide. The top three priorities it lists are:

1. "Industry-led sector partnership"
2. "Employer-led curriculum development"
3. "Utilize proven earn-and-learn models like Registered Apprenticeships."

The workforce program WIA proposes is led by these three priorities referenced in the handbook and refined and improved from our experience in Ohio with its broadband/5G workforce program.

Thus, WSBO can be reasonably confident that the implementation of such programs and strategies will be accepted and approved by the NTIA.

<u>WIA Concluding Comments</u>

WIA would like to commend WSBO for completing their Initial Proposal Volume II submission. WIA stands ready to partner and provide expertise in the areas we outlined. We appreciate the opportunity to submit these comments, and we appreciate your consideration.

Amelia De Jesus
Vice President, Workforce Solutions
The Wireless Infrastructure Association

EducationSuperHighway Comments for Washington's BEAD Initial Proposal, Volume 2

EducationSuperHighway welcomes the chance to provide feedback on the WSBO's draft BEAD Initial Proposal Vol. 2. We commend the WSBO's commitment to addressing the persistent challenge of broadband affordability within Washington and its openness to utilizing inventive strategies. We are particularly supportive of the WSBO's intention to promote and endorse initiatives that enhance universal access to affordable broadband. By adopting cost-effective solutions like Apartment Wi-Fi, a managed Wi-Fi solution, the WSBO has the potential to effectively tackle both affordability and connectivity for many Washingtonns living in multi-dwelling units (MDUs).

Comment on Requirement 8: Deployment Subgrantee Selection

Project Areas that contain both MDU BSLs and non-MDU BSLs

One challenge with bidding at the county Project Areas (PAs) level is that with 1,000 BSLs, these areas will likely contain both MDU BSLs and non-MDU BSLs, such as a single-family home. In situations like these, a **partnership of subgrantees** may be necessary to adequately address the needs of Washingtonians residing in that PA, **especially those households living in MDUs.** In most cases, last-mile providers will only deliver a "pass-by" to the MDU (i.e., drop a connection off to the MDU at the building level but not to the units themselves). Or, in the case of the Managed Service Providers (MSPs) specializing in property-wide, managed-Wi-Fi solutions, they may have the perfect solution for the MDU but not necessarily for connecting single-family homes.

Should the WSBO go with the County as the chosen Project Area option, it is important to set up guardrails to ensure the problem of "MDU pass-bys" does not occur and that all the units of an MDU BSL get served. To accomplish this, you can **require any proposed solution from subcontractors bidding in that PA demonstrate how they will connect all Washingtonians within each MDU.**

In the event that the WSBO is persuaded by their constituents to use school districts for Project Area boundaries instead of counties, the same requirement should be applied. EducationSuperHighway will comment similarly on all states' Volume 2, invoking the NOFO language that asks "how the Eligible Entity intends to ensure that **every resident** has access to a reliable, affordable, high-speed broadband connection."

Cost per unit versus cost per BSL

Connecting all the units in a multi-dwelling unit (MDU) will be more expensive compared to connecting a standalone single-family home. We therefore recommend that the WSBO assess the costs for MDUs based on a per-unit basis rather than a cost per BSL. This approach will enable a more precise comparison of costs for MDUs and ensure that each family living in a specific unit is connected.

Normalization of proposal costs & consumer pricing

Accordingly, the WSBO should consider a request for a detailed breakdown of costs per unit in any proposal involving MDU BSLs to accurately identify the most competitive and cost-effective solution. Additionally, proposals should include a breakdown of the price per customer served (e.g., price per unit in MDUs) to facilitate comparisons, especially for MDUs that may present pricing differences, such as bulk pricing (charges to the property owner) versus retail pricing (charges to the unit).

Scoring criteria

Evaluating for affordability

EducationSuperHighway applauds the WSBO's acknowledgment of affordability's significance in addressing the digital divide in Washington. The WSBO's proposed scoring rubric admirably awards up to 25 points for applicants who commit to less than $75 per month plan for one symmetrical Gbps service, six points for a wholesale 1 symmetrical Gbps circuit, and goes further by requiring subgrantees to offer a $25 Low-Cost Broadband plan should the ACP funding be expended and no program be left in its place.

EducationSuperHighway implores the WSBO to go even further by assigning **additional points to solutions that are committed to offering free service during the performance period of BEAD**. ACP has shown that **free broadband service** for residents is a powerful solution for the affordability barrier to adoption since it reduces and/or eliminates many of the obstacles to home internet adoption, such as financial commitments, credit checks, and enrollment paperwork. As such, we invite the WSBO to consider incentivizing solutions that provide a free service tier and help reduce the need for resource-strapped families to choose between paying for their internet bill and paying for food.

EducationSuperHighway acknowledges the real challenge providers face in maintaining profitability due to pricing constraints imposed by BEAD. We recognize that annual increases in plan costs relative to inflation can incentivize providers to serve these markets. However, given

that affordability is the leading cause of today's digital divide, we recommend requiring, or at least scoring higher, proposals that commit to not raising the rate of the low-cost option through the performance period of BEAD.

MDU Internal Wiring Ownership

Referring to the NOFO language, "*It also requires all projects to…**further prioritize proposals that improve affordability** to ensure that networks built using taxpayer dollars are accessible to all Americans*. Prioritizing long-term competition is crucial for addressing affordability. In the case of MDUs, if property owners, rather than providers, own the internal wiring infrastructure, property owners can engage with the wider marketplace without access restrictions. EducationSuperHighway suggests mandating or giving higher scores to solutions that lead to property owner ownership of **internal wiring within an MDU**.

Evaluating Service Quality

In addition, EducationSuperHighway urges the WSBO to include in its selection criteria considerations that make a solution more "affordable," even if this goes beyond strict cost factors. Examples explicitly called out in the NOFO a *"broadband service option should address"* are *"reliability commitments"* and *"download and upload speeds, latency, any limits on usage or availability, and any **material network management practices."***

In this context, "material network management practices" and "reliability commitments" could include quality of **technical support, enforceable Service Level Agreements, and optimized Wi-Fi spectrum design.** For example, a $50/month 100Mbps symmetric Managed Wi-Fi plan is actually more affordable than a $50/month 100Mbps symmetric retail plan because Managed Wi-Fi services uniquely offer additional value through enterprise-quality network management practices and reliability commitments.

Similarly, we recommend that the WSBO add additional scoring criteria to go beyond speed and award additional points for solutions that provide superior network management practices like superior technical support, enforceable Service Level Agreements, and optimized Wi-Fi spectrum design, all practices provided as a standard for enterprise quality networks like those provided by Managed Wi-Fi.

Another means we recommend for incentivizing a high-quality network is to include these network management practices as part of the minimum criteria of the recommended low-cost and middle-class service options, such as the requirement for outage credits to the consumer (e.g., measured at 1/30 of the monthly rate per day for an outage of over 12 hours) included in the Kansas Office of Broadband proposal.

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Public benefits of a Managed Wi-Fi Solution

The BEAD NOFO emphasizes that "competition among broadband providers has the potential to offer consumers more affordable, high-quality options for broadband service." Unlike the traditional model of relying on one or two broadband providers, BEAD can leverage these providers to serve as backhaul connections for companies offering consumer-facing solutions like managed Wi-Fi Service Providers. And MSPs can then be sourced nationwide, many of which include minority-, women-, or veteran-owned companies.

Community Anchor Institutions (CAI)

EducationSuperHighway appreciates WSBO's drive towards universal coverage by prioritizing unserved locations before awarding funds to underserved locations and eligible CAIs. And applauds the WSBO's understanding that some project applications may include a mix of unserved, underserved, and **eligible CAIs** to optimize network design, minimize BEAD outlay costs, and increase speed to deployment.

EducationSuperHighway also recommends including a similar approach to Wyoming's Broadband Office, which also prioritizes proposals that maximize the potential future inclusion of CAIs by scoring higher designs that include the most CAI pass-byes. By efficiently building out networks to priority projects of underserved locations by considering the buildout's **proximity to CAIs**, CAIs like public and affordable housing are more likely to be served.

EducationSuperHighway invites WSBO to consider one further expansion of the definition of CAI – to augment the current definition of public housing to include *low-income community housing* as well.

Concretely, this would take WSBO's current definition of Public housing organizations in its Initial Proposal and changing it to: "Public housing organizations *and/or low-income community housing*: Public housing as determined by state Public Housing Agencies or housing listed on the National Housing Preservation Database, *as well as other sources.*" (emphasis added)

We propose that WSBO use the following definition for *low-income community housing*, taken from the ongoing California Public Utilities Commission's (CPUC) proceedings[1] and used to define low-income community housing in the CPUC's California Advanced Services Fund Broadband Public Housing Account Program:

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[1] CPUC's CASF Broadband Public Housing Account program:
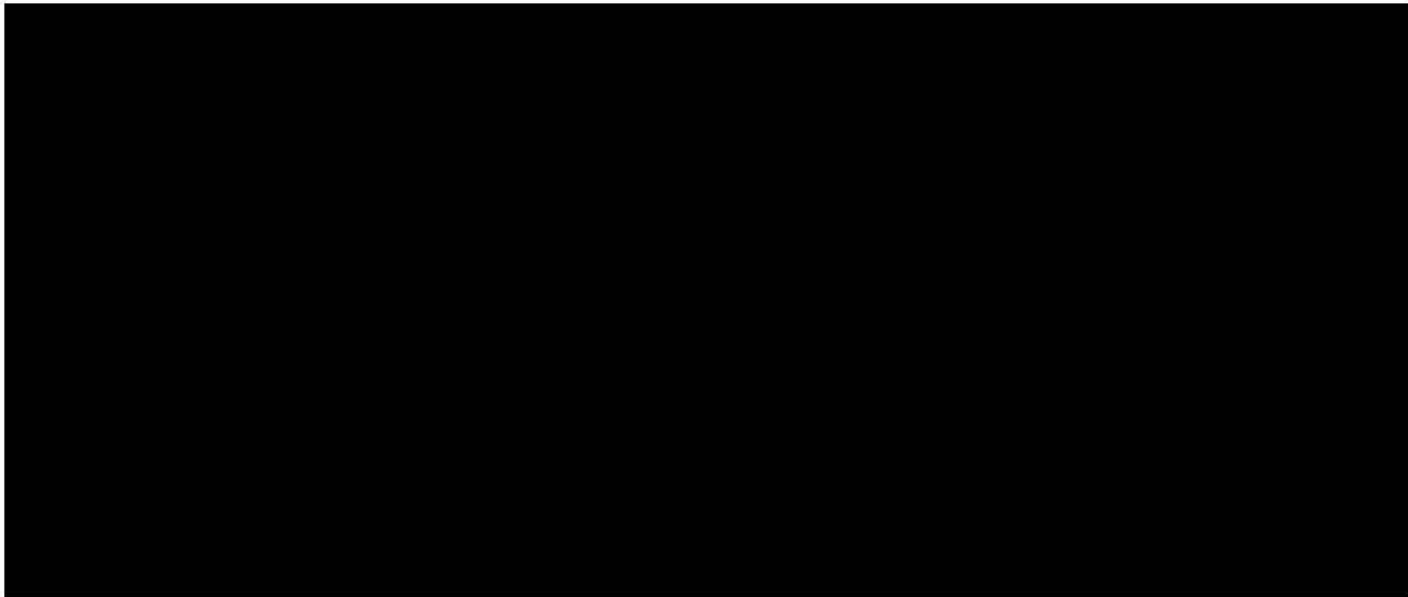https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M507/K387/507387477.PDF

4

"Low-income community housing" is

a. A publicly supported housing development

b. Farmworker housing

c. Other housing development

d. Mobile home park

e. One or more Census block group(s), each with a median household income at or below 80 percent of the statewide median income or with median household incomes at or below the county-specific threshold designated as "low-income" by the Department of Housing and Community Development's list of state income limits adopted pursuant to Section 50093.

C. "Other Housing Development" is (a) any multi-dwelling unit development in which all units are owned by the same entity(ies) and that has 80% or greater residential units that are "low-income;" (b) tribal housing, including developments funded with Housing and Urban Development (HUD) funding or through a Tribally Designated Housing Entity (TDHE).

Naturally, the language cited above includes references to California regulations; WSBO could find the corresponding or closest-corresponding regulations in the state of Washington to make the definition fit best for the state. This suggested definition is meant only to give an example of how to define "low-income community housing," thereby expanding CAIs to include publicly-funded housing and other low-income housing that is not publicly funded.

Conclusion

EducationSuperHighway appreciates the opportunity to submit comments to WSBO as Washington develops its plans aimed at ensuring affordable, reliable, high-speed internet access. We look forward to supporting the state's ongoing efforts and stand ready to provide pro-bono support and resources for this crucial work.

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From: Janet St. Clair ███████████████████████

Sent: Tuesday, November 28, 2023 8:41 AM

To: COM Internet For All <internetforall@commerce.wa.gov>

Cc: ██

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Subject: Comments for Volume II

Dear Mr. Vasconi and Colleagues,

Please see my comments below regarding Volume II. Thank you for taking time to gather public input and consider stakeholders in this process. I will also work to upload in the portal.

Respectfully submitted,

Janet St. Clair

Volume II Comments:

Page 8: Goal 1

I appreciate the effort by WSBO to prioritize coverage at 1GB to all anchor institutions by 2026 and 150 symmetrical to residents and businesses by 2028. While I recognize this exceeds the state standards set by the legislature of 100/20, these speeds are critical for future-proofing our broadband investments and assuring that there will be bandwidth to assure the technology for remote healthcare, capacity for economic development activity including transactions, marketing and technical assistance and finally assures our children will have access to the educational opportunities for them to also future-proof their lives.

I also appreciate the emphasis on affordability and our need to advocate and educate about the Affordable Connectivity Program.

Page 9: Goal 2.1

In future planning and opportunities, how will WSBO communicate and include our primary workforce partners such as Workforce Development Councils and our labor partners? Can we also expand our partnership with local public libraries and community college libraries to assure we have the right partners to leverage digital equity and inclusion with natural, trusted advocates in our communities?

Page 15-29: Public Engagement

I strongly encourage that public engagement in the future, especially as it relates to Digital Equity occur evenings and weekends and not during traditional work hours. Many of those who will benefit from digital outreach and engagement often work long hours to support their families and do not have the flexibility to take time off. The meeting in my region was from 10-12 in the morning and engaged mostly local advocates already working on broadband and retired residents. I also applaud efforts to intentionally use language access plans in order to reach those with limited English, low literacy or diverse abilities in sight and hearing. It is also greatly appreciated the continued outreach to local Broadband Action Teams, statewide associations and professional groups related to digital equity and expansion.

Page 36: Scoring Criteria

I encourage continued conversation and clarity on Open Access criteria for both wholesale and retail. Other broadband partners in the state have expressed confusion as well, including the definition of unaffiliated entities. The end goal is access that incentivizes and support connectivity for customers with affordable and reliable service.

Page 39:

In addition to an IRU and MOU, add public-private partnerships with contractual agreements.

Page 44-45: first paragraph

In prioritization of Community Anchor Institutions (CAIs) it is important to note that many of our first responders, power company and local government employees called to respond to natural disasters, weather emergencies or critical incidents live in under and unserved areas. It is important to recognize and ask for respondents to note if there are project areas assure the ability for public employees to access and respond remotely to a public emergency. I'm not sure how to gather this information but I have heard from other county leaders in my region that this is a concern and note it is a concern for Island County.

Page 49-51: Project Area Definitions

I want to thank all who have worked to define project areas, continuously identify, and update under and unserved areas and attempt to build a paradigm for future expansion. Like all paradigms, it cannot be "one size fits all" as the topography, demographics and available resources vary widely across Washington State. In considering the binary approach of counties v. school districts, I think there will be unintended consequences that can exclude eligible and needy areas, increase cost, and decrease collaboration. While it may feel apparent to set a limit of 1000 BSL's for counties, it may eliminate the innovative approach to filling in unserved deserts. This has been a concern for both Island and other counties and PUD's.   In past project development, applicants have been able to use the fabric data and identified under and unserved areas, draw contiguous polygons and set areas that make sense from an engineering and deployment perspective. Work with Broadband Action Teams and local government, providers, and advocates to plan projects collaboratively. I strongly encourage WSBO to return to an existing, working approach if possible.

If I had to weight one approach over the other, it would be a county approach. That said, a county approach in counties with unique topographical characteristics like islands may not be functional. For example, it makes no sense to define a project area with BSL's between North Camano and North Whidbey. That would be prohibitively expensive and complicated to deploy. In this case, it makes far more sense to use a County first approach with the ability to add the subset of school district(s) that are separate of combined to maximize service locations. In addition, I strongly urge WSBO to allow for multi-jurisdictional projects that leverage service locations, existing builds that enable us to reach unserved locations and have the equity benefit of hard-to-reach, more distressed areas of our counties.

We already have examples of this in Washington State and my region with a CERB investment that connected to a prior Skagit Net project bringing together unserved entities in more remote areas of Eastern Snohomish, East Skagit and the Sauk Suiattle tribe. For our Island County Broadband Action Team to efficiently plan and serve our residents, we would be wise to partner with Snohomish County along the Hwy 532 corridor and to partner from North Whidbey to Fidalgo Island (Skagit County) and perhaps also leverage and help expand projects with the Samish and Swinomish tribes. Using a binary approach would limit opportunity thinking and have a limiting impact on our ability to not only expand internet options but also build circular networks that enable us to have stronger redundancy and resiliency as noted in goals articulated on page 59.

Page 78-79: Labor Standards

I applaud the effort of WSBO to recognize our workforce development councils, labor unions and educational institutions in assure a skilled and ready workforce to build our state networks. I support the effort to support prevailing wages and the Davis-Bacon Act. I did have questions regarding "appropriately credentialed workforce" and want to make sure we set standards that are inclusive of training by the entities noted above as well as in-house training by providers in our state so that we don't slow down deployment by unnecessary bureaucracy.

Page 97-99: Barriers

I support efforts to leverage existing infrastructure and incentivize collaborative infrastructure planning such as "dig once" policies. I support streamline ROW and access requirement **as long as existing public works infrastructure is protected and damage repair requirements are thorough and timely.** I encourage all of us to work collaboratively with our utility partners to find pole access and replacement

policies that are fair and consistent across the State. I encourage a collaborative policy approach on all of these barrier issues whether dealing with WSDOT, local public works or public utility districts.

Janet St. Clair
Commissioner, District 3
Board of Island County Commissioners

uscellular™

November 28, 2023

Submitted via email

Washington State Broadband Office

RE: Broadband Equity Access and Deployment Program Initial Proposal – Volume 2

Dear N.C. Department of Information Technology Division of Broadband and Digital Equity,

On behalf of UScellular, a wireless service provider in Washington, I am providing these comments on the Washington Broadband Equity Access and Deployment Program Initial Proposal ("BEAD") Volume 2 ("Initial Proposal"). We have submitted comments via the provided survey form but are submitting a copy via email in case the form did not come through properly.

Section 4.1 Subgrantee Selection Process Integrity – Multiple Project Areas in an Application

Allowing an applicant to include multiple project areas within a single application will be easier for applicants. Additionally, bundling multiple project areas may allow an ISP to connect a greater number of locations in total, as they could bundle areas with better economics that could support areas with more challenging economics for the provider. That said, if this approach is adopted, there will need to be a means for the ISP applicant to note if project areas can be separated or not – e.g., there could be a situation in which an ISP can only commit to connecting Project Area A if they are awarded Project Area B as well (i.e. without Area B, Area A becomes financially untenable for the applicant). If the WSBO envisions needing to award only part of a multi-project area application, then the process needs to care for this nuance.

Section 4.2 Scoring Rubric and Prioritization

Regarding the proposed scoring approach for a joint fiber and alternative technology application, we seek clarification on which scoring rubric will be leveraged given the project area will connect some locations via fiber and some via an alternative technology. A joint technology project could be the best and most flexible proposal for an area and should be scored appropriately. The State should consider another category of scoring for projects using both fiber and an alternate technology, to take into account the benefits of cost and deployment efficiencies, and other capabilities. Scoring a joint technology application by either the priority rubric, or the non-priority rubric, skews the scoring for those projects relying on a single technology.

Section 4.6 Project Area Definition – Project Area Boundary Definition Preference

The mission of BEAD is to cover all unserved and underserved locations. While we understand the importance of first focusing on the unserved locations and ensuring all unserved can be connected, it is important to remember that many projects, of all technology types, will address both unserved and underserved locations

together. We appreciate WSBO's acknowledgement that some project applications may include a mix, and allowing for this mix will lead to efficiencies versus trying to limit a project to just unserved locations.

With regard to project area boundary definitions, UScellular believes that subgrantees should have flexibility in defining project areas as this is more likely to result in the most cost-effective proposals as it allows providers to maximize the efficiency of the new infrastructure within their existing network. With that said, if specific project area boundaries are going to be used, UScellular prefers using county area project boundaries as opposed to political boundaries that are subject to changes.

4.11 Deployment Subgrantee Qualifications: Financial Capability

The sustainability and pro forma analysis elements outlined by WSBO are burdensome and subject to change during the course of the project timeline, so as to render them outdated before the required timeline is complete. The NOFO provides a robust process to ensure an ISPs financial and operational capabilities are sound, without requiring complete business plans for a period of several years. We agree that sustainability of subgrantee financial and operational capabilities is critical to the success of BEAD but suggest relying on the requirements to prove and monitor the critical functions outlined in the NTIA NOFO.

Ch.12 Low-cost Broadband Service Option and Ch.13 Middle Class Affordability

UScellular agrees with WSBO that affordability is important for the success of BEAD projects. We participated in, and agree with, comments filed by our industry organization, CTIA, in this proceeding. In Washington, UScellular offers a variety of affordable plans, including plans supported by both Lifeline and ACP. We suggest WSBO simply require participation in ACP to ensure low-income affordability service is provided rather than the suggested low-cost service option of $25 or less. This pre-determined price creates risk that the business case economics for the provider can no longer be supported. At a price point of $25, the full ACP discount cannot be applied to the rate plan, as it is not possible to take a customer's account to a credit balance through the application of the ACP discount. Any price plan should have adjustments to a measurable inflation benchmark such as CPI and not be unlimited in duration.

Additionally, we seek clarity regarding which customers are eligible for the low-cost affordability plan. Is eligibility based on the customer qualifying for ACP or Lifeline? The plan should not be mandated for a larger swath of customers.

General Comments

We would encourage WSBO to focus on the key goal of internet for all as they work to design and execute their BEAD program. The State goal of providing 150/150 Mbps speeds to all business and residences does not align to the realities of customer usage patterns. Even during the pandemic, usage patterns showed that consumers were much more reliant on download streams than upload streams (trending around 12-14x DL to UL ratio). CTIA has often leveraged a graphic that points to a typical family of five that can simultaneously be video conferencing, and streaming entertainment, with the total bandwidth needed to support this activity of just 40/8 Mbps (https://www.ctia.org/news/5g-the-missing-ingredient-to-closing-the-digital-divide). Symmetrical speeds are unnecessary and do nothing but eliminate optionality and flexibility. We encouraged WSBO to approach their BEAD program in a way that encourages technological optionality as that will allow for the most efficient use of BEAD funds.

Relying on unneeded speed standards ignores the needed benefits that an alternative technology such as Fixed Wireless Access is able to provide to the rural areas of the state. Surveys show that, given the choice, customers prefer the BEAD standards of 100/20 Mbps that will meet all their broadband needs, and the added benefits of increased wireless mobility. The benefits that FWA brings to rural areas outweigh speed requirements in excess of BEAD.

UScellular is committed to partnering with the Washington Office ("WSBO") in helping bridge the digital divide in Washington. We appreciate the opportunity to submit these comments. Additionally, as an active member of CTIA, the wireless industry association, UScellular was involved in drafting its comments and fully supports what CTIA submitted. UScellular appreciates the opportunity to comment on Washington's Initial Proposal Volume 2. We commend the State for its efforts to bridge the digital divide in Washington, and we look forward to further discussions on these issues and the ability to participate in State's BEAD program to bring broadband to all citizens.

Respectfully Submitted,

Stephanie Cassioppi

Stephanie Cassioppi
Sr. Director, Government Affairs

WHATCOM
PUD

November 28, 2023

Mark Vasconi, Director
Washington State Broadband Office
PO Box 42525
Olympia, WA 98504-2525

RE: Whatcom PUD comments on the Initial Proposal – Volume 2

Dear Director Vasconi,

Thank you for the opportunity to provide comment on Volume 2 of the state's Initial Proposal for federal Broadband Equity, Access, and Deployment (BEAD) funding. As representatives of a Public Utility District, we feel uniquely positioned to advocate for the long-term interests of our constituents here in Whatcom County. The comments herein are provided in response to the WSBO's publication of the Draft BEAD Initial Proposal – Volume 2.

Support for Public Broadband Stakeholder Group Comments

Whatcom PUD fully supports and agree with the comments submitted via the Public Broadband Stakeholder Group. They remain committed to continued engagement with the WSBO and other stakeholders and have long advocated for necessary steps to ensure the long-term public benefit of the BEAD funding opportunity.

Project Area Definition

Applicants should be allowed to develop their own project areas. Previous State broadband funding programs have allowed for this including the Community Economic Revitalization Board (CERB), Public Works Board (PWB) and the Washington State Broadband Office (WSBO). Public entities in Whatcom County including the Port of Bellingham and Whatcom PUD have a proven track record of successfully defining project areas in ways that will meet the needs of our local constituents. We believe the fabric BSL data should be used as the base measurement of analysis not census blocks as currently proposed.

Coverage for Locations with no Proposals

We urge the WSBO to uphold a competitive process. We acknowledge multiple competitive funding rounds may be required. We believe the direct engagement and negotiation with potential subgrantees will not be transparent and will not result in the best use of public dollars nor will it be in the best interest of our community.

We appreciate your consideration of our comments.

Sincerely,

Chris Heimgartner
Whatcom PUD General Manager

PUBLIC UTILITY DISTRICT NO. 1 OF WHATCOM COUNTY
P.O. Box 2308 | 1705 Trigg Road
Ferndale, Washington 98248-9383

www.pudwhatcom.org

Commissioners: Jaime Arnett, Atul Deshmane, Christine Grant • Chris Heimgartner, General Manager

Comments Of The Broadband Communications Association of Washington
Regarding The Washington State Broadband Office's
Draft BEAD Initial Proposal Volume 2

BACKGROUND

The Broadband Communications Association of Washington ("BCAW") is a trade association of franchised cable television companies in Washington State. Cable companies are now the leading providers of high-speed broadband internet in Washington State and offer a full range of video and telephone services to consumers and businesses throughout the State. BCAW's members are among the cable providers who offer broadband, video, and voice services to over 1.4 million homes throughout Washington State through high-speed fiber and cable connections. Today, there are more than 20,000 miles of fiber and cable in Washington used by BCAW's members to provide reliable broadband, video, and voice services. BCAW members alone power over 3,000 Wi-Fi hotspots.

BCAW appreciates the opportunity to present its feedback on the Broadband, Equity, Access, and Deployment ("BEAD") Draft Initial Proposal Volume 2 ("Draft Proposal"). The BEAD Program, if implemented correctly, presents a tremendous opportunity to bring high-speed broadband to the remaining unserved and underserved areas of Washington. BCAW members applaud the continued efforts of the Washington State Broadband Office ("WSBO") to engage with stakeholders. As a result, the Draft Proposal includes a range of positive goals and outcomes tailored to support broadband expansion in Washington State in a number of ways.

As an initial matter, BCAW supports the WSBO including in its Draft Proposal the requirement that applicants submit a letter of credit or, helpfully, "any acceptable alternative approved by the NTIA."[1] BCAW encourages the State to align its approach with NTIA's recent conditional waiver of the letter of credit requirement, including by allowing all applicants to use performance bonds; establishing a BEAD reimbursement period that spans no more than six months; and allowing applicants to commit to maintaining a letter of credit or performance bond in the amount of 10% of the subaward until it has demonstrated to the satisfaction of the State that they have completed the buildout of 100 percent of locations to be served by the project or until the period of performance of the subaward has ended, whichever occurs first.[2] This flexibility will help minimize the burden and cost of obtaining letters of credit for *all* applicants, while allowing the Commission to ensure that applicants have the financial capabilities to deliver on their commitments. Additionally, BCAW supports WSBO plans to ultimately adopt NTIA's final guidance on the application of the Build America, Buy America Act to BEAD funds.[3]

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[1] Draft Proposal § 2.4.11 at 57.

[2] NTIA, *Notice of Programmatic Waiver* (Nov. 1, 2023), https://broadbandusa.ntia.doc.gov/funding-programs/policies-waivers/BEAD-Letter-of-Credit-Waiver.

[3] *See Limited General Applicability Nonavailability Waiver of the Buy America Domestic Content Procurement Preference as Applied to Recipients of Broadband Equity, Access, and Deployment Program, Request for Comments*, U.S. Dep't of Com. (Aug. 2023), https://www.commerce.gov/sites/default/files/2023-09/BEAD%20BABA%20Waiver%20Replacement.pdf).

Further, BCAW notes that the WSBO expects to exhaust all funding on deployment activities; however, if funds remain, the WSBO will invest in non-deployment initiatives identified in its Digital Equity Plan.[4] BCAW supports this investment in non-deployment initiatives including workforce development programs, and efforts to increase ACP participation, digital literacy, and other adoption related initiatives. BCAW members have a long history of both deployment and equity related work, and are well positioned to help WSBO maximize this historic investment in connectivity across the State, as well as support the equity related initiatives as they expand to previously unserved and unconnected areas.

The Draft Proposal also states that Washington has a "speed goal[]" of "150 Mbps symmetrical to all businesses and residences by 2028," which informs the state's investment in "future-proof" broadband technology.[5] As mentioned in BCAW's comments to the WSBO's Draft Initial Proposal Volume 1, BCAW members are currently in the process of rapidly evolving their networks to deliver multi-gigabit symmetrical speeds. For example, BCAW member companies Astound Broadband (formerly known as Wave), Charter, and Comcast, are each evolving their hybrid fiber coaxial ("HFC") networks using a number of technologies, including by adding spectrum and allocating more upstream spectrum to increase upstream speeds, Distributed Access Architecture ("DAA") to efficiently and flexibly support both HFC and EPON in the last mile, and DOCSIS 4.0 technology that supports multi-gig symmetrical internet speeds over the existing HFC plant. Through this process, which Charter and Comcast expect to largely complete before year end 2026, cable networks will transform to enable multi-gigabit data speeds to customers, and the deployment of DAA will enable them to offer fiber on demand across the majority of their networks.[6] So, not only are BCAW members well positioned to support the WSBO's goals of deployment and equity, members will far exceed the speed goals in the State which further bolsters the goal and vision for ubiquitous, high-speed connectivity for all Washingtonians.

To that end, BCAW also encourages WSBO to flexibly implement program rules to avoid imposing onerous and costly requirements on prospective subgrantees that might otherwise inhibit maximum participation. While this letter contains comments on various portions of the Proposal, the most important overall themes are as follows:

1. Decline to adopt affordability-related proposals that violate the Infrastructure Investment and Jobs Act's ("IIJA") prohibition on rate regulation, and instead focus WSBO's affordability initiatives on leveraging ISPs' existing low-income programs and utilizing an objective "reasonable comparability" benchmark that ensures consistency of pricing in BEAD-subsidized and unsubsidized areas of Washington;
2. Adopt a multi-round bidding structure that provides applicants the initial flexibility to define project areas;

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[4] *See* Draft Proposal §§ 2.5.1-2.5.2 at 71-72.

[5] *Id.* § 2.1.1 at 7, 9

[6] *See* Charter Communications, Inc. Annual Report (10-K) at 1 (Jan. 27, 2023), https://ir.charter.com/static-files/60656fe0-803a-4aa0-8da8-30865d4899f1; *See* Press Release, Comcast Corp., Comcast Accelerates Nation's Largest and Fastest Multi-Gig Rollout (Feb. 9, 2023), https://corporate.comcast.com/press/releases/comcast-multi-gig-rollout-xfinity-10g-network-upgrade.

3. Refrain from turning the NOFO's optional labor and employment suggestions into formal requirements;
4. Make targeted changes to the scoring criteria to facilitate a process that will reward rapid and economical deployment of sustainable broadband networks;
5. Ensure the WSBO's subgrantee selection process is fair, open, and competitive through further adjustments and clarifications; and
6. Adopt a risk-based framework for monitoring, accountability, and reimbursement and align requirements with federal guidance.

In the spirit of continued collaboration, BCAW offers these comments to WSBO for consideration and in the effort to make critical improvements to the Volume 2 Draft Proposal so the goal of ubiquitous connectivity across the State can be met.

1. **Decline to adopt affordability-related proposals that violate the IIJA's prohibition on rate regulation, and instead focus WSBO's affordability initiatives on leveraging ISPs' existing low-income programs and utilizing an objective "reasonable comparability" benchmark that ensures consistency of pricing in BEAD-subsidized and unsubsidized areas of Washington.**

As currently drafted, Washington's affordability-related proposals violate the IIJA, which explicitly prohibits the use of the BEAD Program to regulate broadband rates.[7] The WSBO proposes to award 25 points (out of a total 100, so 25%) for Affordability, and will award points for commitments to provide 1 Gbps symmetrical service "at the most affordable price for customers," *but, in order to get points, sets specific price caps that appear to be made up based on prior grant rounds that did not result in deployment to the locations BEAD will now serve.* This scoring method that both benchmarks affordability against an arbitrary dollar threshold and also proposes to establish specific rates for service plans that must be offered to all consumers constitutes impermissible rate regulation. Washington can avoid these legal pitfalls while still fulfilling the IIJA's affordability-related provisions by:

1) Evaluating applicants' commitment to affordability by requiring them to offer broadband pricing in BEAD-funded service areas that is consistent with the broadband pricing the subgrantee makes available in unsubsidized areas within the State, or utilizing the FCC's Urban Rate Survey's ("URS") reasonable comparability benchmark as an objective benchmark to score residential plans under the affordability criterion;
2) Revising the definition of the low-cost broadband service option to:
   a) ensure that providers' existing low-income plan offerings satisfy this requirement;
   b) remove unnecessary and unduly burdensome requirements for participation in Lifeline and the Affordable Connectivity Program's ("ACP") device subsidy program;
   c) clarify how long the low-cost option must be offered; and
   d) account for potential increases in inflation and government fees; and

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[7] 47 U.S.C. § 1702(h)(5)(D) ("Nothing in this subchapter may be construed to authorize the Assistant Secretary or the National Telecommunications and Information Administration to regulate the rates charged for broadband service.").

3) Revising the middle-class affordability plan to ensure consumers in high-cost areas are charged rates consistent with those charged to Washingtonians in unsubsidized parts of the State through the revised selection criterion and not a separate obligation.

Specific suggested alternative language for Washington's Initial Proposal is provided below.

A. IIJA's Rate Regulation Prohibition

The IIJA explicitly bars NTIA from regulating rates charged for broadband under the BEAD Program.[8] Congress would not have adopted this prohibition if it intended states administering BEAD grants to do the very same thing through their subgrantee selection process or middle-class affordability plans, *which NTIA then has to approve*. Rather, Congress intended to address broadband affordability through other IIJA initiatives, such as the ACP and the requirement that BEAD subgrantees offer a "low-cost broadband service option" to "Eligible Subscribers."[9] Congress's decision to center the IIJA's affordability initiatives on direct financial assistance for the families most in need makes sense when NTIA's data over the last decade consistently show that, while the barriers to broadband adoption are multi-faceted and complex, where affordability is the biggest barrier to adoption, non-adopting households are disproportionately the poorest households.[10]

Washington's approach also cannot be squared with longstanding federal policies against rate-regulating broadband. Rate regulation is a classic form of common carrier regulation that historically has applied only to public utilities in monopoly industries. Broadband does not qualify as such. Indeed, in classifying broadband as an interstate information service, the FCC made the affirmative determination not to impose common carrier regulation on ISPs*,* and even the 2015 Title II Order that classified broadband Internet access service as a telecommunications service and applied some common carrier regulations to broadband expressly forbore from the ex ante rate regulation that Washington proposes,[11] and the FCC's recent proposal to reinstate that classification and similar regulations for broadband continues this policy of forbearance.[12] Congress intended the BEAD Program to be a once-in-a-generation opportunity to close

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[8] *See id.*

[9] *Id.* § 1702(h)(4)(B); *see id.* § 1752. NTIA has defined "Eligible Subscribers" as households that qualify for ACP or various other government benefits, or those at or below 200 percent of the Federal Poverty Guidelines. NOFO at 12.

[10] *Id.* § 1702(h)(4)(B); *see id.* § 1752. NTIA has defined "Eligible Subscribers" as households that qualify for ACP or various other government benefits, or those at or below 200 percent of the Federal Poverty Guidelines. NOFO at 12.

[11] *See Protecting and Promoting the Open Internet*, Report and Order on Remand, Declaratory Ruling, and Order, 30 FCC Rcd. 5601 ¶¶ 451-452, 499, 508 (2015).

[12] *See Safeguarding and Securing the Open Internet*, Notice of Proposed Rulemaking, WC Docket No. 23-320, FCC 23-83 ¶ 105 (Oct. 20, 2023) ("[W]e 'do not and cannot envision adopting new *ex ante* rate regulation' or *ex post* rate regulation of BIAS, and we therefore propose to forbear from applying sections 201 and 202 to BIAS insofar as they would support adoption of rate regulations for BIAS.") (citing *2015 Open Internet Order,* Report and Order on Remand, Declaratory Ruling, and Order, 30 FCC Rcd. 5601 ¶ 451).

remaining gaps in broadband availability, not a reversal of the longstanding law and policy prohibiting states from engaging in price regulation.

As courts have held in related contexts, statutory prohibitions against rate regulation apply where a state either (1) specifies the rates that must be charged for specific levels of service,[13] or (2) freezes prices or restricts providers from adjusting rates in certain ways. The Draft Proposal would amount to impermissible rate regulation under both of these analyses, for both BEAD-subsidized areas and across the State.[14]

B. NTIA Guidance Does Not Support State Regulation of Broadband Rates

Nothing in the NOFO or other NTIA guidance permits or requires Washington to impose specific rates on the service plans that subgrantees must offer to all consumers in the State. In addition to conflicting with the IIJA, such requirements are unnecessary and unwise as a policy matter.

First, while the IIJA includes a statutory requirement to adopt a low-cost broadband service option for income qualified customers, it does not provide a basis for Washington's impermissible price-setting proposals. To the extent that the NOFO contemplates that a state might actually define a provider rate, it does so as only one example of how a state might fulfill the IIJA requirement to provide a "low-cost broadband service option" – not as a requirement that states must mandate a particular price, let alone a particular price available to all consumers.[15] To the contrary, the U.S. Secretary of Commerce, who oversees NTIA, recently made clear that "[w]e are not rate regulating, we are not price setting, and we *are not* requiring states to do that."[16] In relevant part, the NOFO only provides that states must propose a definition of "low-cost broadband service option," which "should address . . . all recurring charges to the subscriber, as well as any non-recurring costs or fees to the subscriber (e.g.,

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[13] *See, e.g.*, *N.Y. State Telecomms. Ass'n, Inc. v. James*, 544 F. Supp. 3d 269, 269 (E.D.N.Y. 2021) (preempting state law that would have required ISPs to offer low-income customers specific levels of broadband service at specific prices); *CTIA–Wireless Ass'n v. Echols*, 2013 WL 6633177, at *2 (N.D. Ga. Dec. 17, 2013) (preempting regulation requiring a minimum service rate of $5.00/month under Section 332 of the Communications Act); *City of Dubuque v. Grp. W Cable, Inc.*, 1987 WL 11826, at *6 (N.D. Iowa Feb. 25, 1987) (preempting ordinance specifying rates that may be charged for second cable outlets and remote controls).

[14] *See, e.g.*, *Town of Norwood v. Adams-Russell Co.*, 549 N.E.2d 1115, 1118 (Mass. 1990) (holding that the Cable Act preempted a rate freeze provision); *City of Burlington v. Mountain Cable Co.*, 559 A.2d 153, 155 (Vt. 1988) (same); *Westmarc Commc'ns, Inc. v. Conn. Dep't of Pub. Util. Control*, 807 F. Supp. 876, 886 (D. Conn. 1990) (preempting a regulation prohibiting the cable operator from increasing its rates to offset a fine imposed by the regulator); *Cellco P'ship v. Hatch*, 431 F.3d 1077, 1080-83 (8th Cir. 2005) (customer consent requirement for any "substantive change" to a service contract was preempted rate regulation, because it "prevent[ed] providers from raising rates for a period of time, and thus fixes the rates").

[15] 47 U.S.C. §§ 1702(h)(4)(B), (5); NOFO at 67.

[16] *CHIPS and Science Implementation and Oversight: Hearing Before the S. Comm. on Com., Sci., and Transp.*, 118th Cong. (Oct. 4, 2023) (statement of Gina Raimondo, Sec'y, U.S. Dep't of Com.) (emphasis added), *available at* https://www.commerce.senate.gov/2023/10/chips-and-science-implementation-and-oversight; *see also* 47 U.S.C. § 1702(h)(5)(D) ("Nothing in this subchapter may be construed to authorize the Assistant Secretary or [NTIA] to regulate the rates charged for broadband service.").

service initiation costs)," among other information. [17] Putting aside whether that directive itself is consistent with the rate regulation prohibition in the IIJA, the NOFO makes plain that the "low-cost broadband service option" is limited to "eligible subscribers," i.e., those who meet specific income eligibility requirements. Those eligibility requirements exclude middle-income end users and foreclose the possibility that the required "low-cost broadband service option" could justify a further requirement that such service plans be broadly available to all consumers.

For example, the NOFO provides that the low-cost broadband service option must "[a]llow[] the end user to apply the Affordable Connectivity Benefit subsidy to the service price." [18] But that requirement can only be true if the "end user" is otherwise eligible for ACP in the first instance. In other words, the end user must be a low-income household, since the IIJA sets eligibility for ACP at 200% of the poverty line.[19] Furthermore, under the IIJA, the low-cost broadband service option must be made available only to "eligible subscribers," which NTIA defines in accordance with the same household eligibility criteria for ACP.[20] Thus, households that do not qualify for ACP (e.g., middle-income households) are not eligible for the low-cost broadband service option.

Second, other references to service pricing in the NOFO and NTIA guidance are made in the context of provider disclosures and do not imply a broadening of eligibility for the low-cost broadband service option to all users. For example, the NOFO provides that when selecting subgrantees, a state must consider "the prospective subgrantee's commitment to provide the most affordable total price to the customer for 1 Gbps/1 Gbps service in the project area" for priority broadband projects and 100/20 Mbps service for non-priority projects. [21] The NOFO also provides that subgrantees must submit regular reports "[d]escrib[ing] the non-promotional prices, including any associated fees, charged for different tiers of broadband service being offered," among other information. [22] Neither provision provides a basis for a state to set specific price thresholds for subgrantees' service plans that must be offered to all consumers. Additionally, while NTIA's BEAD Initial Proposal Guidance inartfully says that "[t]he purpose of [the low-cost option] is to outline how the Eligible Entity plans to ensure that all residents within its

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[17] NOFO at 67; NTIA, *Broadband Equity, Access, and Deployment (BEAD) Program Initial Proposal Guidance* 78-79 (July 2023) ("NTIA Initial Proposal Guidance"), https://broadbandusa.ntia.doc.gov/sites/default/files/2023-07/BEAD_Initial_Proposal_Guidance_Volumes_I_II.pdf. The NOFO also provides an example definition for a low-cost broadband service option that includes, among other characteristics, a cost of "$30 per month or less, inclusive of all taxes, fees, and charges if the subscriber does not reside on Tribal Lands . . . with no additional non-recurring costs or fees to the consumer." NOFO at 67.

[18] *Id.* at 66, 67.

[19] This is an increase from the prior threshold of 135% of the poverty line, thereby making by some estimates up to 40% of U.S. households eligible for ACP. *See* The White House, *FACT SHEET: Vice President Harris Marks Important New Milestone in Administration's Efforts to Cut Costs for American Families* (July 21, 2022), https://www.whitehouse.gov/briefing-room/statements-releases/2022/07/21/fact-sheet-vice-president-harris-highlights-milestone-of-1-million-new-participants-on-reducing-high-speed-internet-cost-for-americans/.

[20] NOFO at 12-13.

[21] *Id.* at 43.

[22] *Id.* at 90.

jurisdiction will have access to affordable broadband service options,"[23] this sentence is included in a discussion of the low-cost broadband service option, which, as described above, is limited to "eligible subscribers" who meet certain income thresholds.

Third, Washington's rate regulation proposals are unnecessary and unwise as a policy matter. The IIJA reflects a finding that "[a]ccess to affordable, reliable, high-speed broadband is essential to full participation in modern life." [24] But if the BEAD Program is to achieve that goal, then service over funded networks must be economically sustainable over time. In NTIA's own words, "the lack of a sustainable business case—namely a business case that generates a reasonable return on investment—is a core problem the BEAD Program is designed to address."[25] This is because the remaining "[u]nserved and underserved areas present significant barriers for service, as evidenced by the lack of existing high-speed Internet infrastructure even after decades of the Federal efforts to expand broadband deployment in these areas." [26] In recognition of that reality, NTIA notes that "incentives for broad participation are needed to address the unique challenges for which the BEAD Program was created to solve" because rules that "prevent providers from earning a reasonable return on investment during the period of performance . . . would not address the economic conditions that have stunted investment in these areas." [27] Thus, it is particularly inappropriate to adopt prescriptive rate caps.

Even if BEAD grants cover a portion of the capital costs of construction, high-speed broadband networks must continuously be maintained and upgraded, as well as protected against cybersecurity threats, to meet evolving customer demands. These operating costs are significant and require a business model that is not subject to artificial constraints and has the flexibility to adapt to evolving marketplace realities. Price cap rate regulation risks starving the network, which in turn, risks the network becoming obsolete and insecure, requiring ongoing government subsidies just to remain viable, or even failing due to inability to cover operating costs. None of these outcomes are good for Washingtonians. Accordingly, broadband providers should have the flexibility to price and package their services to ensure that BEAD-funded networks can be maintained and operated while still being offered to consumers at prices reasonably comparable to those offered in non-subsidized areas. Washington's scoring for the affordability criterion and its middle-class affordability plan should reflect these considerations.

C. WSBO Should Adopt a "Reasonable Comparability" Benchmark Approach to the Affordability Scoring Criterion

The Draft Proposal's proposed scoring method uses would benchmark prices against an arbitrary, prescriptive price. For fiber projects, the WSBO will award the full 25 points to fiber applicants that offer symmetrical gigabit service for less than $75/month; zero points will be awarded if this cost is greater than $104.99 (this is significantly lower than the price in

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[23] NTIA Initial Proposal Guidance at 79.

[24] 47 U.S.C. § 1701(a).

[25] NTIA, *Tailoring the Application of the Uniform Guidance to the BEAD Program; Request for Comments*, 88 Fed. Reg. 42918, 42921 (July 5, 2023) ("NTIA Part 200 Guidance RFC").

[26] *Id.*

[27] *Id.*

competitive areas). For non-fiber projects, full points will be awarded if the cost of 100/20 Mbps service is less than $40/month; zero points will be awarded for monthly costs greater than $69.99.[28]

BCAW urges the Commission to remove this unlawful rate regulation from its scoring of the Affordability criterion. As an initial matter, the prices themselves seem arbitrary and capricious because the Draft Proposal says they are based on the "median rates submitted during previous grant application rounds with the WSBO," yet the previous grant programs never sought pricing commitments for symmetrical gigabit service and, more importantly, never resulted in deployment of broadband to the locations that BEAD now seeks to finally serve. WSBO in no way explains why the median rates for prior grant programs is at all relevant to the scoring for the BEAD program.

Washington instead should follow the lead of a growing list of states, including neighbors Oregon[29] and Montana,[30] as well as New York,[31] Minnesota,[32] Connecticut,[33] Georgia,[34]

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[28] Draft Proposal § 2.4.2 at 36-37, 40.

[29] State of Oregon, *State of Oregon Initial Proposal Volume II* 38 (Nov. 2023), https://www.oregon.gov/biz/Publications/Broadband/Oregon_BEAD_IPV2_Draft.pdf (proposing to award 20 points for the Affordability criterion, based on "applicants' commitments to offer a symmetrical 1 Gbps service [for priority projects, or 100/20 Mbps service for non-priority projects] to BEAD-funded locations that will not exceed the cost of the same service in any other location in Oregon or surrounding states in which the applicant offers service").

[30] Montana Broadband Office, *Initial Proposal Volume II Initial Draft Overview* 25-26 (Nov. 10, 2023), https://connectmt.mt.gov/_files/2023.11.10_BEAD-Initial-Proposal-Volume-II_POST.pdf ("Subgrantee applicants who commit to offering 1/1 Gbps service [for priority projects, or 100/20 Mbps service for non-priority projects] to the customers in BEAD project areas at the same rates they offer in their existing markets will earn 20 points.").

[31] State of New York ConnectALL Office, *Initial Proposal, Volume II* 46 (Nov. 10, 2023), https://broadband.ny.gov/system/files/documents/2023/11/draft-initial-proposal-vol.-2-for-public-comment_2.pdf (proposing to award 15 points for the Affordability criterion, based on "applicants' commitments to offer a symmetrical 1 Gbps service [for priority projects, or 100/20 Mbps service for non-priority projects] to BEAD-funded locations that does not exceed the cost of the same service in any other location in New York or other states in which the applicant offers service").

[32] Minnesota Office of Broadband Development, *Minnesota's Initial Proposal Volume 2 Scoring Rubric* (Nov. 2023), https://mn.gov/deed/assets/ip-scoring-rubric_tcm1045-599342.pdf ("Commitment to offer 1G/1G service at a rate that is either 1) consistent with the broadband pricing the subgrantee makes available in unsubsidized areas within Minnesota for that service ; or is at or below the residential rates provided in the FCC Urban Rate Survey's reasonable comparability benchmark for that serve = 15 points.").

[33] Connecticut Department of Energy & Environmental Protection, *Initial Proposal for the BEAD Program: Volume II* 31 (Nov. 2023), https://portal.ct.gov/-/media/DEEP/energy/Broadband/CT_DEEP_BEAD_IP_Vol2_Public-Comment-Draft_110623.pdf (proposing to award 15 points for the Affordability criterion, based on "applicants' commitments to offer a symmetrical 1 Gbps service [for priority projects, or 100/20 Mbps service for non-priority projects] to BEAD-funded locations that will never exceed the cost of the same service in any other location in Connecticut or surrounding states in which the applicant offers service").

[34] Georgia Technology Authority, *Initial Proposal Volume 2* 37 (Nov. 1, 2023), https://drive.google.com/file/d/14bTxEmMIa1RKIsSWhncxZrHtz1IsYshr/view?usp=sharing (proposing to award 15 points for the Affordability criterion, based on "applicants' commitments to offer symmetrical 1 Gbps service [for priority projects] to BEAD-funded locations that will never exceed the cost of the same service in metropolitan areas in Georgia.").

Maryland,[35] and Delaware,[36] to award full points under the affordability selection criterion for an applicant's commitment to provide broadband service in BEAD-funded project areas at rates in BEAD-funded service areas that are either: (i) consistent with the broadband pricing the subgrantee makes available in unsubsidized areas within the State; or (ii) at or below the residential rates provided in the FCC's annual URS reasonable comparability benchmark for each tier of service offered, including the symmetrical gigabit-level service specified in the NOFO. For clarity and administrative efficiency, points should be awarded on an "all or nothing" basis. Adopting this scoring method is consistent with the approach that the FCC has taken with RDOF and other USF-subsidized high-cost areas, where rates for services delivered over subsidized networks must not exceed comparable residential rates in the URS or in the provider's unsubsidized areas in the State (i.e. statewide pricing). It also will allow Washington to address the BEAD Program's affordability goals by prioritizing providers that will offer service plans to consumers in BEAD-funded project areas at rates that are comparable to those charged to Washingtonians in unsubsidized parts of the State.

BCAW suggests that Washington adopt the following redlined language with respect to scoring for the Affordability criterion:

- *Description: The applicant's commitment to either: (1) offer broadband pricing in BEAD-funded service areas that is consistent with the broadband pricing the subgrantee makes available in unsubsidized areas within the State for the same or substantially the same level of service, for providers already serving Washingtonians; or (2) provide service to customers in the project area at rates that are no higher than the residential rates provided by the URS reasonable comparability benchmark conducted annually by the Federal Communications Commission pursuant to 47 C.F.R. § 54.313(a)(3).*

- *Scoring: If the cost of the service package price offered to customers in the project area is either at or below: (1) the broadband pricing the subgrantee makes available in unsubsidized areas within the State for the same or substantially the same level of service for the provider's service tier with a specified download speed of 1 Gbps and upload speed of 1 Gbps (or the provider's service tier that most closely approximating download speeds of 1 Gbps and upload speeds of 1 Gbps); or (2) the residential rate provided by the*

[35] State of Maryland Office of Statewide Broadband, *State of Maryland Initial Proposal Volume II* 32 (Nov. 2023), https://dhcd.maryland.gov/Broadband/Documents/State-Plans/DRAFT-Maryland-BEAD-IPv2.pdf (proposing to award 15 points for the Affordability criterion, based on "applicants' commitments to offer a symmetrical 1 Gbps service [for priority projects, or 100/20 Mbps service for non-priority projects] to BEAD-funded locations that does not exceed the cost of the same service in any other location in Maryland or surrounding states in which the applicant offers service").

[36] Delaware Broadband Office, *Delaware Initial Proposal Volume II* 21 (Oct. 13, 2023), https://broadband.delaware.gov/contentFolder/pdf/BeadBroadbandProposal-Volume2.pdf (proposing to award 15 points for the Affordability criterion, based on "applicants' commitments to offer a symmetrical 1 Gbps service [for priority projects] to BEAD-funded locations that will never exceed the cost of the same service in metropolitan areas of Delaware").

FCC's annual URS reasonable comparability benchmark for the service tier with a specified download speed of 1 Gbps and upload speed of 1 Gbps (or the service tier most closely approximating download speeds of 1 Gbps and upload speeds of 1 Gbps if the URS does not include a Gigabit symmetrical service tier), the applicant will receive full credit under this section. Applicants that fail to meet this criterion with their chosen pricing method will receive no credit.

D. WSBO Should Modify Its Middle-Class Affordability Plan to Reflect the "Reasonable Comparability" Approach

To address middle-class affordability, the WSBO proposes to leverage its Affordability scoring criteria as well as a requirement for subgrantees to offer "an affordable service option that supports stable and affordable prices to middle-income end-users,"[37] that would incorporate the low-cost service option service terms applicable to a proposed price threshold that can only be increased after 12 months pursuant to Consumer Price Index.

WSBO should modify this proposal. There is no basis in the IIJA, nor requirement in the NOFO, to impose terms on any offering besides the low-cost service option, and the proposal as contemplated may risk deterring participation by qualified providers. Instead, the WSBO should adopt the "reasonable comparability" framework detailed above for its affordability scoring criterion and incorporate that by reference into its middle-class plan. Doing so would not only be consistent with the FCC's longstanding approach to ensuring the affordability of service in subsidized high-cost areas, but would also provide an object means to "promote consumer pricing benchmarks," as outlined in the Draft Proposal.[38] Doing so would also obviate the need to impose the highly regulatory new service option requirement, because *all* applicant offerings would be verified as affordable under this objective standard. Otherwise, BCWA agrees with the proposal to "require that participants annually report service tiers and pricing for project areas to certify that affordable service options are being offered."[39] This strategy is reasonable, consistent with NTIA's guidance on middle-class affordability plan requirements,[40] and will support WSBO's and the BEAD Program's goal of ensuring all Washington residents have access to affordable, high-quality broadband service.[41]

E. WSBO Should Adopt Targeted Changes to Its Definition of the Low-Cost Broadband Service Option

The WSBO arbitrarily proposes that subgrantees provide a low-cost service option that costs less than $25/month and, as provided in the NOFO's example definition, meets certain technical requirements, permits upgrades at no cost, and is not subject to data caps, surcharges, or throttling. Once more, WSBO goes beyond the NOFO to propose that subgrantees must also allow the end user to apply not only the ACP benefit, but also participate in Lifeline and in the

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[37] Proposal § 2.13.1 at 114-115.

[38] *Id.* at 115.

[39] *Id.*

[40] NTIA Initial Proposal Guidance at 82-83.

[41] *See* Proposal § 2.1.1 at 7.

separate ACP device subsidy program. The WSBO also "strongly encourages" that the option be made available across the ISP's service territory.

First, BCAW strongly opposes the WSBO's highly problematic proposed requirements for participation in Lifeline and the ACP device subsidy program. Neither the IIJA nor NOFO require or even suggest that BEAD subgrantees must participate in the Lifeline or ACP device subsidy programs, and adopting this proposal would pose serious implementation challenges and deter provider participation in Washington's BEAD Program. Many broadband providers are not Eligible Telecommunications Carriers under the Lifeline program, and requiring Lifeline participation here would add a lengthy and burdensome *separate* regulatory process to those providers compliance with WSBO's BEAD terms. Moreover, the FCC specifically designed ACP rules to enable providers to participate in offering the ACP benefit without being required to participate in Lifeline. Likewise, participation in the $30 per month ACP broadband benefit is wholly separate from participation in the ACP device subsidy program. It also is unnecessary given providers' robust, ongoing investment in existing, self-provisioned device subsidy programs, including through Comcast's Internet Essentials. Once more, requiring that BEAD subgrantees also participate in the ACP device subsidy program will add layers of additional regulatory burdens that will deter provider participation and divert resources from deploying broadband to unnecessary regulatory compliance functions. For all these reasons, BCAW strongly urges the WSBO to clarify that it will not require provider participation in the Lifeline program, which would similarly deter provider participation and be unduly burdensome for applicants.

Second, the WSBO's benchmark of $25 to "support[] a zero-cost model for low-income households that qualify for . . . ACP" is nonsensical given that the ACP benefit is $30 and many existing low-income offerings are calibrated to comply with the $30 ACP benefit that still delivers zero costs to consumers. For example, Comcast's Internet Essentials Plus ("IE Plus") is a service that provides broadband speeds of 100/20 Mbps, a wireless gateway, access to millions of Xfinity WiFi hotspots, and unlimited data for $29.95 per month – effectively free for eligible households once the $30 ACP benefit is applied.[42] Similarly, building on the success and experience marketing Charter's low-cost connectivity program, Spectrum Internet Assist, Charter offers Spectrum Internet 100, a high-speed, low-cost broadband service that currently provides Illinois residents with access to broadband service with 100 Mbps download speeds *at no monthly cost* to eligible new subscribers enrolled in the ACP.

BCAW urges the WSBO to leverage providers' existing low-cost offerings and consider the low-cost service option requirement to be met if the applicant's price is: (1) consistent with

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[42] *See* Press Release, Comcast Corp., *Comcast Introduces Additional Efforts to Increase Participation in the Affordable Connectivity Program* (May 9, 2022), https://corporate.comcast.com/press/releases/comcast-increase-participation-affordable-connectivity-program?utm_source=twitter&utm_medium=social&utm_campaign=digequ&linkId=164270343. Comcast's original income-constrained program, Internet Essentials ("IE") launched in 2011 and has connected more than 10 million Americans to broadband Internet at home since launching. *See* Broderick Johnson, *The Road to Digital Equity: Where We've Been and Where We're Going*, Comcast Stories (Dec. 13, 2022), https://corporate.comcast.com/stories/the-road-to-digital-equity-where-weve-been-and-where-were-going. Since its inception, IE's monthly price has remained at $9.95 per month despite speeds having increased seven times, including more than doubling during the early days of the pandemic.

either the low-cost offerings the applicant currently (at the time of application) makes available in unsubsidized areas within the State, or the low-cost offerings available from other providers in unsubsidized areas within the State (including for applicants without an existing low-cost option); *and* (2) below the maximum ceiling of the residential rates provided in the FCC's URS for the service tier with specified speeds of 100/20 Mbps, as an additional, objective mechanism to ensure affordability.

Other states have adopted this precise approach to the low-cost service option. For example, Minnesota found that doing so "best effectuates the purposes of the BEAD Program first and foremost by ensuring that the low-cost service option, combined with ACP participation – the two statutorily prescribed affordability measures in the IIJA – will enable affordable broadband service to be offered to eligible subscribers," while "the speed, service, and upgradability elements will ensure that eligible subscribers receive high-quality low-cost broadband service over the funded network."[43]

Although NTIA suggested that an example low-cost broadband service option could be offered to Eligible Subscribers for the useful life of the network assets at $30 or less per month (inclusive of all taxes, fees, and charges),[44] the U.S. Secretary of Commerce, who oversees NTIA, recently made clear that "[w]e are not rate regulating, we are not price setting, and we *are not* requiring states to do that."[45] In fact, NTIA recently clarified that States are not required to set a specific dollar figure and may instead propose a mechanism that would tie the cost of the low-cost service option to an objective benchmark.[46]

Thus, the WSBO should effectively adopt Minnesota's definition of a low-cost broadband service option, which modified to reflect its use by Washington would be as follows:

At a minimum, the subgrantee's low-cost broadband option must:

a. Provide typical download speeds of at least 100 Mbps and typical upload speeds of at least 20 Mbps, or the fastest speeds the infrastructure is capable of if less than 100 Mbps/20 Mbps;
b. Provide typical latency measurements of no more than 100 milliseconds;
c. Not be subject to data caps, non-governmental imposed surcharges, or usage-based throttling, and be subject only to the same (or better) acceptable use policies to which

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[43] *See, e.g.*, Minnesota Office of Broadband Development, *Minnesota's Initial Proposal Volume 2* 27 (Nov. 2023), https://mn.gov/deed/assets/bead-volume2_tcm1045-599320.pdf.

[44] NOFO at 67-68.

[45] *CHIPS and Science Implementation and Oversight: Hearing Before the S. Comm. on Com., Sci., and Transp.*, 118th Cong. (Oct. 4, 2023) (statement of Gina Raimondo, Sec'y, U.S. Dep't of Com.) (emphasis added), *available at* https://www.commerce.senate.gov/2023/10/chips-and-science-implementation-and-oversight; *see also* 47 U.S.C. § 1702(h)(5)(D) ("Nothing in this subchapter may be construed to authorize the Assistant Secretary or [NTIA] to regulate the rates charged for broadband service.").

[46] NTIA, *Broadband Equity, Access, and Deployment Program Frequently Asked Questions and Answers Version 4.0* 42 (Nov. 6, 2023) ("BEAD FAQs"), https://broadbandusa.ntia.doc.gov/sites/default/files/2023-11/Broadband_Equity_Access_Deployment_Program_Frequently_Asked_Questions_Version_4.0.pdf.

> *subscribers to all other broadband internet access service plans offered to home subscribers by the participating subgrantee must adhere; and*
> *d. In the event the provider later increases the speeds of one of its low-cost plans it will permit Eligible Subscribers that are subscribed to that plan to upgrade to those new speeds at little or no cost.*

> *Subgrantee applicants must include in their application a commitment to charge a price for their low-cost broadband option to low-income households that meet the eligibility requirements for ACP. The price submitted by the applicant will meet WSBO's definition of the low-cost service option if it is consistent with the low-cost offerings the subgrantee applicant currently (at the time of the application) makes available in unsubsidized areas within the State. Additionally, the low-cost broadband option must be priced below the FCC's Urban Rate Comparability benchmark, which is the federal gauge as to whether rates in rural areas (which lack competition and which are where the vast majority of unserved and underserved BSLs are located) are reasonable and hence affordable. If a provider's rate for the 100Mbps download and 20Mbps upload service is above the benchmark for the corresponding speed, a selected subgrantee will be asked to lower their rates in order to be awarded a [BEAD] grant. Add to that the low-income household benefit of the ACP (or its successor program), which all subgrantees are required to participate in, and the result is the low-cost broadband option.*

In all events, WSBO should make two additional clarifications. *First*, WSBO should clarify the definition of "useful life of the network assets," with respect to how long subgrantees must offer the low-cost broadband service option (regardless of which of the above options the subgrantee chooses to satisfy the low-cost option requirement through). In the absence of the NOFO or other NTIA guidance explaining how the "useful life of the network assets" will be defined, BCAW suggests adopting a definition of eight years. This would match the term adopted by the Treasury Department for American Rescue Plan Act ("ARPA") broadband projects and provide clarity to applicants.[47] *Second*, while the proposal notes that WSBO may adjust the price of this service option "as needed to match inflation,"[48] BCAW recommends that the low-cost option requirement incorporate an automatic mechanism to account for increases in inflation that would begin when WSBO adopts the rate (i.e., the rate proposed by an applicant upon acceptance of its application could begin its year-over-year increase in 2024), such as an annual adjustment based on changes to the U.S. Department of Labor Bureau of Labor Statistics' consumer price index, and for any increases in governmental fees that are or may become applicable to broadband service. These modest clarifications are consistent with the NOFO,

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[47] *See* U.S. Dep't of Treasury, *SLFRF and CPF Supplementary Broadband Guidance* 3 (May 17, 2023), https://home.treasury.gov/system/files/136/SLFRF-and-CPF-Supplementary-Broadband-Guidance.pdf. Another option would be for IOB to use the tax recovery life of broadband network assets, which is 7 years, as a uniform proxy for determining the "useful life of network assets." Tax lives for these broadband assets are prescribed by the IRS and are required to be followed by all taxpaying entities. Specifically, entities are required to depreciate assets using the Modified Accelerated Cost Recovery System ("MACRS"). *See* 26 U.S.C. § 168(b).

[48] Draft Proposal § 2.12.1 at 111-112.

consistent with the approach taken by other states to date,[49] and would provide much needed regulatory certainty for applicants.

Finally, if WSBO nonetheless does not follow the leads of other states in affordability criteria and adopts a specific rate in its definition of the low-cost broadband service option, BCAW urges WSBO to adopt a market-based approach similar to other states such as Montana and Alabama,[50] which were adopted after evaluation of the average and median prices reported for 100/20 Mbps (or 100/10 Mbps) service options. For example, Montana evaluated service across the United States, the Western United States, and in Montana during the preceding three years using the FCC's URS to determine the average and median plan prices in the Western United States. Montana then used those prices as a benchmark for the low-cost broadband service option price for 2024, subject to annual adjustments to ensure the price accounts for inflation. Similarly, Alabama evaluated FCC data to determine "the current unweighted median price of 100/10 Mbps broadband service in Alabama" as the price benchmark for a low-cost broadband service in the state. Although BCAW reiterates that the above definition satisfies the statutory requirement to define a low-cost broadband service option without the WSBO setting a specific rate, Alabama's and Montana's market-based identification of a price for a low-cost service option would inform Washington's benchmarking process, and thus the WSBO could reasonably adopt a similar methodology as well.

2. **Adopt a multi-round bidding structure that provides applicants the initial flexibility to define project areas.**

The Draft Proposal explains that WSBO has contracted with Breaking Point Solutions, LLC to help define project areas and is still "evaluating" two proposed definitions: (1) county boundaries with each project area limited to 1,000 broadband serviceable locations ("BSLs"), or (2) school district boundaries with no BSL limit. The Draft Proposal links to maps and data outlining the two options. Under either option, WSBO contemplates using census blocks as an intermediate step of its methodology to designate high-cost areas and identify potential expansion targets for existing deployments.

In the interest of promoting the strongest and most competitive applications, that in turn promote more efficient use of limited BEAD funding, BCAW encourages the WSBO to select a wholly different approach. Specifically, WSBO should allow applicants to define their own proposed project areas, including on a per-location basis as permitted by the NOFO, without reference to counties, school districts, Census Block Groups, etc., because unserved and underserved areas may not map neatly onto those existing geographic units. Additionally, there are areas where these boundaries do not align with efficient fiber design parameters. And

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[49] *See, e.g.*, Va. Dep't of Housing and Cmty. Dev., *Commonwealth Connect Broadband Equity, Access and Deployment Program: Initial Proposal Volume 2* 49-50 (Sept. 26, 2023) ("Virginia Volume 2 Submission"), https://www.dhcd.virginia.gov/sites/default/files/Docx/vati/bead-ipv2-postpubliccomment-submittedtontia-unapproved.pdf.

[50] *See* Montana Broadband Office, Initial Proposal Volume II Initial Draft Update at 4-5, https://connectmt.mt.gov/Events/2023.10.26_MT-IPV2-Low-Cost-Plan-and-Scoring-Process_Revised.pdf; Alabama Dept. of Econ. & Community Affairs, Initial Proposal Volume 2 (Requirement 1-2, 4, 8-20) Broadband Equity, Access, and Deployment Program at 144-145, https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fadeca.alabama.gov%2Fwp-content%2Fuploads%2FAlabama-BEAD-Initial-Proposal-Volume-2.docx&wdOrigin=BROWSELINK.

finally, there are areas where an applicants' determination of the appropriate geographic level for their proposals may be influenced by a variety of location-, project-, and provider-specific factors, such as difficult terrain or rights-of-access issues.

Allowing applicants to define their own project areas will permit applicants to develop more economical proposals that leverage their existing networks and facilities, maximize network efficiency, and reflect the geographic level at which providers can successfully deploy and sustainable operate their proposed networks. These proposals should allow the state to minimize BEAD program outlay and fulfill the NOFO's directive to connect all unserved locations and, if possible, all underserved locations.

In the first round, the state should allow applicants to define their own project areas, and award the highest scoring applicant its choice of BSLs to serve, giving the lower scoring applicant(s) the opportunity to descope any overlapping locations from their proposals. The second highest scoring applicant would then be awarded its choice of BSLs (outside of any that may have overlapped with the highest scoring applicant), and so on down the line. In addition, WSBO should allow applicants to remove "high-cost outliers" from Round 1 project areas. A front-end process that allows applicants to remove high-cost outliers from applications will protect against a scenario in which a few unique locations unduly raise the BEAD outlay otherwise required for the project, and would be consistent with the BEAD plans proposed in other states (such as both Georgia and South Carolina).[51] Specifically, WSBO should: *first*, allow applicants to demonstrate to WSBO that a certain subset of locations within a project area would disproportionately increase the total project cost; and *second*, engage in an evaluation of high-cost outliers *any time* it would tentatively not select a priority broadband project bid to consider whether individual BSLs within a project area can be broken into separate project areas and served by "alternative, lower cost technologies." WSBO could remove high-cost outliers from the applicant's project area and include the locations in a separate project area for which WSBO can either select a non-priority bid or, in the event no bids are received, engage with applicants to encourage new or revised proposals. WSBO could then conduct an optimization analysis after high-cost outliers are removed from project areas to ensure that the Extremely High Cost Per Location Threshold can be adjusted and set as high as possible before WSBO contemplates its use. This approach will better ensure that fiber is selected wherever feasible and avoid an outcome under which entire projects for more reliable fiber service are rejected simply because a small subset of locations would disproportionately drive up the project's deployment costs.

After this first round, the state would then map how many areas remain after having gone through all round one applications. If there are very few, the state could reach out to applicants in adjacent areas to see if they are willing to rescope their proposals to include those areas (this would effectively obviate the need to do any further de-duplications). But, if there are larger swaths of unserved and underserved locations remaining after round one, the state should group those remaining locations into project area units for competitive bidding in a second round. This would then create an apples-to-apples system for the second round of bidding, and any

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[51]   See Georgia Technology Authority, Initial Proposal Volume II at 28, https://drive.google.com/file/d/14bTxEmMIa1RKIsSWhncxZrHtz1IsYshr/view; South Carolina Broadband Office, Initial Proposal – Volume 2, at 30-31, https://ors.sc.gov/sites/ors/files/Documents/Broadband/BEAD/Initial%20Proposal/South%20Carolina_BEAD_IP%20Volume%202%20Draft.pdf.

subsequent rounds that are needed until all unserved and underserved locations are ensured coverage.

Regardless of the project area definition chosen, at minimum, the WSBO should make clear that, consistent with the IIJA, BEAD funding is limited to unserved and underserved BSLs.

3. **Refrain from turning the NOFO's optional labor and employment suggestions into formal requirements**

The Draft Proposal expects that it "may become more challenging for its broadband industry to hire the workers necessary to complete BEAD projects,"[52] which only makes sense given the generational influx of broadband deployment capital expenditures both in Washington and nationally. This finding reinforces a key conclusions that should underpin the WSBO's approach to effectuating the BEAD Program's workforce considerations: rigorous competition for shovel-ready broadband deployment workforces means that workers, already benefitting from the high standards of Washington labor law, are protected and stand to benefit from BEAD.

With this in mind, BCAW urges the WSBO to take a light-touch approach to implementing the BEAD labor and workforce directives. *First*, BCAW respectfully urges the Commission to *only* consider the applicant's demonstrated record of and plans to comply with federal labor and employment laws when scoring this criterion, consistent with the NOFO's requirements. The Commission should refrain from awarding additional points for commitments that the NOFO unambiguously treats as *optional*.[53] Indeed, an applicant's record of compliance with fair labor practices and applicable law combined with its plans for ensuring continued future compliance will provide the WSBO significant ability to regularly monitor and assess compliance with fair labor practices, making additional requirements unnecessary. The WSBO should also afford providers with flexibility when demonstrating compliance with these two criteria. A flexible approach that offers multiple ways for applicants to satisfy these requirements will allow the WSBO to meet the BEAD Program requirements in a manner that is consistent with Washington States's labor policies and will better encourage participation in the BEAD Program.

Second, notwithstanding the Draft Proposal's current consideration of optional labor-related encouragements, BCAW urges the WSBO to make clear to applicants that none of these encouragements will be requirements for program participation. As the Draft Proposal states, "[t]he WSBO will require legally binding commitments through agreements with subgrantees that adhere to *minimum* federal and state labor law requirements."[54] The WSBO should reiterate that any legally binding commitments on labor and workforce issues shall adhere to the minimum standards *required* by federal and State law – nothing more.

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[52] Draft Proposal § 8.1 at 81.

[53] *See* NOFO at 57 (providing an optional list of elements that "[a]n effective plan for compliance with federal labor and employment laws *can* include" – not *must* include) (emphasis added); *see also* Staff Proposal at 62 (proposing to make "applicants' representations in the Workforce Plan section of their application . . . binding commitments upon award of a subgrant").

[54] Draft Proposal § 2.7.2 at 79 (emphasis added).

Third, and in that same vein, BCAW urges the WSBO to provide applicants flexibility to address labor standards and achieve a highly skilled workforce without prescriptive requirements that could deter qualified applicants with a history of fair employment practices.

Finally, to facilitate the participation of MBEs, WBEs, and labor surplus firms, the WSBO proposes to require subgrantees to arrange for solicitations; arrange time for the preparation of quotations, scope of work, and delivery schedules; and post all invitations to bid for BEAD on a State website. Moreover, under the Draft Proposal, subgrantees also must document all "good faith efforts" to proactively reach these firms and track relevant key metrics (i.e., on recruitment, utilization, and retention of such firms).[55] BCAW's members are proud to have strong supplier diversity efforts. Nonetheless, the fact that the WSBO proposes to go beyond what is required in the NOFO is problematic and unduly burdensome. Moreover, to the extent the WSBO may be contemplating requiring ISPs to conduct competitive bidding for their suppliers, the would be highly troubling and would likely conflict with NTIA's forthcoming Part 200 guidance.[56]

4. Make targeted changes to the scoring criteria to facilitate a process that will reward deployment of sustainable broadband networks

The WSBO's subgrantee selection process should utilize and weight selection criteria such that only the most qualified applicants are selected to deploy high-speed and reliable networks to unserved and underserved Washingtonians.

The Draft Proposal's point allocations for the selection criteria (out of 100 total possible points) are consistent with our prior advocacy. However, its proposals for the Affordability criterion are highly problematic (as described at length above), and some areas including labor require further clarification.

Primary Selection Criteria: Minimal BEAD Outlay. The WSBO proposes to award 40 points for Minimal BEAD Outlay and will award points based on the application's projected cost and proposed match, with points increasing as BEAD outlay decreases relative to the match amount. BCAW supports this approach, which follows the NOFO's directive that States "must establish a competitive process designed to maximize the public benefits achieved through the subgrant process *by increasing subgrantee-provided match*."[57] To further "rigorously" "incentivize matches of greater than 25 percent from subgrantees wherever feasible,"[58] the WSBO should consider increasing the allocation by an additional 5-10 points, reallocated from the Affordability criterion. In non-high cost areas, an applicant will receive full points for a match of at least 40% and zero points for a match below 30%. In high-cost areas (as identified by NTIA), which do not require a 25% match pursuant to the NOFO, the WSBO will award full

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[55] *See id.* § 2.9.1 at 95-96.

[56] *See* NTIA, *Tailoring the Application of the Uniform Guidance to the BEAD Program; Request for Comments*, 88 Fed. Reg. 42918 (July 5, 2023), *available at* https://www.govinfo.gov/content/pkg/FR-2023-07-05/pdf/2023-14114.pdf.

[57] *See* NOFO at 37 (emphasis added).

[58] *Id.* at 20-21. Importantly, the NOFO also recognizes that strong provider matches demonstrate applicants' commitment to a project area – a necessary attribute to achieve the BEAD goal of sustainable high-speed Internet service for years to come. *Id.* at 20. Washington's use of taxpayer monies to fund the matching requirement for public entities seeking to participate in the BEAD Program directly undermines this demonstrated commitment.

points for a match of at least 10% and zero points for a match below 5%.[59] BCAW notes that the Washington State Legislature has set aside BEAD match funding for public entities; however, this matching fund assistance ***does not alter*** the strict IIJA and NOFO requirements that all applicants be financially capable of not only deploying the network, but sustainably operating and investing in the network for years to come. Moreover, BCAW respectfully reminds the WSBO that *Congress enacted a competitively neutral subgrantee selection framework* in the IIJA, and, as noted above, the NOFO requires the subgrantee selection process to remain "fair, open, and competitive."[60] As such, WSBO should remain vigilant that application of the subgrantee selection process remains competitively neutral and does not preference government-owned networks or otherwise provide them with a leg-up that is not provided to private ISPs.

Primary Selection Criteria: Affordability. The WSBO proposes to award 25 points (or 25% of the total points) to the Affordability criterion. As detailed above, BCAW has strong concerns that the approach the WSBO proposes contravenes the IIJA's strict prohibition against rate regulation through the BEAD Program, and again urges the State to adopt the aforementioned "reasonable comparability" approach to evaluate this criterion. As noted above, the WSBO should also consider reallocating 5 to 10 points from this category to Minimal BEAD Outlay to fulfill the NOFO directive to "rigorously" incentivize higher matching funds to help ensure the limited BEAD funding allocation can stretch to all corners of the State.

Primary Selection Criteria: Fair Labor Practices. The WSBO proposes to award 10 points to applicants based on their provision of information required by the NOFO (i.e., *record* and evidence of past compliance, and other required labor disclosures). As explained above, BCAW respectfully urges the Commission to *only* consider the applicant's demonstrated record of and plans to comply with federal labor and employment laws when scoring this criterion, consistent with the NOFO's requirements.

Secondary Selection Criteria: Speed to Deployment. The WSBO proposes to award 8 points for Speed to Deployment using a sliding scale approach, with applicants that propose deployment in less than 12 months receiving full points. BCAW recommends that the WSBO award *at least* as many points for this criterion as it does to any other *optional* criteria (i.e., 9 points).[61] Because this criterion is one of the few factors expressly mandated in the IIJA,[62] it is all the more imperative that the WSBO afford greater weight to this category.

Additionally, the WSBO should consider the scale of the applicant's proposed service in evaluating this criterion, as well as the potential for other extenuating circumstances, such as access to poles, conduits, rights-of-way, and permitting delays. This approach will help incentivize providers to deploy BEAD-funded networks to unserved and underserved Washingtonians as expeditiously as possible.

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[59] Draft Proposal § 2.4.2 at 36-37.

[60] NOFO at 35.

[61] *See id.* (providing 10 points each to the Equity and Resilience criteria).

[62] *See* IIJA § 60102(h)(1)(A)(iv)(III); *see also* NOFO at 43 ("[S]tates *must* give secondary criterion prioritization weight to the prospective subgrantee's binding commitment to provide service by an earlier date certain [than four years] . . . *with greater benefits awarded to applicants promising an earlier service provision date.*") (emphasis added).

Secondary Selection Criteria: Open Access. The WSBO proposes to award 9 points for fiber projects and 6 points for non-fiber projects under this criterion, based in part on the applicant's wholesale cost of service. BCAW urges the WSBO to revise that proposal because it is *not* a mandatory selection factor. This is for good reason: it is well documented that open access obligations jeopardize the quality and sustainability of funded networks and remove incentives for individual last-mile providers to innovate, invest in technology upgrades, and otherwise differentiate their services based on performance.[63] It would therefore be unwise and ill-suited for BEAD deployments to award points for open access given that the BEAD Program is fundamentally aimed at providing broadband facilities to areas where it has not yet proven economically feasible to deploy fiber infrastructure in the first place.

Thus, while BCAW appreciates that the WSBO also includes certain conditions that applicants must satisfy in order to obtain full points for open access and awards only nominal points for this criterion overall, BCAW continues to urge the WSBO to delete this criterion entirely. As the WSBO has already seen in its implementation of ARPA broadband grants, prioritization of open access will likely deter participation by qualified providers and jeopardize the quality and sustainability of funded networks. To the extent the WSBO insists on retaining this criterion, it should award no more than one point for this criterion.

Secondary Selection Criteria: Local and Tribal Coordination. The WSBO proposes to award 4 points for applicants that provide letters of support and a record of local or tribal government consultations. BCAW urges the WSBO to clarify that applicants will receive points for good faith attempts to conduct such consultations, in the event that no meetings occur despite these efforts.

Secondary Criteria: Adoption and Digital Navigation. The WSBO proposes to award 4 points for this criterion, with applicants receiving two points for providing a low-cost service option and two points for demonstrating how they will offer digital navigation services. While BCAW strongly supports incentivizing applicants who have a history of and plans for promoting digital adoption, we also recommend that the WSBO decline to provide points for a low-cost service option, since all applicants are required to provide this option under the NOFO. Instead, full points should be given to applicants for demonstrating their commitment to supporting digital navigation services. In fact, the State should strongly consider reallocating points from Open Access to this criterion given the critical need to incentivize consumers to adopt and fully utilize the new broadband connections created by BEAD deployments.

Secondary Scoring Criteria: Speed of Network. For non-fiber projects, the WSBO proposes to award 3 points for Speed of Network, based on the technology used. Applicants will

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[63] *See* Wolfgang Briglauer et al., Speeding Up the Internet: Regulation and Investment in the European Fiber Optic Infrastructure, 62 Int'l J. Indus. Org. 613 t.3 (2018) (finding that fiber access regulation significantly reduces the number of homes passed by the incumbent operator's fiber network); GSMA, Wholesale Open Access Networks (July 2017), https://www.gsma.com/spectrum/wp-content/uploads/2017/ 07/GSMA_SWN-8-pager_R3_Web_Singles.pdf (explaining that "government mandated wholesale networks have been much slower to expand coverage, perform upgrades and to embrace new technologies such as 3G and 4G, and they can be expected to prompt less innovation than network competition" and describing less-than successful attempts to build such mobile networks in five countries); Christopher S. Yoo, U.S. vs. European Broadband Deployment: What do the Data Say?, Faculty Scholarship at Penn Carney Law (June 3, 2014), https://scholarship.law.upenn.edu/faculty_scholarship/1453 (finding that from 2007 to 2012—a critical period for broadband network buildout—the average electronic communications sector investment per household in the United States was nearly double the amount spent in Europe).

receive full points for using hybrid fiber-coaxial with a DOCSIS 3.1 standard or higher, and one point for using low-earth orbit ("LEO") satellite (though this will only be considered for projects in extremely high-cost areas). Projects that propose a mix of fiber and non-fiber technologies will be awarded points under this criterion based on the non-fiber technology used. BCAW supports this criterion.

Other Considerations. Finally, the WSBO "acknowledges that certain broadband infrastructure types are more expensive than others or are not feasible due to" physical geography, and notes that it "will consider this information when evaluating and prioritizing BEAD proposals." BCAW seeks clarification on whether the WSBO contemplates incorporating these considerations into its scoring.

5. Ensure the WSBO's subgrantee selection process is fair, open, and competitive though further adjustments and clarifications

The WSBO's subgrantee selection process will consist of four phases: Pre-Application Intake, Application Intake, Application Review and Evaluation, and Publishing Results, and Awarding. BCAW offers comments on select aspects of each in support of greater clarity and pragmatic modifications that reinforce the NTIA requirement that such processes be "fair, open, and competitive."[64]

Pre-Application. The WSBO proposes to release a NOFO prior to accepting BEAD applications (i.e., after the full Initial Proposal is approved by NTIA and the challenge process concludes).[65] To ensure fairness, openness, and transparency, the WSBO should make clear that it will align the NOFO with the NTIA-approved Initial Proposal and that under no circumstances will the WSBO NOFO include additional obligations on subgrantees that were not subject to prior notice and comment by stakeholders and subsequently reviewed and approved by NTIA.

Application Intake. The WSBO proposes to require applicants to submit one application per project area to avoid difficulties with deconfliction.[66] BCAW opposes this proposal as it will be overly burdensome for applicants and the WSBO alike. Consistent with the approach to project area selection explained above, the WSBO should allow applicants to include all project areas in a single application and award first choice among locations to serve to the applicant that scores the highest across the State.

Moreover, BCAW opposes WSBO's imposition of application requirements that go far beyond the already robust requirements for technical, managerial, financial, or operational qualifications set forth in the BEAD NOFO.[67] Specifically, the required **Business Plan** and its impositions of "non-scored compliance requirements" including pricing and service-related obligations is highly onerous and unnecessary, particularly for established providers in Washington State that have a demonstrated track record of stimulating ACP support, offering service at prices that buck the inflation seen for other household staples, already offer 24/7 customer service, and maintain cutting-edge resilient networks. To that end, should the WSBO insist on retaining some or all of these Business Plan considerations, they should be applied in a

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[64] NOFO at 35.

[65] Draft Proposal § 2.4.2 at 30-31.

[66] *Id.* § 2.4.2 at 30-32.

[67] *See id.* § 2.4.11 at 58-59.

risk-based fashion. As such, only those providers and or new entrants without a demonstrated track record of robust consumer-facing business experience should be required to submit a Business Plan. In all events, for the reasons discussed above, the pricing restrictions contemplated by the WSBO squarely conflict with the IIJA's prohibition against using the BEAD Program to regulate broadband rates, and should be removed for all applicants.

Further, the Draft Proposal indicates that the WSBO will require a **professional engineer,** licensed in Washington, to certify various application materials.[68] BCAW concurs that grants should only be provided where the recipient's proposal is sound and the operator is capable. However, as written, this is an unnecessarily burdensome requirement. Where an applicant already has an established history of deploying broadband networks and providing broadband service on a larger scale – i.e., has (i) operated as a broadband provider in Washington for more than ten (10) years; or (ii) currently serves more than 30,000 Washington broadband customers – the applicant should be allowed to certify its network designs and diagrams using a Society of Cable Telecommunications Engineers ("SCTE")-certified in-house engineer who designs and oversees the implementation of those designs in the regular course of business.

If, however, an applicant does not have an established prior track record of similar deployment projects, that applicant should be required to provide a certification from a licensed professional engineer that the applicant's network design and diagram reflects a network capable of meeting BEAD Program requirements. At a minimum, the WSBO should specify what it considers to be a "professional engineer" for purposes of this requirement. BCAW suggests the following alternative language:

> *As used herein, a "professional engineer" shall mean a professional engineer certified by the Society of Cable Television Engineers (SCTE) or similar professional group specializing in communications networks, and licensed by the State of Washington Board of Registration for Professional Engineers & Land Surveyors with active status; provided, however, that in the case of an applicant which has an established history of deploying broadband networks by (i) operating as a broadband provider in Washington for more than ten (10) years; or (ii) currently serving more than 30,000 Washington broadband customers, the use of an in-house SCTE certified engineer, without regard to his licensure status in Washington, is an acceptable alternative.*

Finally, BCAW appreciates that the WSBO will allow for NTIA-approved alternatives to the **Letter of Credit** requirement.[69] Now that it has been released, the WSBO explicitly should align its approach with NTIA's recent conditional waiver of the letter of credit requirement, including by allowing all applicants to use performance bonds; establishing a BEAD reimbursement period that spans no more than six months; and allowing applicants to commit to maintaining a letter of credit or performance bond in the amount of 10% of the subaward until it has demonstrated to satisfaction of the State that they have completed the buildout of 100 percent of locations to be served by the project or until the period of performance of the subaward has

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[68] *See id.* § 2.4.13 at 62.

[69] *See id.* § 2.4.11 at 57-58.

ended, whichever occurs first.[70] This flexibility will help minimize the burden and cost of obtaining letters of credit for *all* applicants, while allowing the WSBO to ensure that applicants have the financial capabilities to deliver on their commitments.

In addition to the new waiver guidance, NTIA has also stated that states have the opportunity to seek a further waiver where prospective subgrantees are able to meet the requirements under the NOFO by other means.[71] Consistent with this guidance, BCAW urges WSBO to request a further waiver from the NTIA LOC requirements to allow for two additional means to flexibly and appropriately allow prospective subgrantees to demonstrate financial capability and secure performance.

First, BCAW urges WSBO to request a further waiver from NTIA of the LOC requirement where the prospective subgrantee provides a parent guarantee. Specifically, WSBO should allow for a parent guarantee, defined as:

> *A guarantee from a solvent parent entity at any level above the subgrantee (a "Parent Guarantor") that meets the requirements described below will be responsible for the repayment obligations of the subgrantee upon default of such subgrantee's obligations. The amount of the guarantee shall equal the amount of the grant actually paid to the subgrantee up to the time of such default triggering repayment. To qualify as a Parent Guarantor, such parent entity must have a ratio of: (i) total current assets and net Property, Plant and Equipment of such Parent Guarantor on a consolidated basis in accordance with GAAP, as determined from the Parent Guarantor's most recent audited balance sheet to (ii) the total amount of the grant awarded (irrespective of whether such amount has been actually paid) to the subgrantee of at least 2:1 (the "Guarantor Condition"). The Parent Guarantor shall certify annually that it satisfies the Guarantor Condition, and will attach an audited balance sheet evidencing its compliance with the Guarantor Condition with such certification. If at any time after executing a guarantee the Parent Guarantor does not satisfy the Guarantor Condition, the subgrantee will need to undertake an alternate means of protecting the federal interest through the issuance of letters of credit or performance bonds, through one of the options set forth in the NTIA LOC Waiver.*

Second, WSBO should request a further waiver from NTIA of the LOC requirement where the subgrantee demonstrates that it has over $100 million in telecommunications or electric plant in production in the State, consistent with the limited waiver of the BEAD LOC requirement contemplated by South Carolina.[72]

For BCAW member companies, who have a demonstrated history of meeting their commitments, either of the two further alternatives proposed by BCAW would accomplish the

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[70] NTIA, *Notice of Programmatic Waiver* (Nov. 1, 2023), https://broadbandusa.ntia.doc.gov/funding-programs/policies-waivers/BEAD-Letter-of-Credit-Waiver.

[71]   *See* NTIA, Ensuring Robust Participation in the BEAD Program (Nov. 1, 2023), https://www.internetforall.gov/blog/ensuring-robust-participation-bead-program (noting that "States and territories are also free to request waivers for additional circumstances not covered by this programmatic waiver where prospective subgrantees are able to meet the requirements under the NOFO by other means") ("NTIA LOC Blog").

[72]   *See* South Carolina Volume II Guidance at 36.

objective of lowering deployment costs while adequately protecting against default and insuring performance can be achieved. Thus, BCAW strongly urges WSBO to adopt all of the options provided by NTIA; explicitly confirm that it will enable prospective subgrantees to utilize the Subgrantee Option for Alternative Initial LOC or Performance Bond Percentage by setting a reimbursement schedule that does not exceed six-month periods; and include in its waiver request both a parent guarantee option and an alternative for established providers with substantial facilities in the State.

      Publishing Results and Awarding. The WSBO will publicly post application summaries, including applicants' proposed service areas, on the program website.[73] BCAW seeks clarity on the extent of the information that will be published, and encourages the State to explicitly allow applicants to deem portions of their applications confidential, as many states like Kansas have done, and/or include other confidentiality protections for trade secrets and other proprietary information, consistent with the WSBO's approach to the Letter of Credit and, more generally, State open records law.[74]

6. **Adopt a risk-based framework for monitoring, accountability, and reimbursement and align requirements with federal guidance**

      The Draft Proposal explains that subgrantees "will not be fully reimbursed for expenditures without documentation demonstrating that the match requirement has been met," and that subgrantees must also complete and submit a Cost Performance Index form with each reimbursement invoice voucher for cost efficiency calculation purposes. If an applicant's Cost Performance Index performs below expectations, the WSBO *may* refuse reimbursement until sufficient explanation is provided.[75] BCAW is opposed to this type of micromanagement of costs in deployment programs where the state is only paying part of the costs. Moreover, such policy would likely conflict with federal law.

      While the final guidance remains pending, NTIA's Request for Comment on the guidance tentatively concluded that, consistent with the Treasury's Part 200 guidance for its ARPA broadband grant programs, a BEAD award can be treated as a fixed-cost subaward that is *not subject to Part 200 cost justification*.[76]

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[73] *See* Draft Proposal § 2.4.1 at 33.

[74] *See id.* § 2.4.11 at 58 ("All documents related to letters of credit or an approved NTIA alternative to satisfy this requirement will be treated confidentially by the WBSO and its contractors.").

[75] *See* Draft Proposal § 2.16.2 at 121-22, 125.

[76] NTIA Part 200 Guidance RFC at 42921-22; Treasury Part 200 Guidance at 2 ("The Uniform Guidance permits agencies to provide an exception from the cost principles and procurement requirements in the case of fixed amount subawards (See 2 CFR 200.1, 200.201(b), and 200.333). Typically, fixed amount subawards may only be issued with the prior written approval of the federal awarding agency and only in an amount up to the $250,000 Simplified Acquisition Threshold. Treasury, with the approval of the Office of Management and Budget, is providing that recipients may issue fixed amount subawards for broadband infrastructure projects without further Treasury approval regardless of whether the value of the sub-award exceeds $250,000 and that recipients are not required to apply the cost principles and procurement requirements of the Uniform Guidance to ISPs receiving such fixed amount subawards.").

Additionally, BCAW strongly opposes the WSBO's proposal for a post-construction budget. Under the Draft Proposal, subgrantees must complete a post-construction business operations budget for the five years following project completion, including information like their direct cost of operations and revenue projections based on subscriptions and pricing. This budget will be "measured against semiannual reporting post-completion."[77] BCAW has serious reservations with the purpose of this disclosure, given that, once the network is built, the State is not funding it on an ongoing basis, so there should be a limited State interest in seeing the details about cost of operations. To the extent the WSBO insists on including such an obligation at the application and ongoing reporting stages, its application should be risk-based, applying only to new service providers without a demonstrated record of operating a broadband network.

Finally, BCAW respectfully request that the WSBO clarify what is intended by the proposed requirement that subgrantees provide "subscriber and speed test data" within 30 days of the Post Conditional Closeout Report being submitted.[78] It is not clear what it intended by this disclosure or how specifically subgrantees must respond.

CONCLUSION

BCAW and its members appreciate the opportunity to comment on the Draft Proposal and respectfully urge WSBO to consider the positions expressed and recommendations provided herein when revising and submitting its final Volume 2 Plan to NTIA.

Respectfully submitted this 29th day of November 2023.

/s/
David Ducharme
Executive Director Broadband Communications Association of Washington

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[77] *See* Draft Proposal § 2.4.11 at 59.

[78] *See id.* § 2.16.2 at 124-25.

November 29, 2023

Mark Vasconi, Director
Washington State Broadband Office
P.O. Box 42525
Olympia, WA 98504-2525

Re: Comments on Volume II of Washington's Initial Proposal

Dear Director Vasconi:

On behalf of the Snohomish County Executive's Office, thank you for the opportunity to provide comment on the draft of Volume II of the Washington State Broadband Office's (WSBO) Initial Proposal. We sincerely appreciate WSBO providing us the chance to review and offer our suggestions and recommendations.

As you know, we remain heavily involved in multiple broadband-related efforts. These include working with partners from around the state as a member of the Washington State Association of Counties (WSAC) broadband advisory subcommittee, with our regional partners throughout the SWISS (Skagit, Whatcom, Island, San Juan, and Snohomish) region in the development of a regional strategic plan for broadband, with our partners within the county that form the Snohomish County Broadband Action Team, and with our internally staffed Broadband Task Force.

Because of our involvement in these various efforts, you will see that our comments will in many ways reflect those of our partners. We continue to ask that you engage local jurisdictions as often, and as proactively, as possible. Snohomish County remains steadfast in its interest in the success of this generational opportunity to provide affordable, reliable, and accessible broadband to all our residents and businesses. We submit the attached comments with the intent of continuing to work collaboratively with WSBO, the Department of Commerce, and our regional and local partners to achieve "Internet for All."

Sincerely,

Jason Biermann, M.A., CEM®
Senior Policy Advisor

Copy: Ken Klein, Executive Director
        Alessandra Durham, Chief of Staff

Attached: Snohomish County Comments on WSBO's Draft Volume II – Initial Proposal

Comments on WSBO's Draft of Volume II to the Initial BEAD Proposal

- Issue: *We should acknowledge the criticality of the people who staff community anchor institutions (CAIs), especially those related to public safety, and not focus solely on the facility's capability.*
- Comment: Snohomish County appreciates the broad definition of CAIs as it pertains to facilities; however, in our analysis we also recognize that, especially in cases of public safety facilities, we should place equal emphasis on the staff. For example, a significant number of Snohomish County Sheriff's Deputies and Corrections Officers live on Camano Island. While the current goal of 1Gig symmetrical ensures their facility possesses appropriate broadband capacity, if we fail to prioritize the critical staff, we may have gaps in communication that could result in having a public safety facility that lacks the personnel to operate it. We anticipate an analysis of this problem may reveal this issue exists in all the state's highly transient areas.

- Issue: *The scoring criteria, although fairly thorough, does not mention multi-jurisdictional collaboration.*
- Comment: Several aspects of the scoring criteria seem very well-considered. These include the prioritization of 1 Gbps symmetrical service, compliance with fair labor practices, and the overarching focus on maximizing the use of the BEAD funds. Based on conversations with our regional partners in the SWISS (Snohomish, Whatcom, Island, Skagit, San Juan), we hope to see points being awarded for regional collaboration (i.e., multi-county). We believe this should exist as either part of "Local and Tribal Consultation" (preferred) or added to the list of criteria under "Non-scored Tie Breakers."

- Issue: *We appreciate that the draft addresses affordability for both low- and middle-income households and encourages Open Access.*
- Comment: We understand that the priority should be to ensure availability to affordable broadband for those who are most economically challenged. In an area where the cost of housing poses a challenge even to those with family-wage jobs, we acknowledge the need to also support our middle-income residents.

- Issue: *The definition of project areas needs to provide flexibility.*
- Comment: We do not believe that defining project areas can be relegated to an "either/or" proposition (i.e., counties or school districts). Like some of our partners, we share the concern that attempting to implement a single approach for the entire state does not recognize our topographic and demographic diversity. In our review, our technical staff also noted that project areas seem to place a greater emphasis on achieving a specific number of BSLs than they do on considering how best to access the locations. With that stated, of the two options presented we prefer one based on county boundaries; however, we **strongly** encourage WSBO to conduct additional outreach to identify critical areas that span jurisdictional boundaries and, with local concurrence, make exceptions for these areas. We also have specific notes about some of the project areas defined within Snohomish County. These are:
    - Project area definitions, either by county or school district, do not consider incumbent providers (e.g., Project Area 21 includes Arlington Heights, which Comcast serves, while the remainder of the area receives service from Ziply).
    - We noted the challenges of topography, etc. The north part of Project Area 125 should be merged with Area 21 and the north part of Area 90 would likely better align with Area 212 in Skagit County.

- Issue: *The state will need an adequate workforce and we do not see a financial commitment from the state to ensure that.*
- Comment: We noted in our review of the Five-Year Action Plan that WSBO offered scant information on how the state intends to address the potential shortage of workers needed to deploy broadband on such a massive scale. We note in this draft that funding for workforce development falls within the category of non-deployment activities, activities for which WSBO and NTIA have both openly stated there will almost certainly be no funding from the BEAD program.

- Issue: *WSBO needs additional capacity to ensure that <u>we</u> achieve the vision and goals outlined in this document and most effectively use <u>our</u> $1.23 billion BEAD allocation.*
- Comment: Snohomish County highlighted this issue in its previous review of WSBO's *Five-Year Action Plan*. We appreciate the WSBO-sponsored decision package in Governor Inslee's budget to obtain funding for the important work ahead, particularly the inclusion of a partnership with the Washington State Association of Counties (WSAC) to use a holistic and coordinated approach to model outcomes and thresholds rankings for all locations from highest fiber deployment cost to lowest wireless solution cost. This will give Snohomish County a total cost curve in the consideration of where to deploy fiber as well as where to consider hybrid solutions. Estimating these costs for all our project areas prior to BEAD applications is vital.

- Issue: *We support WSBO's continued advocacy to address FCC fabric mapping issues.*
- Comment: Throughout the state many addresses originally identified as unserved BSLs, and subsequently updated by the FCC Challenge Process in March of 2023, got excluded in the proposed BEAD project areas due to multiple alias addresses for the same location. Likewise, previously "unserved" BSLs in the FCC's fabric map now appear as "served," despite any infrastructure enhancements that would change their status. We believe WSBO's continued advocacy will help ensure Washington's project areas truly capture all unserved and underserved addresses. Snohomish County will continue to work with its partners and WSBO to improve the fabric map's integrity.

November 29, 2023

Mark Vasconi, Director
Washington State Broadband Office
PO Box 42525
Olympia, WA 98504-2525

RE: Initial Proposal – Volume 2

Dear Director Vasconi,

Thank you for you and your team's hard work on preparing Washington State for being ready to utilize the historic funding available from the federal government through the BEAD program. Through WSU I have had the opportunity to work with BAT teams and look forward to continuing to engage with the people of Washington to help bring Internet to All. Below I will detail some thoughts that I have regarding the Initial Proposal – Volume 2. I hope that the comments that I provide today will help the people of Washington succeed in this goal.

Project Areas

First, I would like to address the question posed in the draft of Volume 2 paraphrased as follows. Is there a preference between a county centric with BSL count based project area definition or using a school district as a project area? I think that neither meets the needs exclusively and will cause significant challenges to deployment and creating "Internet for All". Additionally, I will address alternatives below.

The solution that is readily apparent to address shortcomings of these two options is to integrate them by performing a spatial join of the two geographies, School District and Counties. This would address issues around a school district spanning two counties, Reardon School District is a primary example of this issue. After this action was taken entities on both sides of the county line would be able to build in a way that makes the best use of funds. This will allow the historic network effects of school districts to be leveraged while allowing the potential funded project holders to avoid jurisdictional issues.

Additionally, I want to thank the Washington State Broadband Office (WSBO) for their time over this comment period discussing the project areas and issues that have been uncovered doing the process. This rest of this comment section has been previously addressed but I would like to enter it into the official record as a comment.

While this has been a great tool for starting a conversation, I think that there are some serious data integrity issues that have impacted the outcome of the process. The first is that the project areas tool, as it currently is published, does not have matching Fabric and FCC availability data. This leads to newly created LocationIDs in the Fabric to be shown as unserved when in fact the availability data was not yet available from the FCC. This issue can be corrected by pulling the matching availability dataset from the FCC. Correcting this issue will cause additional issues as

well, in Whitman County three (Garfield, Oakesdale, and Tekoa) well served communities moved from being served to being unserved. This is because of a failure of a submission to the FCC which as been ongoing for over a month. This problem can be addressed via the challenge process but will cause any intervening models of project areas to be wrong and will result in large shifts of project area boundaries.

Another issue that needs to be addressed is the integration of the Enhanced A-CAM, RDOF default areas, SLFRF, CPF, and state funds such as PWB and CERB. In Whitman County this is causing most of the Western portion of the county to be included in project areas where they will be locked out from doing so. By incorporating these changes, we will get a more accurate picture of where the un/underserved locations in Washington are which lack funding. I have attached a map of Whitman County demonstrating what the project area map should look like. This should correct the significant number of locations outside of project areas that currently exist in the project area maps and will allow us to create project areas that can succeed in the goal of providing "Internet for All".

The final item that I would like to note is the method of building regions in the project areas. Currently it is just based around a naïve model that assumes no infrastructure or starting points exist and is not accounting for impossible geography issues. The impossible geography problem is best exemplified by Island County where it is suggesting projects that cross Camano and Whidby Islands. These projects would be economically infeasible, and the model should either incorporate impossible geographies like the sound or a mountain range as breaking features. As for infrastructure and starting points, if we pre-seeded with points of known infrastructure like colocation facilities and add/drop points, we could make more economical networks. Designating seeds could be accomplished by doing a RFI with appropriate confidentiality in place to prevent corporate trade secrets from being disclosed. After these seeds are included in the model the region growing algorithm would know from where to start when building networks and it should yield a reasonable network design.

It is critical that we leave the project areas malleable for the time being and go through a comment period after significant changes are made to allow for us to reach the goal of "Internet for All".

Sincerely,
W. Nick Pappin
Washington State University – Extension

Attachments:

Issues in Whitman County

- PowerPoint attached to email. Credit: Kalvin Johanson, Port of Whitman

Regression in Whitman County:

- December 2022: https://broadbandmap.fcc.gov/location-summary/fixed?version=dec2022&location_id=1288936438&zoom=15.00&vlon=-117.142555&vlat=47.009156&br=r&speed=100_20&tech=1_2_3_7
- June 2023: https://broadbandmap.fcc.gov/location-summary/fixed?version=jun2023&location_id=1288936438&zoom=15.00&vlon=-117.142555&vlat=47.009156&br=r&speed=100_20&tech=1_2_3_7

Whitman County un/underserved map with National Data Deduplication:

November 30, 2023

Mark Vasconi, Director
Washington State Broadband Office
PO Box 42525
Olympia, WA 98504-2525

Re: City Broadband Comments on the Washington Initial Proposal Volume II

Dear Mr. Vasconi,

We want to thank you for the opportunity to provide comment on the Initial Proposal Volume II. As with the 5 Year Action Plan and the Digital Equity Plan, Cities are deeply aware of the vital role that access to reliable, affordable high-speed internet is to the success of Washington State and its residents— supporting nearly every facet of life including healthcare, education, the economy, and building community. As we continue to develop long-term objectives in closing the digital divide, addressing accessibility and affordability, and enhancing economic growth throughout the state, Washington Cities stand ready to engage in an ongoing stakeholder process to ensure that Washington utilizes these historic funds in the most meaningful and efficient way possible and achieve universal broadband coverage in the state.

As before, while Cities have co-signed the Public Broadband comment letter, we are submitting a separate letter to underscore city priorities in response to the draft proposal of the Broadband, Equity, Access, and Deployment (BEAD) Volume II presented by the Washington State Broadband Office (WSBO).

4.2 Scoring Rubric and Prioritization:

- Minimal BEAD Program Outlay: Understanding that matching funds have been set aside for public agencies by the Washington State Legislature, we encourage the WSBO to reconsider the total points awarded for cost matching. As the rubric is currently drafted, we believe this structure will disincentive local agencies from competing.
- Affordability: Recognizing that predictable, ongoing affordability will be critical in getting all Washingtonians the appropriate access to reliable broadband, we strongly encourage that greater weight be given to low-income affordability and digital navigation. Moreover, we would recommend that specific timeframes/criteria for providing ongoing affordable service be added to the scoring rubric. Cities maintain that getting residents access to reliable and affordable broadband should not singularly rely on the requirements of connecting residents through the Affordable Connectivity Program (ACP) but be expanded and supported by state funded programs.

- Speed to Deployment: We support the intent of the WSBO to ensure timely delivery of projects; however, as noted in the description, items such as uncertainty in supply chain, workforce shortages, and compliance with federal regulations may pose significant challenges. We recommend removing or decreasing the total points awarded to this criteria.
- Fair Labor Practices: We believe that this section should be removed as all businesses must abide by these laws. Instead, we would recommend awarding points based on demonstration of experience as the employer of a telecommunications workforce, such as certification that the applicant or its parent company has a minimum history of two years operating as an employer in the State of Washington.
- Local and Tribal Coordination: Cities are well situated to know what communities are unserved or underserved. We appreciate the WSBO's acknowledgement of this critical fact in the scoring rubric. In addition to weighting this component more heavily, cities believe that the language should be updated to reflect approval by city staff—city staff are well situated to know what applications are best serving the city community and can help to expedite approval process.
- Adoption and Digital Navigation: To ensure that adoption of broadband services, digital navigation, and literacy skills reach the most vulnerable populations, we recommend that applicants fund digital navigation programs and work in consolation with local governments and other community-based organizations to offer these services.

10 Cost and Barrier Reduction:

- Streamlining Rights-of-Way, including the Imposition of Reasonable Access Requirements and Permitting Processes: The WSBO interests in ensuring effective and timely permitting reviews are well intentioned; yet there is concern with telecom industry overreach using any state level preemption to gain more control over local rights-of-way (ROW) use in cities where meeting an *unserved and underserved* need is not present. Likewise, as the plan notes in other sections, "consideration of unique regional and community needs" is critical—as each jurisdiction is unique and must reflect and balance the needs of their local community. Because of this, local ROW permitting is a tool that allows for effective management of the variety of local stakeholders—including but not just limited to telecommunications, utilities, and more. While we are not opposed to the discussion on permit review and best practices, the current proposal fails to acknowledge or address the role of the telecom industry, and the critical need for well-developed and fully completed applications to help expedite permit review. It also fails to acknowledge the staffing crisis local jurisdictions currently face. Before any legislation is introduced, we would request a robust stakeholder process be held that includes local permitting authorities. We would also request that greater emphasis be placed on the streamlining of State ROW management entities and not encroach on local ROW control.
- Streamline Access to Poles, Conduits, and Easements: As with local ROW, municipal pole owner control over use of their vertical electrical system assets should be prioritized. Pursuing changes to current pole replacement process, that would require municipal pole owners to share costs associated with replacements to accommodate telecom/broadband deployment, should consider a system of evidence that the pole must be replaced for direct benefit on the utility's ratepayers. Pole replacements before the normally scheduled replacement cycle might risk legal challenge that it is incurring preemptive utility rate payer costs for a non-utility benefit. As with

the discussion on ROW, we request a robust stakeholder discission that includes municipal pole owners. Additionally, we would recommend exploring the possibility of establishing a pole replacement fund that could be used to offset pole replacement costs.

Cities appreciate this opportunity to provide comment throughout the development of the BEAD Initial Proposal Volumes I and II. Like the WSBO, Cities support the goal of going "beyond expanding broadband infrastructure", by ensuring that access is accessible, equitable, and sustainable. As always, we look forward to ongoing engagement and collaboration throughout this momentous time.

Respectfully,

Brandy DeLange
Government Relations Advocate

Carl Gipson
State President Pacific Northwest - External Affairs

AT&T Services, Inc.

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www.att.com

November 30, 2023

Mark Vasconi
Director, Washington State Broadband Office
P.O. Box 42525
Olympia, WA 98504-2525

Re: Comments of AT&T Mobility **–** BEAD Initial Proposal Volume 2

Dear Mr. Vasconi:

AT&T offers the following comments for consideration on the Broadband Equity, Access, and Deployment Program Initial Proposal Volume 2 (BEAD-Volume 2) presented by the Washington State Broadband Office ("WSBO").

We support WSBO's ambitious goals in developing a BEAD program as part of the "Internet for All in Washington" initiative. The below comments provide recommended modifications to WSBO's BEAD-Volume 2 to align Washington's program more closely with the requirements established by the National Telecommunications and Information Administration (NTIA).

We welcome discussions on this feedback and appreciate the opportunity to engage with your office as you work to formulate processes that can ensure universal availability of high-speed internet access.

I. Section 4.1: Subgrantee Selection Process Integrity (Requirement 8)

AT&T is concerned with the proposed affordability scoring methodology and the recommendation to offer specific plans with a particular rate. The proposed affordability scoring methodology favors service packages for gigabit symmetrical service to be priced at certain "affordable" rates with applicants receiving 25 points if the cost of 1 Gbps symmetrical service is less than $75 per month, (including all taxes, fees, and charges charged) to the customer. A sliding scale will be used to score applications that provide 1 Gbps symmetrical services from $75 or more per month, including all taxes, fees, and charges to the customer.

The Infrastructure Investment & Jobs Act ("IIJA") does not permit broadband service rate regulation, nor does the IIJA otherwise provide an independent grant of authority to states to regulate broadband rates.[1] Indeed, states are preempted from regulating broadband rates.[2] In accordance, states must implement its scoring requirement in a manner that does not result in rate regulation.

States should score and rank applicants' proposed prices against the FCC's urban broadband benchmark rate for the Gigabit Tier for applicants proposing fiber to the premise ("FTTP") Priority Broadband Projects

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[1] *See* IIJA § 60102(h)(5)(D) (codified at 47 U.S.C. § 1702(h)(5)(D)).

[2] Charter Advanced Servs. v. Lange, 903 F.3d 715, 719 (8th Cir. 2018) ("'[A]ny state regulation of an information service conflicts with the federal policy of nonregulation,' so such regulation is preempted by federal law." (quoting Minn. PUC v. FCC, 483 F.3d 570, 580 (8th Cir. 2007))); N.Y. State Telecomms. Ass'ns v. James, 544 F. Supp. 3d 269, 280-83 (E.D.N.Y. 2021), appeal docketed, 21-1975 (2d Cir. 2021) (finding that conflict preemption and field preemption each bar New York state from regulating broadband service pricing).

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or the 100/20 Mbps Tier for non-FTTP Last-Mile Broadband Deployment Projects, because the FCC urban rate benchmark provides a simple and objective competitive price reference. The FCC's broadband benchmark provides an administratively simple way to ensure that lower prices receive more weight.

The FCC benchmark rates reflect up-to-date pricing data as the FCC adjusts them each year based on an annual survey of the fixed broadband service rates offered to consumers in urban areas nationwide. The purpose of the FCC's urban benchmark rates is to ensure that rates in rural areas are not significantly higher than in urban areas. The urban rate benchmarks thus reflect competitive rates in competitive urban areas. Using the benchmark rates to score and rank the relative affordability of applicants' Gigabit Tier prices will ensure that applications proposing lower rates – in fact, rates that are lower in BEAD-areas than the urban rate benchmark – will score higher than applications proposing rates on par and above urban areas. This scoring methodology will thus help to ensure that consumers in BEAD-supported areas have access to Gigabit Tier service at rates that are reasonably comparable to rates charged for similar services in urban areas – that are, in other words, affordable.

In addition, BEAD subgrantees awarded full affordability points should not be prohibited from modifying their rates in the future to account for increase to the costs of labor and supplies, inflation, and the like, so long as the rates remain at or below the FCC urban rate benchmark then in effect, especially if the term of providers' BEAD obligations extends for the duration of the "federal interest." This is consistent with NTIA guidance in BEAD FAQs clarifying that states may allow providers to increase prices over time and using the Urban Rate Survey is an appropriate and reasonable metric to make such adjustments.[3]

II.   Section 12.1 Low-Cost Broadband Service Option (Requirement 16)

AT&T similarly recommends that the WSBO expressly recognize providers' needed flexibility to make future price changes to their low-cost serve option, especially if the obligation to offer the low-cost broadband service option extends for the duration of the "federal interest." As NTIA provides in its BEAD FAQ guidance document,[4] states are permitted to allow for reasonable cost adjustments over time to accommodate changes in costs and broader economic conditions. Price locks for extended periods are unprecedented and would clearly be a form of unnecessary and intrusive rate regulation. Over time, providers are likely, and should be encouraged, to increase speeds and would otherwise be expected to make price changes in the normal course of business due to, among other things, increased costs.

III.   Section 13 Middle-Class Affordability (Requirement 20)

NTIA has made clear that the Middle-Class Affordability Plan is a strategy adopted by a *state*, to be implemented by a state, to meet the BEAD program's goal of ensuring that every resident, including middle-class residents, has access to a reliable and affordable high-speed internet offering. NTIA has specifically made clear that this is *not* a mandated ISP service offering.[5] Unfortunately, WSBO's requirement that the affordable service option plan includes "a proposed price threshold, [and] its justification" and its restriction on price increases, constitute nothing less than unlawful rate regulation.

WSBO should instead make clear that a BEAD subgrantee satisfies the state's middle-class affordability targets if it offers multiple high-speed internet service tiers at different price points in BEAD-funded areas,

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[3] *See* NTIA BEAD Frequently Asked Questions and Answers, FAQ 8.15 available at BEAD Frequently Asked Questions and Answers Version 5.0 (ntia.gov).

[4] *See id.*

[5] NTIA, Tricky Topics to Watch Out for in the Initial Proposal (Sept. 2023) ("IP September 2023 Guidance") at 22.

enabling middle-class consumers to select the internet service tier and price point that best meets their needs. Clearly, consumers are best served where states utilize approaches that encourage multiple providers to compete for BEAD funding.

Robust competition in the BEAD funding process in itself will help to ensure that all households in BEAD-funded areas gain access to high-quality, high-speed internet service at affordable prices while also helping to ensure that BEAD dollars bring broadband to as many people who need improved broadband service as possible. And, in explaining that NTIA is not regulating rates nor setting broadband prices, Commerce Secretary Raimondo stated, "We want all providers, large and small . . . to participate in the program."

IV.   Open Access (Requirements 8 and 14)

AT&T is also concerned with WSBO's proposed open access scoring methodology, especially the proposal to award points to applicants based on the cost per 100/20 Mbps connection. As with the proposal to score applicants on affordability based on retail prices for gigabit symmetrical service, this proposal to score applicants on open access based on wholesale prices for certain connections is rate regulation. As outlined above, rate regulation is prohibited by the IIJA,[6] and states are preempted from regulating rates for broadband services.[7] If WSBO is going to score applicants based on open access, it should use criteria that do not amount to rate regulation.

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AT&T appreciates the opportunity to submit these comments for your consideration. We welcome continued discussions as the process to align Washington's BEAD program and policies with NTIA continues.

If you have any questions, please feel free to call me at ▮▮▮▮▮▮▮▮▮▮ .

Sincerely,

Carl Gipson
State President Pacific Northwest
AT&T External Affairs

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[6] *See supra* footnote 1.
[7] *See supra* footnote 2.

November 30, 2023

Mark Vasconi, Director
Washington State Broadband Office (WSBO)
PO Box 42525
Olympia, WA 98504-2525

RE: comments on the Initial Proposal – Volume II

The Spokane Regional Broadband Development Authority Broadlinc appreciates the
opportunity to make comments on the important work done by WSBO in creating project areas
for the Volume II Initial Proposal. We have two requests for consideration related to project
areas.

1. Project Area Definitions
Our recommendation is for WSBO to proceed with Tribal and County defined project areas. This
would allow for areas to best align partners in public match availability and open access
solutions with interested Internet Services Providers (ISPs). School Districts will be preserved as
a primary customer as remote learning access from the home is a foundational need in
broadband expansion to rural unserved and underserved communities in Spokane County.

2. Project Area Modifications
WSBO proposed thirty-four (34) project areas with 33,000+ Broadband Serviceable Locations
(BSLs) for Spokane County, we request the below changes:
-   Combine area 51 and 72 and split into areas 86 and 132 (whichever borders
    geographically)
-   Merge areas 107 and 272 together into a single area
-   Merge areas 16, 75, 205 and 171 into a single area

The above modifications will allow for the most robust alignment of private and public sector
engagement in proposals, match funding and most importantly, the ability to reach as many
unserved and underserved rural Broadband Serviceable Locations (BSL) in the most cost
effective and sustainable manner.

We also recognize the need to work with broadband providers in developing an approach to
bring internet to all, in both the BEAD public consultation process and to develop cost factors
for project areas. It is equally important to partner with Tribes to ensure everyone in
Washington is served.

Broadlinc, on behalf of Spokane County, appreciates the WSBO sponsored decision package in Governor Inslee's budget to obtain funding for the important work ahead. This includes the partnership with the Washington State Association of Counties (WSAC) for a holistic and coordinated approach to model outcomes and thresholds rankings for all locations from highest fiber deployment cost to lowest wireless solution cost. This will give Spokane County a total cost curve in the consideration of where to deploy fiber as well as consider hybrid solutions to any given number of locations. Estimating these costs for all our project areas prior to BEAD applications is vital.

We support the ongoing advocacy by WSBO with the Federal Dept of Commerce to engage both the NTIA and FCC to address ongoing FCC fabric map address issues. Many addresses originally identified as an unserved BSL that were subsequently updated by the FCC Challenge Process in March of this year are not included in current BEAD project areas due to multiple alias addresses for the same location. Similarly, "unserved" BSLs in the FCC Fabric map earlier this year now display "served," which is incorrect as no infrastructure enhancements have occurred. These ongoing issues have affected addresses across the United States, and WSBO's vital advocacy will ensure Washington's resulting project areas truly capture all unserved addresses. Broadlinc has been working with WSBO in the fabric map integrity and can provide subject matter expertise on solving these issues.

We respectfully submit our modest changes to project areas that are justified by saving money or removing geographic boundaries and costly crossings to bring backhaul to portions of project areas. Additionally, there are still known address issues that were not thoroughly resolved through the FCC challenge process. To ensure we have all unserved addresses properly mapped in project areas, we ask for these project areas to be kept preliminary until all addressing issues for unserved households are resolved.

Sincerely,

Ariane Schmidt

Ariane Schmidt
Executive Director

CROWN CASTLE

Crown Castle

(VIA EMAIL TO INTERNETFORALL@COMMERCE.WA.GOV)

November 30, 2023

Mark Vasconi
Director
Washington State Broadband Office
1011 Plum St. SE
PO Box 42525
Olympia, WA 98504-2525

Dear Director Vasconi,

Crown Castle, the nation's largest provider of shared wireless communications infrastructure, is pleased to provide the following comments on Washington's Broadband Equity, Access and Deployment Program (BEAD) Draft Initial Proposal, Volume II.[1] Crown Castle appreciates the opportunity to review this proposal and provide additional feedback or suggestions on issues that could bolster broadband buildout and availability in Washington, particularly concerning wireless infrastructure.

This is a historic moment, where unprecedented funding is being provided by the federal government to fuel investment in broadband infrastructure, improve broadband service performance, and help to close the digital divide. Over the past few years, we have seen first-hand, how essential broadband connectivity is to our everyday lives. From distance learning to tele-medicine to working remotely, connectivity is no longer a luxury, but rather an important necessity.

Crown Castle applauds the Washington State Broadband Office's (WSBO) efforts to develop its initial proposal, Volume II based on feedback from various public and private community partners. As a provider of critical communications infrastructure, Crown Castle provides the following recommendations regarding Section 10, Cost and Barrier Reduction, which addresses the National Telecommunications and Information Administration's (NTIA) Requirement 14, that each state's plan "identify steps that will reduce costs and barriers to deployment."[2]

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[1] Crown Castle submitted initial comments on December 2, 2022, identifying several concepts that are essential to the timely deployment of broadband infrastructure in Washington.
[2] NTIA Notice of Funding Opportunity, Broadband Equity, Access, and Deployment Program, Funding Opportunity Number NTIA-BEAD-2022, Section IV, p. 32.

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Adopt Jurisdictional Permitting and Application Processing Reforms

As Crown Castle previously commented, permitting at the state and local levels of government can be a significant obstacle to timely broadband deployment. To address impediments to deployment, Crown Castle respectfully suggests that Washington policymakers consider implementing the following strategies:

- **Streamlined for speed** – Implement expedited or streamlined review of zoning and permitting applications that facilitate wireless and fiber deployment, including those that efficiently use existing infrastructure under federal law.

    ➢ As referenced in WSBO's draft plan, HB 1216 established an expedited permitting process for new clean energy projects. A similar process should be considered for broadband related projects in 2024 and we stand ready to assist in those efforts.

    ➢ We appreciate that your draft plan promotes the use of existing infrastructure, which is the most efficient way to deploy communications networks. Your plan recommends the use of existing infrastructure on federal lands, which is greatly needed and we applaud this suggestion. We wonder if there might also be an opportunity that the WA Department of Natural Resources could play relative to broadband deployment? Is there infrastructure on DNR lands that could lend to faster deployment, such as macro towers? Additionally, the allowance of communications infrastructure within utility easements would be helpful as well.

- **Transparent review** – Establish procedures to allow all forms, applications, and supporting documentation related to proposed projects to be reviewed, approved, or denied within 30 days of submission.

- **Volumetric processing** - Adopt efficient intake procedures, such as electronic submission and batch permitting, similar to California Assembly Bill 965, which was adopted this year.

- **Broadband money for broadband projects** – Cap governmental application fees to actual, objectively reasonable costs incurred by jurisdictions to process applications to utilize public rights of way.

Embrace Technological Innovations

Public and private sector partnerships are critical to speed deployment, save money, and connect Washington communities to competition, innovation, and investment. Please see below for recommended actions that Washington State could take to expedite deployment further:

- **Pro innovation** – Empower next-generation industries. Allow innovative deployment processes and construction techniques that speed deployment and cut construction time, such as micro-trenching or other effective deployment methods. Promote investment in faster, future-proof networks that are built to last and enable an "all of the above" deployment strategy.

- **Smart restoration** – Broadband dollars must be spent on broadband projects. By supporting smart street restoration obligations that are proportional to the scope of the construction required for the project and setting these obligations upfront at the time of application, Washington can maximize the benefits of their broadband dollars.

Potential Washington Utilities and Transportation Commission Regulatory Reforms

- **Update state pole attachment regulations** – As referenced in your draft plan, we support your recommendation to encourage the Washington Utilities and Transportation Commission (WUTC) to consider updating existing pole attachment regulations regarding telecommunications carriers' access to poles and conduits controlled by regulated utilities. Over the past five years, the Federal Communications Commission adopted regulations establishing a "one touch make-ready" regimen for handling utility pole attachment regulations that provide greater flexibility and self-help capabilities to deploy fiber optic and wireless facilities where utility timeframes are lengthy and/or inefficient. Through rulemaking at the WUTC, Washington could join other states, such as California, which have proactively incorporated the FCC one-touch make-ready regime and related regulations into state-level pole attachment regulations to further facilitate wireless broadband deployment.

- **Adopt equitable cost-sharing responsibility for pole replacements** – Attachment to utility poles is the most efficient way to deploy broadband in many areas throughout Washington. The cost to replace poles to facilitate additional space or weight for new broadband related equipment is born solely by the pole attacher, even though the new poles will be owned by the utility, which will earn revenue from the new poles for the life of the new pole. Thus, we encourage the WUTC to examine and adopt rules that support a more equitable cost allocation for pole replacements between regulated utilities and pole attachers when needed to support broadband related projects.

- **Expedite dispute resolution** – We encourage the WUTC to provide a meaningful remedy for violations of its pole attachment regulations by implementing a shortened dispute resolution process between regulated utilities and pole attachers.

- **Address utility power service provisioning** – The WUTC oversees the terms, conditions, and rates of Washington's investor-owned utilities (IOUs). Wireless infrastructure providers like Crown Castle rely heavily on power supply processes and timeframes of the IOUs for service to our communications infrastructure. The tariffs for retail power services regulated by the WUTC are generally organized by classes of customers (residential vs. business) and a host of unique interest service offerings intended to address the specific and unique needs of particular customers (e.g., very large customers, local governments, electric vehicle charging, clean energy offerings, etc.). The legacy electric service delivery model is insufficiently equipped to keep up with the level of construction needed to meet state broadband goals. Please see below for several recommendations that the WUTC could implement to improve the power services utilized by pole attachers:

  ➢ Create a new class of service targeted explicitly to powering small cell nodes on utility infrastructure (wood distribution poles and streetlights).

- ➢ Encourage or require IOUs to offer flexible unmetered power supply options that appropriately balance the interests of wireless infrastructure providers (widely deployed, low power load, adjustable caps, etc.) with the interests of the utility (revenue assurance and safety concerns).

- ➢ Adopt flexible metering practices to promote efficiency in electric service design and deployment (i.e., consolidated metering for node groupings).

- ➢ Establish standardized timeframes for IOU reviewing and approving power supply applications, power designs, and service delivery intervals.

Thank you for the opportunity to provide comments on this critically important plan that could have a profound impact on Washingtonians in the foreseeable future. Crown Castle looks forward to seeing the recommendations included in the plan become a reality, and we stand ready to partner with you as you seek relevant policy changes in the 2024 Legislative Session. If you have any questions or concerns regarding these recommendations or would like to discuss in greater detail, please do not hesitate to reach out directly at 425.236.5677.

Sincerely,

Kathy Putt

Kathy Putt
External Affairs – PNW

November 30, 2023

VIA EMAIL (InternetforAll@Commerce.wa.gov)

Mark Vasconi, Director
Washington State Broadband Office
P.O. Box 42525
Olympia, WA 98504-2525

      Re: ***Comments on BEAD Initial Proposal Volume 2***

Dear Mr. Vasconi:

CTIA[1] respectfully submits these comments in response to the Washington State Broadband Office's ("WSBO's") draft Volume 2 of its Initial Proposal for Broadband Equity, Access, and Deployment ("BEAD") funding ("Volume 2"), which will be submitted to the National Telecommunications and Information Administration ("NTIA"). Volume 2 reflects a great deal of work by WSBO, and CTIA looks forward to engaging with WSBO to optimize Washington's approach to promoting broadband deployment with its BEAD funding.

To help ensure the achievement of the BEAD program's goals in Washington, CTIA recommends that WSBO:

- Define how it will set the Extremely High Cost Per Location Threshold ("EHCT") consistent with NTIA's Notice of Funding Opportunity ("NOFO");[2] and

- Adjust its approach to affordability scoring to align with legal limitations and federal benchmarks.

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[1] CTIA – The Wireless Association® ("CTIA") (www.ctia.org) represents the U.S. wireless communications industry and the companies throughout the mobile ecosystem that enable Americans to lead a 21st century connected life. The association's members include wireless carriers, device manufacturers, suppliers as well as apps and content companies. CTIA vigorously advocates at all levels of government for policies that foster continued wireless innovation and investment. The association also coordinates the industry's voluntary best practices, hosts educational events that promote the wireless industry and co-produces the industry's leading wireless tradeshow. CTIA was founded in 1984 and is based in Washington, D.C.

[2] NTIA, BEAD Notice of Funding Opportunity (May 12, 2022).

I. VOLUME 2 MUST DEFINE MORE CLEARLY HOW WSBO WILL SET THE EXTREMELY HIGH COST PER LOCATION THRESHOLD (2.4.9 DEPLOYMENT SUBGRANTEE SELECTION (REQUIREMENT 8))

The NOFO requires states' Initial Proposals to include "a detailed plan to competitively award subgrants consistent with Section IV.B.7.a of this NOFO," which must include "identification of, or a detailed process for identifying, an Extremely High Cost Per Location Threshold to be utilized during the subgrantee selection process."[3]

WSBO's Volume 2 neither identifies an EHCT for Washington nor sets out a detailed process for identifying one. Instead, Volume 2 states that WSBO will wait until it has received the first round of applications to identify the EHCT, at which time it will "triangulate" applicant budget data with "various cost model estimates."[4] This discussion provides at best a general approach, rather than a "detailed process for identifying" an EHCT.

By failing to specify either an EHCT or the process for identifying one, Volume 2 not only runs contrary to the NOFO, but also fails to provide potential bidders with adequate information to determine whether they should bid at all, and, if so, how to formulate meaningful bids. This makes it less likely that Washington will enjoy robust participation by a diverse set of subgrantees in the BEAD program, which would diminish the benefits of the program for all the residents and businesses of Washington.

However, while the NOFO clearly obligates states to set the EHCT or share a detailed process for setting it, if WSBO's deferral of this task is part of a holistic, technology-neutral approach that embraces the use of non-fiber Reliable Broadband Service technologies to achieve broadband deployment as prioritized by the Infrastructure Investment and Jobs Act ("IIJA")[5] and NOFO, then the approach could prove a useful tool in pursuit of programmatic goals.

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[3] *Id.* at 31.

[4] Volume 2 at 54.

[5] Infrastructure Investment and Jobs Act, Pub. L. 117-58 (2021).

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## II.	WSBO SHOULD ADJUST ITS APPROACH TO AFFORDABILITY SCORING TO ALIGN WITH LEGAL LIMITATIONS AND FEDERAL BENCHMARKS (2.4 DEPLOYMENT SUBGRANTEE SELECTION (REQUIREMENT 8))

CTIA urges WSBO to take an approach to affordability, as other states have, that relies on market forces rather than a rate cap, and to adopt a strategy rather than a specific plan to ensure middle-class affordability.

WSBO proposes to allocate affordability points on a sliding scale according to the subgrantee's proposed price for "internet service packages of top-tier speeds" within specific price tiers set in Volume 2.[6] Other states have taken more market-based approaches that WSBO may wish to consider. Ohio's draft Initial Proposal, Volume 2, for example, proposes to calculate an average of applicant-proposed rates from all applications, and award points to applicants proposing prices below the average.[7] Other market-based approaches that encourage and reward lower prices without engaging in rate-setting can be found in the Initial Proposal, Volume 2, of South Carolina and South Dakota.[8]

CTIA highlights these other approaches because all of them are preferable to using a rate cap, which is a form of rate regulation, and such regulation is prohibited under the BEAD program. In the process of enacting the IIJA, federal lawmakers specifically barred broadband rate regulation in a subsection entitled "No Regulation of Rates Permitted."[9] As a result, NTIA is barred from regulating rates, and it cannot impose conditions on or provide incentives to Eligible Entities to accomplish that goal indirectly. Approving proposals like WSBO's that contain a rate plan or otherwise engage in

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[6] Volume 2 at 132 (priority broadband projects), 133 (other broadband projects).

[7] *See* State of Ohio Initial Proposal, Volume II, Broadband Equity, Access, and Deployment Program, at 66-67 and 74, https://broadband.ohio.gov/static/202310-DRAFT_Ohio-BEAD-Initial-Proposal-Volume-II_vShare.pdf.

[8] *See* State of South Carolina Initial Proposal, Volume II, Broadband Equity, Access, and Deployment Program, at 22-23, https://ors.sc.gov/sites/ors/files/Documents/Broadband/BEAD/Initial%20Proposal/South%20Carolina_BEAD_IP%20Volume%202%20Draft.pdf; State of South Dakota Initial Proposal, Volume II, Broadband Equity, Access, and Deployment Program, at 19, https://sdgoed.com/wp-content/uploads/2023/10/South-Dakota-BEAD-Volume-2-Initial-Proposal_DRAFT.pdf.

[9] IIJA § 60102(h)(5)(D), 135 Stat. at 1201.

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ratemaking violates this prohibition.[10] Moreover, broadband service is an interstate information service and, as such, may not be subjected to common carrier regulation.[11] Rate regulation is a classic form of common carrier regulation.[12] Consequently, WSBO's authority to address affordability is cabined and circumscribed and may not include prescribing or otherwise regulating rates.[13]

If WSBO, despite the unlawfulness of the approach, chooses to retain a rate cap to measure against, and CTIA strongly encourages WSBO to use a market-based approach instead, WSBO might consider using the FCC's reasonable comparability benchmark for that purpose.[14] That benchmark is based upon the FCC's urban rate survey of broadband pricing applicable to recipients of support through similar broadband deployment programs, such as the Connect America Fund Phase II and Rural Digital Opportunity Fund.[15] It shows that an unlimited data plan offering 100/20 Mbps would cost an average of $105.03 per month.[16] Using the FCC's benchmark will help ensure that rate plans available on networks built in Washington using federal deployment subsidies are similar, which will help avoid

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[10] *See, e.g., HIAS, Inc. v. Trump*, 985 F.3d 309, 325 (4th Cir. 2021) (Executive Branch may not impose conditions on a federal program that are inconsistent with the program's statutory scheme); *City & Cty. of San Francisco v. Trump*, 897 F.3d 1225, 1234-35 (9th Cir. 2018) (Executive Branch violates Separation of Powers by attempting to condition federal funding on requirements not contained in underlying statute); *City of Providence v. Barr*, 954 F.3d 23, 45 (1st Cir. 2020) (same); *City of Philadelphia v. U.S. Att'y Gen*., 916 F.3d 276, 291 (3d Cir. 2019) (same); *City of Chicago v. Barr*, 961 F.3d 882, 909 (7th Cir. 2020) (same); *see also La. Pub. Serv. Comm'n v. FCC*, 476 U.S. 355, 374 (1986) ("[A]n agency literally has no power to act … unless and until Congress confers power upon it.").

[11] *Restoring Internet Freedom*, Declaratory Ruling, Report and Order, and Order, 33 FCC Rcd 311 (2018), *pet. for rev. granted in part, denied in pertinent part, Mozilla Corp. v. FCC*, 940 F.3d 1 (D.C. Cir. 2019) (*per curiam*). Even for the brief period between 2015-2018 when the FCC treated broadband service as a common carrier service, the FCC rejected rate regulation. *See Protecting and Promoting the Open Internet*, Report and Order on Remand, Declaratory Ruling and Order, 30 FCC Rcd 5601, 5775, 5814 ¶¶ 382, 451 (2015).

[12] *See, e.g., MCI Telecomms. Corp. v. AT&T Co.*, 512 U.S. 218, 230-32 (1994) (rate regulation is a classic example of common carrier regulation).

[13] This is particularly true as to wireless broadband service, which is independently exempt from state rate regulation under federal law. *See* 47 U.S.C. § 332(c)(3)(A).

[14] *Wireline Competition Bureau and Office of Economics and Analytics Announce Results of 2023 Urban Rate Survey for Fixed Voice and Broadband Services*, FCC Public Notice, DA No. 22-1338, WC Docket No. 10-90 (rel. Dec. 16, 2022).

[15] *See, e.g.*, 47 C.F.R. § 54.805(a) ("For purposes of determining reasonable comparability of rates, recipients are presumed to meet this requirement if they offer rates at or below the applicable benchmark to be announced annually by public notice issued by the Wireline Competition Bureau….")

[16] *Id.*

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consumer confusion that could arise from companies potentially charging neighbors different rates depending upon the federal subsidy program used to deploy the different network segments from which they receive service.

WSBO should also clarify its approach to affordability points to permit the awarding of points in allocations beyond simply 25, 15, 10, or 5. At minimum, subgrantees should not be penalized (i.e., awarded zero points) for offering service at a rate consistent with or lower than the federal benchmark.

With regard to middle-class affordability, Volume 2 appropriately proposes to rely on the affordability-based scoring to ensure subgrantees' prices are affordable for middle-class households.[17] Volume 2 further proposes, however, to require subgrantees to offer a specific affordable service plan for middle class consumers.[18] In addition to the concerns about rate-setting discussed above, this proposal is inconsistent with NTIA's direction that states to "adopt diverse strategies" to ensure middle class affordability,[19] and clarified that the middle-class affordability requirement is a "strategy," not a specific service plan.[20] CTIA urges WSBO to take an approach to middle-class affordability, as other states have, that relies on market forces rather than a rate cap.

CTIA and its member companies are proud of their record of making service more affordable for all Americans and support the BEAD program's emphasis on ensuring affordable service offerings on BEAD-subsidized networks. But Volume 2's approach to affordability fails to lay out an effective, legally sustainable strategy to ensure that middle class households in Washington can afford service from the providers funded by BEAD. These affordability requirements could also discourage qualified providers from bidding on areas at all, decreasing the likelihood of drawing competitive bids.

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[17] Volume 2 at 114.

[18] *Id.*

[19] NTIA, BEAD Initial Proposal Guidance, Volumes I and II, at p. 82.

[20] NTIA, *Tricky Topics to Watch Out for in the Initial Proposal* (Sept. 2023), at 22.

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CTIA appreciates the opportunity to engage with WSBO towards the successful implementation of the BEAD program in Washington and closing the digital divide.

Sincerely,

/s/ Matthew DeTura
Matthew DeTura
Counsel, External and State Affairs

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CWA

November 30, 2023

Re: Washington BEAD Program - Initial Proposal Vol. II Comments

Dear Washington State Broadband Office,

Communications Workers of America District 7 submits these comments regarding Washington's BEAD Initial Proposal Volume II. These comments address Deployment Subgrantee Selection (Requirement 8), Labor Standards and Protection (Requirement 11), Workforce Readiness (Requirement 12), and Certification of compliance with BEAD requirements (Requirement 19).

I. Deployment Subgrantee Selection (Requirement 8)

A. Fair Labor Practices

1. The State should allocate a greater proportion of Fair Labor Practices points to forward looking measures that support labor compliance, rather than retroactive measures of past compliance.

The State's Draft Initial Proposal allocates 10 points to the Fair Labor Practices criteria. Of the 10 points allocated to Fair Labor Practices criteria, 6 are for measures of past compliance (p. 45). CWA recommends that forward looking measures regarding workforce plans should receive a greater point allocation than backwards-looking records of compliance. We recommend that past compliance should be worth 20% of the total points allocated for Fair Labor Practices, and plans for ensuring compliance be allocated 80% of the total points allocated for Fair Labor Practices. Accordingly, if Fair Labor Practices are worth 10 points, we recommend that "record of compliance" be worth 2 points and "plans for compliance" be worth 8 points. Allocating points towards forward looking measures incentivizes applicants to ensure high road labor practices on the project and better promotes an effective program.

2. The State should incorporate additional high road labor factors into its Fair Labor Practices Category.

The Initial Proposal includes only the minimum factors for record of labor compliance and plan for labor compliance that the BEAD NOFO requires (p. 35). As it is currently stated, this category functions like a gating criteria: many applicants will score full points in this criteria based on past performance, and the scoring does little to affect which projects are awarded or incentivize good performance on the funded project.

This category would be more effective if it functioned to incentivize applicants to incorporate high road labor standards in order to gain a greater score. The State should add additional criteria into its Fair Labor Practices category, including prioritizing applicants that will use a directly hired workforce for broadband deployment, installation, and maintenance; applicants that have robust in-house training programs with established requirements that are tied to uniform and progressive wage scales, job titles, and certifications or skill codes recognized by the industry; applicants that will create jobs with quality wages and benefits in broadband deployment; and applicants that will create jobs with quality wages and benefits in ongoing network operations, after network deployment. CWA also supports prioritizing applicants that will perform broadband deployment, installation, and maintenance work with a locally based workforce. The State could also clarify its prioritization of these forward-looking factors, for example, by clarifying a point value allocated to each factor or describing the consideration each factor will receive. Here is an example of language that addresses these factors:

> "An application that proposes more robust standards to ensure and promote ongoing labor compliance will receive greater credit.
>
> a. Safety and Training - An application that describes a more comprehensive in-house training program, for example, a program tied to certifications, titles, and uniform wage scales and/or participation in a labor-management apprenticeship program, will receive greater credit.
>
> b. Job Quality - An application that describes higher wages and more robust benefits will receive greater credit. If Applicant uses a contracted workforce, having a plan to monitor compliance and job quality.
>
> c. Accountability and Subcontracting - An application that commits that a greater proportion of the broadband deployment workforce will be directly employed by the applicant will receive greater credit.
>
> d. Local hire and targeted hire: An application that commits to a high percentage of the workforce that will reside in California and/or includes policies or practices that promote career pathways for local residents and hiring for marginalized communities or the local community, will receive a higher score.
>
> e. Ongoing Network Operations - An application that describes more robust high road practices for the workforce that will perform ongoing customer service, installation, and maintenance work, for example, good jobs, a locally based workforce, and/or a directly hired workforce, will receive greater credit."
>
> (Communications Workers of America, Broadband Investments that Go the Distance, https://buildbroadbandbetter.org/system/files/2023-09/CWA-Broadband-HIgh-Road-Labor-Report-2023.pdf.)

3. The point system should allocate a greater percentage of points to Fair Labor Practices.

CWA recommends that Fair Labor Practices receive a third of the 75% point allocation that the NOFO requires to be allocated to Primary Criteria, in other words, 25% of total point allocation. We view high road labor practices as mutually reinforcing with program considerations of managerial, technical, and financial capacity to execute the project. A higher point allocation for Fair Labor Practices supports multiple program goals. Delaware's Initial Proposal Volume II allocates 25% to Fair Labor Practices.
https://broadband.delaware.gov/pages/index.shtml?dc=community. California's Initial Proposal Volume II allocates 20% to Fair Labor Practices. https://www.cpuc.ca.gov/beadprogram. Pennsylvania allocates a combined 25% to labor factors, including 15% to Fair Labor practices and 10% to Equitable workforce development and job quality.
https://dced.pa.gov/download/volume-ii-of-the-broadband-equity-access-and-deployment-bead-proposal/?wpdmdl=122099. New York's Initial Proposal and Maryland's Initial proposal both allocate 30% to Fair Labor Practices.
https://broadband.ny.gov/broadband-deployment-initial-proposal;
https://dhcd.maryland.gov/Broadband/Pages/StatePlans.aspx.

4. Additional information

Additional information on CWA's recommendations regarding Fair Labor Practices, including context regarding labor trends in the telecommunications industry, is available at https://buildbroadbandbetter.org/system/files/2023-09/CWA-Broadband-HIgh-Road-Labor-Report-2023.pdf. CWA provides this link in lieu of an attachment as the submission form does not support document attachments.

5. Extremely High Cost Per Location Threshold (EHCT)

CWA strongly supports the State's preference for fiber. Fiber is sustainable, scalable, and renewable. It offers greater capacity, predictable performance, lower maintenance costs, and a longer technological lifetime than coaxial cable, satellite, and fixed wireless technologies. While CWA does not oppose the State's proposal to set the EHCT in later stages, CWA urges the State to select a number that lives up to the spirit of the EHCT framework as described in the BEAD NOFO by selecting a number as high as possible to help ensure that end-to-end fiber projects are deployed wherever feasible. In the event that Washington's BEAD allocation is insufficient to upgrade all underserved locations with fiber, other state and federal universal service programs and appropriations-funded broadband grant programs could help fill the remaining connectivity gaps and ensure that everyone can benefit from future-proof fiber technology.

CWA also encourages the State to consider studies of the long-term value of fiber in determining an EHCT. An engineering analysis of fixed wireless technologies by consulting firm CTC Technology and Energy concludes that "fiber represents the most fiscally prudent expenditure of public funds in most circumstances because of its longevity and technical advantages." CTC's cost analysis of fiber and fixed wireless deployments finds that while fiber's upfront capital costs are higher than those of fixed wireless in many circumstances, the total

cost of ownership over 30 years is comparable for fiber and fixed wireless, and fiber provides much higher quality service. The CTC analysis further finds that while fixed wireless technologies will continue to improve, they will not match the performance of fiber optic networks. CWA recommends that the State incorporate a minimum of a 30-year period to evaluate the total cost of ownership of non-FTTP networks as part of its EHCT analysis.

BEAD Program Notice of Funding Opportunity at 13, fn 6.
CTC Technology, "Fixed Wireless Technologies and Their Suitability for Broadband Delivery", 49-51, June 2022, https://www.benton.org/sites/default/files/FixedWireless.pdf.

6. Network resiliency considerations

CWA recommends that the State allocate points for network resiliency considerations as part of the secondary criteria, including for projects that are not Priority Broadband Projects. CWA urges the Office to also incorporate as part of the scoring criteria the six groups of resiliency strategies that the California Public Utilities Commission (CPUC) adopted in its disaster resiliency docket for certain facilities-based wireless and wireline service providers, with the goal of ensuring access to 911 and other government and local community services (e.g. 211 or 311), the ability to receive emergency alerts and notifications, and access to basic Internet browsing. These include:

 a. Implement 72-hour back-up power to support essential communications equipment and minimum service levels for the public
 b. Build and maintain redundant communication networks
 c. Harden communication networks to withstand damage
 d. Network operators should have available temporary facilities (e.g., mobile cell sites, mobile satellite and microwave backhaul, etc.) to restore service to their networks when facilities are damaged or destroyed;
 e. Establish communication and coordination processes with first responders, other public utilities, the Commission, and the general public
 f. Establish preparedness planning for employees and ensure sufficient staffing levels.

California Public Utilities Commission's resiliency decisions: D.20-07-011 (wireless), https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/communications-division/documents/network-resiliency/d2007011-july-16-2020.pdf, D.21-02-029 (wireline), https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/communications-division/documents/network-resiliency/d2102029-february-18-2021.pdf.

III. Labor Standards and Protection (Requirement 11) and Workforce Readiness (Requirement 12)

A. Subgrantees' plans for ensuring a skilled and credentialed workforce should be available to the public on a website.

In general, CWA recommends that broadband programs require applicants to disclose information on their workforce plans and practices. Collecting and publicly posting this information is a simple and low-cost way to promote accountability and high road labor

practices. We recommend collecting information regarding workforce and work conditions early, as part of the evaluation process for bids, and that regular reporting of information be incorporated throughout the funding cycle as part of ongoing compliance and monitoring.

All workforce plan information, including that required under Requirement 11 and Requirement 12, should be part of regular Labor Reporting and should be publicly available on a website. Enforcement is an endemic problem in labor compliance. If the information applicants disclose as part of their skilled and qualified workforce information is posted publicly, the public and worker organizations are able to hold applicants accountable to those commitments and aid in enforcement. The State is already familiar with similar disclosures from ARP programs. For example, the American Rescue Plan State and Local Fiscal Recovery Funds require that recipients publish Recovery Plan Performance Reports, which include workforce practice and labor standard information, on the recipient's website. The Treasury Department recommends that these reports be "accessible within three clicks or fewer from the homepage of the recipient's website." (U.S. Department of the Treasury, Compliance and Reporting Guidance: State and Local Fiscal Recovery Funds.) Just as transparency promotes accountability in other program areas, public disclosure around workforce plans promotes compliance and accountability regarding workforce practices.

B. Subgrantees' workforce representations should be binding commitments.

CWA recommends that the State consider applicants' and subgrantees' representations regarding workforce plans as material conditions of the grant or otherwise legally binding and enforceable. If an applicant states that it will directly employ a workforce at a certain wage, or commit to a certain percentage of state-based workers, these commitments mean little if they are not binding. Representations around workforce are reflected in multiple parts of the initial proposal, including Requirement 8, Requirement 11, and Requirement 12. CWA recommends that these workforce representations be consolidated into subgrantees' labor reporting requirements, and treated as binding commitments. Both California and Delaware's Initial Proposals require regular reporting on workforce commitments and require that applicant representations regarding workforce are legally binding.
https://broadband.delaware.gov/pages/index.shtml?dc=community.
https://www.cpuc.ca.gov/beadprogram.

C. The State should consider requiring subgrantee information regarding a locally hired workforce and ongoing operational workforce.

CWA recommends that the State incorporate information requirements around locally based workforce. CWA also recommends that the State require information regarding an applicants' operational workforce, in other words, the jobs that will be created in order to maintain and service the network, beyond the initial build, and include disclosure requirements related to the same.

Below is language CWA recommends broadband programs incorporate into workforce plan disclosures, including the above recommendations, which may be a resource as the State develops its labor reporting requirements:

Applicants should submit a Workforce Plan that describes how the applicant will ensure safe, effective, and timely project execution. Describe how the applicant will ensure compliance in its own labor and employment practices, as well as that of any contractors and subcontractors. The plan shall include the following information:
1. Safety and Training - A description of how the applicant will ensure that the workforce is properly trained to conduct the work safely and effectively, including a description of training, certification and/or licensure requirements for each job title, a description of any in-house training program and whether or not training is tied to uniform and progressive wage scales, job titles, and certifications or skill codes recognized by the industry. Does the applicant participate in a labor-management apprenticeship program? If so, describe the program requirements. Is there a labor-management health and safety committee on the worksite? If so, describe how the committee operates and its composition.
2. Job Quality - A description of wage scales and minimum wage rates, overtime rates, and benefits for each job title that will carry out the proposed work. For each job title, an estimate of the number of workers or work hours required and the entity that will employ the workforce. Does the applicant have experience on projects with prevailing wage requirements? Does the applicant commit to pay prevailing wage for this project?
3. Accountability and Subcontracting - Will the workforce be directly employed by the applicant? If not, will the applicant subcontract the work to another entity? What entity or entities? If the workforce will be subcontracted, the applicant should disclose the Workforce Plan for the subcontracted workforce as well and describe how the applicant will ensure any subcontractor is held accountable for labor law compliance and abiding by the commitments in the Workforce Plan.
4. Local Hire and Targeted Hire - Does the applicant have any policies or programs that encourage career pathways and hiring for marginalized communities or the local community, including any programs for women and people of color? What percentage of the existing workforce resides in the state/in zip codes deemed relevant by the agency? Will the applicant commit to ensure that a certain proportion of the workforce will reside in relevant zip codes?
5. Ongoing Network Operations - For projects where the applicant will operate the network, does the applicant have an existing workforce to perform the customer service and operations work? Will that workforce be based locally and directly hired by the employer? If those functions will be outsourced, will any of the jobs be overseas? Describe the wage scales, minimum wage rates, and benefits this workforce will receive.

(Communications Workers of America, Broadband Investments that Go the Distance, https://buildbroadbandbetter.org/system/files/2023-09/CWA-Broadband-HIgh-Road-Labor-Report-2023.pdf.)

IV. "As-built" reporting and inspection requirements (Certification of compliance with BEAD requirements, Requirement 19)

CWA recommends that the State conduct periodic and random site visits, which should include inspections of pole attachments and handholds. CWA also recommends subgrantees submit "as-built" technical documentation, certified by a licensed Professional Engineer, that verifies project completion and demonstrates that the deployed infrastructure, service area, and equipment match those in the approved final application and are capable of delivering the minimum proposed speeds consistently to all potential customers in the project area. Recipients should be required to identify any differences between the network design in the approved final application and the "as-builts," and explain the reasons for the differences and any impacts or changes to the final application resulting from these differences. Subgrantees should also be required to validate the performance characteristics of any deployed infrastructure and equipment that differs from the specifications in the approved final application.

Thank you for the opportunity to comment and please do not hesitate to reach out.

Sincerely,

/s/Carissa Hahn

Carissa Hahn
CWA Legislative and Political Coordinator, Washington State
425-381-6806
carissa@washtech.org

November 30, 2023

Mark Vasconi, Director
Washington State Broadband Office
PO Box 42525
Olympia, WA 98504-2525

RE: Initial Proposal Vol II comments

Below is a copy of the comments submitted to the DRAFT Initial Proposal Volume II Public Comment
Survey Page (https://survey.guidehouse.com/jfe/form/SV_3HSWlLsPDBmIdHo) on November 30, 2023
for added clarity and legibility.

Pg. 32 One application per project area
Allow for multiple project areas in one submission to account for magnitudes of scale savings, i.e., if
applicant is awarded all four project areas that potentially brings down total project cost. For project
areas with multiple bids, multi project applications take precedence, and then remaining scoring criteria
remains.

Pg. 32 Unserved CAI's
This needs to be clarified that CAI's are not contingent on winning the project area since the funding
wouldn't even be available. This would be at the subrecipients own cost unless the state can prove they
will serve all unserved and underserved first per the BEAD NOFO.

Pg. 32 Second grant application period
If all unserved/underserved are not accounted for then the WSBO can't award money in the first round,
so having the disclaimer of "provided funding is still available" seems irrelevant. The WSBO needs to
have all unserved/underserved BSLs accounted for before awarding any funds.

Pg. 36 Primary criteria: affordability
There needs to be a built-in review of the pricing every X number of years to adjust pricing accordingly.
This could be tied to the requirement around the subrecipients providing there pricing every year. Need
some sort of trigger to make sure that affordability is still relevant as years go by.

Pg. 37 Minimal BEAD Program outlay
There should be points awarded for applicants that provide the minimum 25% match with zero state
funding match assistance. This is incentivizing the private industry to invest dollars based on the federal
guidelines with no impact to Washingtonians tax dollars. If applicants want to be more competitive than
they could provide an increased match percentage, but shouldn't be penalized for providing the federal
guidance minimum.

For the BEAD matching funding for public entities, only the amount contributed by the applicant should
be considered for the scoring. So, for example, the state shouldn't award an applicant 25% and then
they put together 5%, making them eligible for 20 points on the scoring. If the intent is to get private
dollar investments, you cannot also then give an unfair advantage to public entities. In essence you
would be rewarding the usage of more public funds by allowing contribution over a 25% threshold. If the
entity only qualifies for a portion of the matching contribution, the state should only award the amount
needed to hit the 25% match to make the states funding go towards helping more applicants.

Pg. 38 Open Access
There should be a higher priority on Adoption and Digital Navigation then Open Access. Open Access only theoretically drives prices down through competition and only addresses one aspect of adoption which is affordability. There will not be enough allocated BEAD funding to address digital equity, and this provides a unique opportunity to put more of the responsibility onto the provider once they have the infrastructure in place. There should be identified adoption and digital navigation goals that can be pulled from Washington's Digital Equity Plan and built in as scoring criteria for an applicant to get the full points for "Applicant offering digital navigation services".

Pg. 39 Local support
Executive needs to be added in addition to commissioner.

Pg. 39, 42 Tiebreakers
This should be Total BEAD project cost and BEAD cost per connection because an applicant may provide more than the 25% minimum match. The applicant with the lower BEAD funding usage should prevail.

Pg. 58 Sustainability
There should be something tied to the long-term viability of the network as it relates to the increase in bandwidth consumption over a period of 10, 15 and 20 years. There should be a clear business plan around how those bandwidth demands increasing will result in capital project improvements while maintaining the second bullet point regarding pricing plans.

The commitment should be for the life of the agreement, not just 5 years, otherwise prices will potentially increase immediately at that 5-year mark and should really be for the life of the infrastructure.

Need to add minimum service level requirements (99.99, 99.9% uptime) and service credits based on outage time.

There should also be a section around customer service, marketing, and retention planning.

Existing broadband providers should have a waiver for this requirement. For example, a company that has been in the business of providing consumer broadband for a period of 10 years or more should be excluded from this. At the very least they should be required to show some sort of minimum consumer rating metric like BBB for the waiver.

Pg. 50 Project area definition
WSAC will be providing a response regarding project areas that King County IT supports. In general, KCIT was supportive of the county approach with some recommendations to combine certain project areas to account for naturally occurring terrain that was dividing project areas across vast geographical hurdles, like bodies of water. Engineering designs would be more affordable if you have project areas divided amongst the same areas of land without a large body of water in the middle.

Thank you for your consideration,
Tommy Lee
King County IT, Principal IT Manager
Regional Services Business Development | I-Net | Broadband

November 30, 2023

Washington State Broadband Office*   *DELIVERED VIA EMAIL
ATTN: Mark Vasconi
1011 Plum Street NE | PO Box 42525
Olympia, WA 98504

RE: Comments on Initial Proposal Volume II

Mr. Vasconi and WSBO Team,

Thank you for the opportunity to review and provide comments on Volume II of the Washington State Broadband Office's Initial Proposal for National Telecommunications and Information Administration's (NTIA) Broadband Equity, Accessibility and Deployment (BEAD) program funding. We understand that as things evolve with the BEAD Notice of Funding Opportunity (NOFO) the state will be modifying this initial proposal as appropriate.

Kitsap Public Utility District's (KPUD) comments below are focused around; 1) the desire to meet the states 2028 Broadband goals of 150Mbps download and 150 MBPS upload at each residence in Washington state, 2) changes to ease the administration burden on the Broadband Office, 3) project area definitions, 4) clarification of priorities, scoring and funding, and 5) the desire to value end users support of projects.

State Broadband Goals
In 2019, the state legislature had the foresight to set broadband goals for businesses, residents, and community anchor institutions.

> *It is a goal of Washington State that:*

> 1. By 2024, all Washington businesses and residences have access to high-speed broadband that provides minimum download speeds of at least twenty-five megabits per second and minimum upload speeds of at least three megabits per second; and

> 2. By 2026, all Washington communities have access to at least one gigabit per second symmetrical broadband service at anchor institutions like schools, hospitals, libraries, and government buildings; and

> 3. (3) By 2028, all Washington businesses and residences have access to at least one provider of broadband with download speeds of at least one hundred fifty megabits per second and upload speeds of at least one hundred fifty megabits per second.

As the data from the FCC has shown, we are short of meeting the goal of delivering 25 Mbps download and 3 Mbps upload to all businesses and residences by 2024, by over 200,000 Broadband Service Locations (BSLs). The unserved BSL number is even greater when you set the goal at 150Mbps symmetrical speeds. The Broadband Office is given the leeway by NTIA to require all applications provide a higher minimum

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Kitsap Public Utility District

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broadband speed than is required in the BEAD NOFO of 100Mbps download and 20Mbps upload speeds. It is shortsighted to not require our state goals be the minimum speed provided by any BEAD proposal.

Administrative Suggestions
In the BEAD NOFO there are a series of requirements that each applicant must meet. We would suggest that the Broadband Office consider a preapplication process to rule out providers who do not meet the minimum requirements. This could include section 4.9 – 4.17 in the proposal:

1. Financial Capability
2. Managerial Capability
3. Technical Capability
4. Compliance Capability
5. Operation Capability
6. Ownership
7. Public Funding – For projects outside of BEAD

A preapplication process will allow the Broadband office to eliminate unqualified applicants early and focus on the technical proposals for the project areas. This could be done concurrently with the challenge process. Not only would this reduce the administrative burden on the Broadband Office, but it would encourage entities who cannot meet the minimum capability requirements to support applications from entities who can.

Project Area Definition
In Kitsap County, both the school district and census block models would provide good project areas, with one exception: In the census model, Bainbridge Island is included in 4 different project areas. Bainbridge Island should be included in one project area or be its own project. The school district model may work better for manageable project areas that can be served by public entities as well as private entities and keeps geographic areas together in one project area.

With in the project areas, a Priority Broadband Project is required to provide fiber to the home to "all BSLs in a Project Funding Area." This requirement of 100% of the BSLs being included in the project can lead to higher costs. We would request that the Broadband office consider a requirement of service to 90% of all BSLs in a Project Funding area, with the applicant providing a reason why each individual BSL was excluded: High cost, refusal to participate, etc. If the 100% requirement stays in place, then a Fiber to the Home application that only serves 90% of the BSLs in that project area would be considered a "Other Last-Mile Broadband Deployment Project." We do not believe this was the intent of the Broadband Office as fiber is not an option for scoring the rubric for Other Last-Mile Broadband Deployment Projects.

An option for service to the 10% of BSLs that may be excluded from a project proposal is to use a Line Extension Consumer Assistance Program for the BSLs individually as referenced in the WSBO BEAD 5 Year Plan.

Clarifications on Priority of Applications
As written, Volume II of the Initial Proposal does not clarify the priority of application funding. You would assume from the name that "Priority Broadband Project" applications would come first, but this is not clear in the document. Both Priority Broadband Projects and Other Last-Mile Broadband Projects are scored based on a rubric that allows for a maximum of 100 points. Are these projects competing with each other? Will Priority Broadband Projects be funded first with Other Last-Mile Projects funding in those areas that do not have a Priority Broadband Project?

Priority Broadband Projects are required to be a fiber network delivering service over fiber to each BSL. Fiber networks are shown to be capable of providing services that meet with State Broadband Goals plus.

We recommend that the Broadband office clarify that Priority Broadband Projects will be evaluated and funded before considering Other Last-Mile Broadband Projects.

Clarification on Matching Funds
The Scoring Rubrics as proposed give a large weight to match funding. We would ask the Broadband Office to clarify in the Initial Proposal the following on matching funds:

1. NTIA NOFO allows for in-kind contributions for match. Will the Broadband Office allow in-kind contributions? If so, what restrictions will be placed on in-kind contributions?

2. It is stated in the rationale for the minimal broadband outlay that public entities will receive 25% match from the state. How will this be distributed? As there is not enough funding to match the full $1.23 Billion projects, will this funding be distributed based on Priority Broadband Projects? Timing of submittal? Overall costs? Distressed communities?

The Broadband Office needs to provide clarification in the Initial Proposal as to how state matching funds will be distributed and how the Broadband Office will consider in-kind matching funds.

Clarification on Scoring
The scoring rubrics for the Priority and Other Last-Mile Broadband Projects do not include end user engagement. We have found that support for the end users is critical for sustainability and resiliency. We would suggest that the Broadband Office consider adding a score in the Minimum Broadband Outlay section to include evidence of end user support.

Example: 1 point for every % match up to 40 points, with a minimum of 25% match.
                 10 Points for evidence of end user support of the project

To add an additional 10 Points to the Minimal BEAD Program Outlay category, you would need to reduce the Affordability and Fair Labor Practices sections.

Affordability Example: Two options: 20 Points for 1/1 Gbps Service for less than $85/month all taxes and fees included. 10 Points for 1/1 Gbps Service for more than $85/month all taxes and fees included. (It is our understanding that an average price in rural Washington including all taxes and fees is closer to $85/month.)

Fair Labor Example: As these are yes or no requirements, each can be worth 1 point instead of 2.

Service Level Agreements
As we compare pricing for services, we need to acknowledge that not all services are the same. We would suggest that the Broadband Office consider adding a service level agreement associated with the pricing of a 1/1 Gbps service. KPUD requires this of our retail service providers so that we can ensure end users are getting the services they are paying for. KPUD's SLA is attached as an example.

Open Access
If the Broadband Office wants to incentivize open-access networks to provide competitive options to the end-user, it should be worth more than 3 points to have two or more committed ISPs on the network. The following would allow for 6 points to be attributed to having committed ISPs and the pricing of the wholesale network would be secondary. For the wholesale pricing, it is standard that wholesale pricing is about 30% less than retail. If you consider the retail pricing you have for the Affordability section, the wholesale pricing should be higher. If using $75/month for the retail price the wholesale prices should be; less than $58 for 3 Points and greater than $58 for 1 point. If using $85/month for the retail price including all taxes and fees, the wholesale price should be less than $65/month for 3 points and greater than $65/month for 1 point.

Local and Tribal Coordination Clarification
To ensure that the applicant has been working with the individuals who will be receiving the broadband services, there should be a requirement here for support from end-user and Broadband Action Teams.

Other Last-Mile Broadband Deployment Projects Scoring Rubric

- The Other Last-Mile as with the Priority Broadband Deployment Projects Scoring Rubric, should require funding for end user engagement.

- Affordability is associated with 100Mbps download and 20Mbps upload speeds. These should be at a minimum the state goal of 150Mbps download and upload speeds.

- **Example:**
    - 150/150Mbps at lower than $60/month is 20 points
    - 150/150MBPS at higher than $60/month is 10 points

- **Speed of Network**
  This section does not allow for fiber only. A Fiber project that only serves less than 90% of the BSLs could be included and should get more points. We would suggest adding a level for Fiber of 3 points and reducing the fiber- coaxial hybrid to 2 points, and wireless to 1 point.

The prioritization and scoring for applications with multiple technologies needs to be clarified. On page 43 of the Initial Proposal, it states that given the expected shortfall of funding to serve all unserved BSLs in Washington State, applications with multiple technologies will be considered if they can attain a lower costs per location. Lower costs than an all-fiber solution? The Broadband Office needs to clarify if they will be compromising speed for costs and will fiber solutions be competing with coax or wireless solutions. This topic is broached again in section 4.10 with the Extremely High-Costs threshold and allows the Broadband Office to choose a less desirable solution than fiber to the home if it is less expensive. Clarification on the process to determine what the definition of an extremely high-cost location is and the opportunity for stakeholders to provide feedback. Breaking Point Solutions, the business referenced in the Initial Proposal, has been found by many stakeholders, through the rapid design studies funded by the Broadband Office, to provide a flawed analysis of costs and revenue projects. We request that stakeholders have an opportunity to provide feedback on any analysis provided by this company.

There are many procedural items in the Initial Proposal that need clarification, but we assume that will happen during the process.

Letter of Credit
The letter of credit requirement section in the Initial Proposal is dated and does not include the latest guidance from NTIA. We recommend the Broadband Office consider alternatives to the letter of credit, such as replacing the letter of credit requirement with requiring construction bonds for the project from the subgrantee or contractor of the subgrantee.

Dig-Once Policies
KPUD applauds the Broadband Office in their effort to work with WSDOT to ensure conduit is placed where there is highway construction. This also works well when placing telecommunications conduit with conduit for electrical services: both are dry utilities. When you add in the wet utilities of sewer and water, the placement of conduit in the same trench becomes more challenging and expensive. A clarification needs to be made that the entity asking for the conduit for broadband be placed is also going to cover the additional costs for engineering and construction for placing that conduit.

Application Review Process and Team
KPUD is encouraged that the WSBO team in the Initial Proposal Volume II has listed a desire to engage with applicants and discuss applications to find the best solution for Washington State residents. We support the opportunity for applicants to see the scores from the review team and be able to provide clarification on less than full scoring.

Additionally, we encourage a robust review team that has experience in building and operating networks. In the past, the review teams have consisted of those with experience in grant administration, but not practical experience in design and operations.

Thank you for considering these suggestions and concerns as you work to finalize the BEAD Initial Proposal Volume II for Washington State. Please reach out if you have any questions or need clarification.

Sincerely,

Angela Bennink
General Manager

MLK Labor Comments on WA Initial Proposal Vol 2

The King County Labor Council, AFL-CIO (MLK Labor) District 7 submits these comments regarding Washington's BEAD Initial Proposal Volume II. These comments address Deployment Subgrantee Selection (Requirement 8), Labor Standards and Protection (Requirement 11), Workforce Readiness (Requirement 12), and Certification of compliance with BEAD requirements (Requirement 19).

I. Deployment Subgrantee Selection (Requirement 8)

A. Fair Labor Practices

1. The State should allocate a greater proportion of Fair Labor Practices points to forward looking measures that support labor compliance, rather than retroactive measures of past compliance.

The State's Draft Initial Proposal allocates 10 points to the Fair Labor Practices criteria. Of the 10 points allocated to Fair Labor Practices criteria, 6 are for measures of past compliance (p. 45). MLK Labor recommends that forward looking measures regarding workforce plans should receive a greater point allocation than backwards-looking records of compliance. We recommend that past compliance should be worth 20% of the total points allocated for Fair Labor Practices, and plans for ensuring compliance be allocated 80% of the total points allocated for Fair Labor Practices. Accordingly, if Fair Labor Practices are worth 10 points, we recommend that "record of compliance" be worth 2 points and "plans for compliance" be worth 8 points. Allocating points towards forward looking measures incentivizes applicants to ensure high road labor practices on the project and better promotes an effective program.

2. The State should incorporate additional high road labor factors into its Fair Labor Practices Category.

The Initial Proposal includes only the minimum factors for record of labor compliance and plan for labor compliance that the BEAD NOFO requires (p. 35). As it is currently stated, this category functions like a gating criteria: many applicants will score full points in this criteria based on past performance, and the scoring does little to affect which projects are awarded or incentivize good performance on the funded project.

This category would be more effective if it functioned to incentivize applicants to incorporate high road labor standards in order to gain a greater score. The State should add additional criteria into its Fair Labor Practices category, including prioritizing applicants that will use a directly hired workforce for broadband deployment, installation, and maintenance; applicants that have robust in-house training programs with established requirements that are tied to uniform and progressive wage scales, job titles, and certifications or skill codes recognized by the industry; applicants that will create jobs with quality wages and benefits in broadband deployment; and applicants that will create jobs with quality wages and benefits in ongoing

network operations, after network deployment. MLK Labor also supports prioritizing applicants that will perform broadband deployment, installation, and maintenance work with a locally based workforce. The State could also clarify its prioritization of these forward-looking factors, for example, by clarifying a point value allocated to each factor or describing the consideration each factor will receive. Here is an example of language that addresses these factors:

> "An application that proposes more robust standards to ensure and promote ongoing labor compliance will receive greater credit.
>
> a. Safety and Training - An application that describes a more comprehensive in-house training program, for example, a program tied to certifications, titles, and uniform wage scales and/or participation in a labor-management apprenticeship program, will receive greater credit.
>
> b. Job Quality - An application that describes higher wages and more robust benefits will receive greater credit. If Applicant uses a contracted workforce, having a plan to monitor compliance and job quality.
>
> c. Accountability and Subcontracting - An application that commits that a greater proportion of the broadband deployment workforce will be directly employed by the applicant will receive greater credit.
>
> d. Local hire and targeted hire: An application that commits to a high percentage of the workforce that will reside in California and/or includes policies or practices that promote career pathways for local residents and hiring for marginalized communities or the local community, will receive a higher score.
>
> e. Ongoing Network Operations - An application that describes more robust high road practices for the workforce that will perform ongoing customer service, installation, and maintenance work, for example, good jobs, a locally based workforce, and/or a directly hired workforce, will receive greater credit."
>
> (Communications Workers of America, Broadband Investments that Go the Distance, https://buildbroadbandbetter.org/system/files/2023-09/CWA-Broadband-HIgh-Road-Labor-Report-2023.pdf.)

3. The point system should allocate a greater percentage of points to Fair Labor Practices.

MLK Labor recommends that Fair Labor Practices receive a third of the 75% point allocation that the NOFO requires to be allocated to Primary Criteria, in other words, 25% of total point allocation. We view high road labor practices as mutually reinforcing with program considerations of managerial, technical, and financial capacity to execute the project. A higher point allocation for Fair Labor Practices supports multiple program goals. Delaware's Initial Proposal Volume II allocates 25% to Fair Labor Practices. https://broadband.delaware.gov/pages/index.shtml?dc=community. California's Initial Proposal Volume II allocates 20% to Fair Labor Practices. https://www.cpuc.ca.gov/beadprogram. Pennsylvania allocates a combined 25% to labor factors, including 15% to Fair Labor practices and 10% to Equitable workforce development and job quality.

https://dced.pa.gov/download/volume-ii-of-the-broadband-equity-access-and-deployment-bead-proposal/?wpdmdl=122099. New York's Initial Proposal and Maryland's Initial proposal both allocate 30% to Fair Labor Practices.
https://broadband.ny.gov/broadband-deployment-initial-proposal;
https://dhcd.maryland.gov/Broadband/Pages/StatePlans.aspx.

4. Additional information

Additional information on MLK Labor's recommendations regarding Fair Labor Practices, including context regarding labor trends in the telecommunications industry, is available at https://buildbroadbandbetter.org/system/files/2023-09/CWA-Broadband-HIgh-Road-Labor-Report-2023.pdf. MLK Labor provides this link in lieu of an attachment as the submission form does not support document attachments.

5. Extremely High Cost Per Location Threshold (EHCT)

MLK Labor strongly supports the State's preference for fiber. Fiber is sustainable, scalable, and renewable. It offers greater capacity, predictable performance, lower maintenance costs, and a longer technological lifetime than coaxial cable, satellite, and fixed wireless technologies. While MLK Labor does not oppose the State's proposal to set the EHCT in later stages, MLK Labor urges the State to select a number that lives up to the spirit of the EHCT framework as described in the BEAD NOFO by selecting a number as high as possible to help ensure that end-to-end fiber projects are deployed wherever feasible. In the event that Washington's BEAD allocation is insufficient to upgrade all underserved locations with fiber, other state and federal universal service programs and appropriations-funded broadband grant programs could help fill the remaining connectivity gaps and ensure that everyone can benefit from future-proof fiber technology.

MLK Labor also encourages the State to consider studies of the long-term value of fiber in determining an EHCT. An engineering analysis of fixed wireless technologies by consulting firm CTC Technology and Energy concludes that "fiber represents the most fiscally prudent expenditure of public funds in most circumstances because of its longevity and technical advantages." CTC's cost analysis of fiber and fixed wireless deployments finds that while fiber's upfront capital costs are higher than those of fixed wireless in many circumstances, the total cost of ownership over 30 years is comparable for fiber and fixed wireless, and fiber provides much higher quality service. The CTC analysis further finds that while fixed wireless technologies will continue to improve, they will not match the performance of fiber optic networks. MLK Labor recommends that the State incorporate a minimum of a 30-year period to evaluate the total cost of ownership of non-FTTP networks as part of its EHCT analysis.

BEAD Program Notice of Funding Opportunity at 13, fn 6.
CTC Technology, "Fixed Wireless Technologies and Their Suitability for Broadband Delivery", 49-51, June 2022, https://www.benton.org/sites/default/files/FixedWireless.pdf.

6. Network resiliency considerations

MLK Labor recommends that the State allocate points for network resiliency considerations as part of the secondary criteria, including for projects that are not Priority Broadband Projects. MLK Labor urges the Office to also incorporate as part of the scoring criteria the six groups of resiliency strategies that the California Public Utilities Commission (CPUC) adopted in its disaster resiliency docket for certain facilities-based wireless and wireline service providers, with the goal of ensuring access to 911 and other government and local community services (e.g. 211 or 311), the ability to receive emergency alerts and notifications, and access to basic Internet browsing. These include:

a. Implement 72-hour back-up power to support essential communications equipment and minimum service levels for the public
b. Build and maintain redundant communication networks
c. Harden communication networks to withstand damage
d. Network operators should have available temporary facilities (e.g., mobile cell sites, mobile satellite and microwave backhaul, etc.) to restore service to their networks when facilities are damaged or destroyed;
e. Establish communication and coordination processes with first responders, other public utilities, the Commission, and the general public
f. Establish preparedness planning for employees and ensure sufficient staffing levels.

California Public Utilities Commission's resiliency decisions: D.20-07-011 (wireless), https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/communications-division/documents/network-resiliency/d2007011-july-16-2020.pdf, D.21-02-029 (wireline), https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/communications-division/documents/network-resiliency/d2102029-february-18-2021.pdf.

III. Labor Standards and Protection (Requirement 11) and Workforce Readiness (Requirement 12)

A. Subgrantees' plans for ensuring a skilled and credentialed workforce should be available to the public on a website.

In general, MLK Labor recommends that broadband programs require applicants to disclose information on their workforce plans and practices. Collecting and publicly posting this information is a simple and low-cost way to promote accountability and high road labor practices. We recommend collecting information regarding workforce and work conditions early, as part of the evaluation process for bids, and that regular reporting of information be incorporated throughout the funding cycle as part of ongoing compliance and monitoring.

All workforce plan information, including that required under Requirement 11 and Requirement 12, should be part of regular Labor Reporting and should be publicly available on a website. Enforcement is an endemic problem in labor compliance. If the information applicants disclose as part of their skilled and qualified workforce information is posted publicly, the public and worker organizations are able to hold applicants accountable to those commitments and aid in enforcement. The State is already familiar with similar disclosures from ARP programs. For example, the American Rescue Plan State and Local Fiscal Recovery Funds require that

recipients publish Recovery Plan Performance Reports, which include workforce practice and labor standard information, on the recipient's website. The Treasury Department recommends that these reports be "accessible within three clicks or fewer from the homepage of the recipient's website." (U.S. Department of the Treasury, Compliance and Reporting Guidance: State and Local Fiscal Recovery Funds.) Just as transparency promotes accountability in other program areas, public disclosure around workforce plans promotes compliance and accountability regarding workforce practices.

B. Subgrantees' workforce representations should be binding commitments.

MLK Labor recommends that the State consider applicants' and subgrantees' representations regarding workforce plans as material conditions of the grant or otherwise legally binding and enforceable. If an applicant states that it will directly employ a workforce at a certain wage, or commit to a certain percentage of state-based workers, these commitments mean little if they are not binding. Representations around workforce are reflected in multiple parts of the initial proposal, including Requirement 8, Requirement 11, and Requirement 12. MLK Labor recommends that these workforce representations be consolidated into subgrantees' labor reporting requirements, and treated as binding commitments. Both California and Delaware's Initial Proposals require regular reporting on workforce commitments and require that applicant representations regarding workforce are legally binding.
https://broadband.delaware.gov/pages/index.shtml?dc=community.
https://www.cpuc.ca.gov/beadprogram.

C. The State should consider requiring subgrantee information regarding a locally hired workforce and ongoing operational workforce.

MLK Labor recommends that the State incorporate information requirements around locally based workforce. MLK Labor also recommends that the State require information regarding an applicants' operational workforce, in other words, the jobs that will be created in order to maintain and service the network, beyond the initial build, and include disclosure requirements related to the same.

Below is language MLK Labor recommends broadband programs incorporate into workforce plan disclosures, including the above recommendations, which may be a resource as the State develops its labor reporting requirements:

> Applicants should submit a Workforce Plan that describes how the applicant will ensure safe, effective, and timely project execution. Describe how the applicant will ensure compliance in its own labor and employment practices, as well as that of any contractors and subcontractors. The plan shall include the following information:
> 1. Safety and Training - A description of how the applicant will ensure that the workforce is properly trained to conduct the work safely and effectively, including a description of training, certification and/or licensure requirements for each job title, a description of any in-house training program and whether or not training is tied to uniform and progressive

wage scales, job titles, and certifications or skill codes recognized by the industry. Does the applicant participate in a labor-management apprenticeship program? If so, describe the program requirements. Is there a labor-management health and safety committee on the worksite? If so, describe how the committee operates and its composition.

2. Job Quality - A description of wage scales and minimum wage rates, overtime rates, and benefits for each job title that will carry out the proposed work. For each job title, an estimate of the number of workers or work hours required and the entity that will employ the workforce. Does the applicant have experience on projects with prevailing wage requirements? Does the applicant commit to pay prevailing wage for this project?

3. Accountability and Subcontracting - Will the workforce be directly employed by the applicant? If not, will the applicant subcontract the work to another entity? What entity or entities? If the workforce will be subcontracted, the applicant should disclose the Workforce Plan for the subcontracted workforce as well and describe how the applicant will ensure any subcontractor is held accountable for labor law compliance and abiding by the commitments in the Workforce Plan.

4. Local Hire and Targeted Hire - Does the applicant have any policies or programs that encourage career pathways and hiring for marginalized communities or the local community, including any programs for women and people of color? What percentage of the existing workforce resides in the state/in zip codes deemed relevant by the agency? Will the applicant commit to ensure that a certain proportion of the workforce will reside in relevant zip codes?

5. Ongoing Network Operations - For projects where the applicant will operate the network, does the applicant have an existing workforce to perform the customer service and operations work? Will that workforce be based locally and directly hired by the employer? If those functions will be outsourced, will any of the jobs be overseas? Describe the wage scales, minimum wage rates, and benefits this workforce will receive.

(Communications Workers of America, Broadband Investments that Go the Distance, https://buildbroadbandbetter.org/system/files/2023-09/CWA-Broadband-HIgh-Road-Labor-Report-2023.pdf.)

IV. "As-built" reporting and inspection requirements (Certification of compliance with BEAD requirements, Requirement 19)

MLK Labor recommends that the State conduct periodic and random site visits, which should include inspections of pole attachments and handholds. MLK Labor also recommends subgrantees submit "as-built" technical documentation, certified by a licensed Professional Engineer, that verifies project completion and demonstrates that the deployed infrastructure, service area, and equipment match those in the approved final application and are capable of delivering the minimum proposed speeds consistently to all potential customers in the project area. Recipients should be required to identify any differences between the network design in the approved final application and the "as-builts," and explain the reasons for the differences and any impacts or changes to the final application resulting from these differences. Subgrantees should also be required to validate the performance characteristics of any

deployed infrastructure and equipment that differs from the specifications in the approved final application.

<u>NOKIA Comments to the State of Washington BEAD Volume 2</u>

Introduction

At Nokia, we create technology that helps the world act together. As a B2B technology innovation leader, we are pioneering networks that sense, think and act by leveraging our work across mobile, fixed and cloud networks. In addition, we create value with intellectual property and long-term research, led by the award-winning Nokia Bell Labs.

Service providers, enterprises and partners worldwide trust Nokia to deliver secure, reliable and sustainable networks today – and work with us to create the digital services and applications of the future. We have an extensive portfolio of fixed network services and solutions spanning fiber, cable, and wireless technologies. This allows us to help operators bring ultra-broadband services to more people, more quickly, and at the right cost.

Nokia employes approximately 7500 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.

On August 3, 2023, at an event in Kenosha, Wisconsin - Nokia, the Vice President of the United States, and the United States Secretary of Commerce jointly announced that Nokia is 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. The key details of the announcement are as follows:

- Nokia partners with Sanmina Corporation to manufacture OLT, OLT Line cards, and ONT products in the U.S.

- Nokia partners with Fabrinet to manufacture OLT optical modules in Santa Clara, California bringing additional high-tech jobs to the country.

- Manufacturing of Nokia's fiber-optic broadband products to start in 2024. Products are expected to be available for the first BEAD awards that are issued in mid-2024.

- Nokia can scale to meet the demand of the BEAD Program

All of Nokia's products that are being manufactured in the United States are fully compliant with the Department of Commerce and the National Telecommunications Information Administration's (NTIA), proposed Limited General Applicability Nonavailability Waiver of the Buy America Domestic Content Procurement Preference as Applied to Recipients of Broadband Equity, Access and Deployment Program (Waiver) issued on August 22, 2023.

Comments

Response to Section 2.4.5 - The proposed subgrantee selection process is expected to demonstrate to subgrantees how to comply with all applicable Environmental and Historic Preservation (EHP) and Build America, Buy America Act (BABA) requirements for their respective project or projects. Describe how the Eligible Entity will communicate EHP and BABA requirements to prospective subgrantees, and how EHP and BABA requirements will be incorporated into the subgrantee selection process.

First, Nokia applauds Washington' proposed approach to ensuring that all BEAD applicants meet the Buy America requirements. However, Nokia is providing some recommendations on additional ways for the State to approach this requirement that further streamlines the process and makes compliance even easier to achieve.

Nokia supports the Buy America Waiver for BEAD that was issued by the Department of Commerce on August 22, 2023. The Waiver took significant time and

effort to create and recognizes the challenges within the industry and provides a reasonable roadmap for compliance for those products that do not fall under a Waiver category. The Waiver will also enable the goals of the Buy America program to be met while serving the critical purpose of the BEAD Program of connecting all Americans and closing the digital divide.

The Waiver does the following key things related to broadband electronics:

- Fully waives both criteria of the Buy America requirement for all broadband electronics EXCEPT OLTs, OLT line cards, OLT optics modules and ONTs. This means that no manufacturing vendor, provider or state needs to apply for a waiver. The requirement is automatically waived.

- Waives the 55% criteria for OLTs, OLT line cards, OLT optics modules and ONTs but requires these products to be manufactured in the US and meet manufacturing process definitions detailed in the Waiver. This means that no manufacturing vendor, provider or state needs to apply for a waiver for the 55%. The requirement is automatically waived.

- Prohibits the purchase of products manufactured in China.

- Establishes a process for manufacturers to voluntarily self-certify Buy America compliance with NTIA for products that are required to be manufactured in the U.S.

The Waiver completely reduces the state and provider burden of compliance with Buy America laws for BEAD through the creation of the list of vendor compliant Buy America products. As noted by the Waiver, the purpose of the creation of the list is to protect U.S. manufacturing of Buy America compliant products:

> *"Manufacturers that have expressed a willingness to onshore manufacturing of key electronics are concerned that they will be undercut by companies falsely claiming BABA compliance."* [1]

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[1] *See* The Department of Commerce proposed Limited General Applicability Nonavailability Waiver of the Buy America Domestic Content Procurement Preference as Applied to Recipients of Broadband Equity, Access and Deployment Program (Waiver) issued on August 22, 2023, page 8.

NOKIA

To meet Section 2.4.5 of the State's Bead Volume 2 requirements, Nokia recommends that Washington require all BEAD grant applicants to select all non-waived products from the NTIA list of vendor compliant Buy America products. This will enable your grant review teams to literally check the box for Buy America compliance and rest assured that your BEAD dollars are not being spent on products that are falsely claimed to be Buy America compliant. Please note that the list is open to all non-waived products and not just limited to broadband electronics. Nokia intends to certify our list of Buy America compliant products as soon as the process for self-certification is released.

Nokia recognizes that the NTIA certification process has not been established yet. Prior to the publication of the list, Nokia recommends that states either establish their own Qualified Vendor List that aligns with the Waiver or require that BEAD applicants submit a manufacturer certification with their grant application that the products they have selected meet the Buy America requirements along with a timeframe for availability. If a manufacturer is providing less than the 4 products for the BEAD, then multiple certifications would be required to be submitted by the applicant.

Please let us know if you require further information to support our position. Nokia appreciates your consideration of our comments, and we look forward to continuing to engage with you on these matters.

NOKIA

Sample Manufacturer Certification of Buy America Compliance

The Department of Commerce has issued a [PROPOSED/FINAL] Limited Waiver of the Buy America requirements for the BEAD Program. The Buy America law states that products must be: 1) manufactured in the United States; and 2) 55% of the cost of the components must be sourced in the United States. The Waiver:

- Fully waives both criteria of the Buy America requirement for all broadband electronics EXCEPT OLTs, OLT line cards, OLT optics modules and ONTs.

- For those products, the 55% criteria for components is fully waived but requires these products to be manufactured in the US and meet certain manufacturing processes.

[COMPANY] hereby fully certifies that it is fully compliant with the Waiver with the following products (Check all that apply):

Check all that apply	Non-waived Product	Product Name/Model	Date of Availability
	OLT		
	OLT Line Cards		
	OLT Optics Module		
	ONT		

Signature:

_____

Authorized [COMPANY] Signature
Printed Name
Title

5

NODC
NORTH OLYMPIC DEVELOPMENT COUNCIL

November 30, 2023

Mark Vasconi, Director
Washington State Broadband Office
PO Box 42525
Olympia, WA 98504-2525

**RE: Public Broadband Stakeholder Group comments on the Initial Proposal –
Volume 2**

Dear Director Vasconi,

Thank you for the opportunity to provide comment on Volume 2 of the state's Initial
Proposal for federal Broadband Equity, Access, and Deployment (BEAD) funding. As the
Regional Economic Development District for Clallam and Jefferson Counties, NODC has
been working on expanding broadband on the North Olympic Peninsula since 2019, when
we convened a regional Broadband Symposium that resulted in the formation of
Broadband Action Teams (BATs) in both counties. Since then, NODC has been the
coordinator of the Clallam County BAT and has played a lead role in development of
broadband plans and projects in the County. For that reason, we are well positioned to
provide input based on our experience with the challenges of bringing broadband to a
rural, geographically challenging area with large numbers of unserved and underserved
residents.

Over the last year, NODC **has** expended significant time and energy working with the
Clallam BAT on the development of a Clallam County Broadband and Digital Equity
Plan that was submitted to WSBO in support of its BEAD planning process. We are
grateful for the support that WSBO provided for the process through its contract with
WSU Extension and for the opportunity to contribute to the state's planning process. The
planning process we undertook was paralleled in some form in every county and many
Tribes across the state.

NODC also appreciates the Washington State Broadband Office's efforts on public
engagement. NODC staff members and other members of the Clallam BAT have
participated regularly in the opportunities for engagement provided by the frequent Zoom
meetings and webinars that have both sought input and kept us informed. In continuation
of that engagement, I am pleased to offer the following comments in response to the
publication of the Draft Bead Initial Proposal – Volume 2.

Application Process
We recognize and appreciate the effort that WSBO invested in developing the application
process and the need to balance the requirements imposed by NTIA, the diversity of
potential applicants for sub-grants and the diversity of needs in the areas to be served.
However, the resulting proposed application process imposes a tremendous workload,
one that will, however unintentionally, advantage large, well-resourced private
telecommunications companies over public and smaller private applicants. To reduce the
barriers to application, NODC suggests consideration of the following:

1. Add a pre-qualification phase to address the minimum requirements of an applicant, giving applicants some assurance that they are qualified before they proceed with the labor and resource-intensive process of completing a full application.

2. Allow multiple area applications. It's a reasonable assumption that many providers will apply to serve multiple areas and allowing for submission of one application will greatly reduce the application burden. In addition, projects serving one area are likely to require use of infrastructure in adjacent areas, whether towers, rights-of-way for backhaul, or connections to existing infrastructure, especially in rural areas. By including adjacent areas in one proposal, applicants can create more efficient, less costly networks and the savings can be passed along to end-users. This will also enable development of middle mile where needed.

3. Waive the Letter of Credit requirement, to the extent allowed by BEAD program rules and waivers. The Letter of Credit, while intended to provide assurance that applicants have the financial capacity necessary to complete projects, poses a barrier for public and smaller private applicants.

4. Require that all applications, even in areas where there is only a single applicant, demonstrate substantial public support through letters from BATs, local governments, Tribes and anchor institutions, and give additional weight to this criterion.

5. While it is understandable that the application process prioritizes projects that provide end-to-end service, in Clallam County some areas will not be readily serviceable without construction of middle-mile fiber. In recognition of this need in Clallam County and other rural areas, we urge WSBO to prioritize middle mile in areas where it does not exist.

Alignment with State Broadband Goals

In order to assure equitable and truly universal service, NODC recommends that the state broadband goals, as defined in RCW 43.330.536, serve as the minimum standard for the BEAD funding program. Unless all applicants and projects are required to be "future-proofed" by meeting the 2028 standards, there is a substantial risk that rural and harder to serve areas will continue to see broadband speed and access that is unequal to that in the rest of the state, posing economic and social barriers. NODC recommends that scoring criteria be weighted to prioritize applicants that are most closely aligned with the goals of WSBO.

Project Area Definition

NODC doesn't have a preference on whether county or school districts are used to define project areas. However, whichever definition is selected, public projects should not be penalized if they are unable to serve an entire project area that crosses jurisdictional boundaries. For instance, the Sequim School District crosses county lines.

Scoring Rubric

Given the significant role that BATs and Tribes were asked to play in strengthening the state's BEAD planning process, NODC was disappointed to see that community support counts for only 4% of an applicant's score, and that 4% is divided between support letters and records of consultations. Other states are giving Local Coordination much greater weight, as high as 10%. Previous federal funding programs such as RDOF have failed to consider community support or previous performance of applicants, resulting in substantial awards to applicants with a history of poor relations with the community and poor performance in meeting project commitments.

Deploying infrastructure is only useful if there is a strong adoption rate. Weighting Local and Tribal Coordination an only 4% seriously limits community input into the BEAD decision-making process, and community support is critical to the adoption rate by subscribers. NODC recommends that Local and

Tribal Coordination be one of the Primary Criteria with up to 10 points awarded, and with letters of support sought from BATs and a wide range of local governments, Tribes, and community organizations.

Since meeting Fair Labor Standards is a minimum eligibility requirement, it should be a check box with no points awarded, leaving ample room for increasing the weight of Local and Tribal Coordination. Alternatively, WSBO could reduce the points for Speed of Deployment.

In addition, we believe that Open Access is vitally important to long-term affordability and end-user satisfaction. As such, it should have greater weight than speed to deployment, which can be affected by many factors such as delays in permitting and lack of availability of materials.

Thank you again for the opportunity to submit these comments and for your work to bring equitable, affordable broadband access to all Washington residents.

Sincerely,

Karen Affeld
Executive Director

November 30, 2023

Mark Vasconi, Director
Washington State Broadband Office
PO Box 42525
Olympia, WA 98504-2525

RE: Initial Proposal – Volume 2

Dear Director Vasconi,

On behalf of the Whitman County Broadband Action Team, the Port of Whitman County would like to provide the following comments on the WSBO Initial Proposal Volume II.

Current project areas for Whitman County do not include the defaulted St. John Telco RDOF project. As a result, there are significant portions of unserved BSLs in Whitman County that are not included in project areas. When the WSBO uses the actual data provided by NTIA, the RDOF defaults will not be removed from the projects. This must be done at the state level.

The most recent FCC data set has regressions in availability that need to be addressed. Specific examples in Whitman County include Garfield, Oakesdale, and Tekoa. The current data set shows unserved locations in these towns that are actually served by WiFiber.

RDOF was based on 2010 census blocks and the project areas are based on 2020 census blocks, as a result unserved BSLs in Whitman County are not included in current project areas. While there are census blocks that include unserved locations, there are also blocks that include BSLs to be served by Enhanced ACAM. This will remove BSLs that have committed funding to provide services.

Out of the two proposed methodologies for developing project areas, the school district methodology benefits from existing network effects, but adjustments should be made in situations where school districts cross county boundaries for optimum public investments to be made wherever possible. This could be achieved by intersecting a school district map with a county map. Virginia uses Zip Code Tabulation Areas and they divide them when they cross county boundaries. If school districts are to be used, this is our recommendation. There is still a concern that school districts sizes may not result in viable project area sizes, in which case, the county project area method may be the best solution. It is difficult to determine with the previous data issues identified. A third model should be considered, which would build upon existing broadband infrastructure, specifically colocation facilities. A pre-seeded region growing algorithm, as discussed with Breaking Point on November 17, 2023, is recommended.

Based on the complexity of the process and the fluidity of the data sets involved, we recommend that project areas continue to be manually adjusted after the significant corrections already noted are made (RDOF, EACAM, ARPA, SLFRF, and CPF, and state investments from CERB and PWB). These adjustments will change project areas and would warrant future consultation on the new project areas after the December 27 submission and prior to the April challenge process.
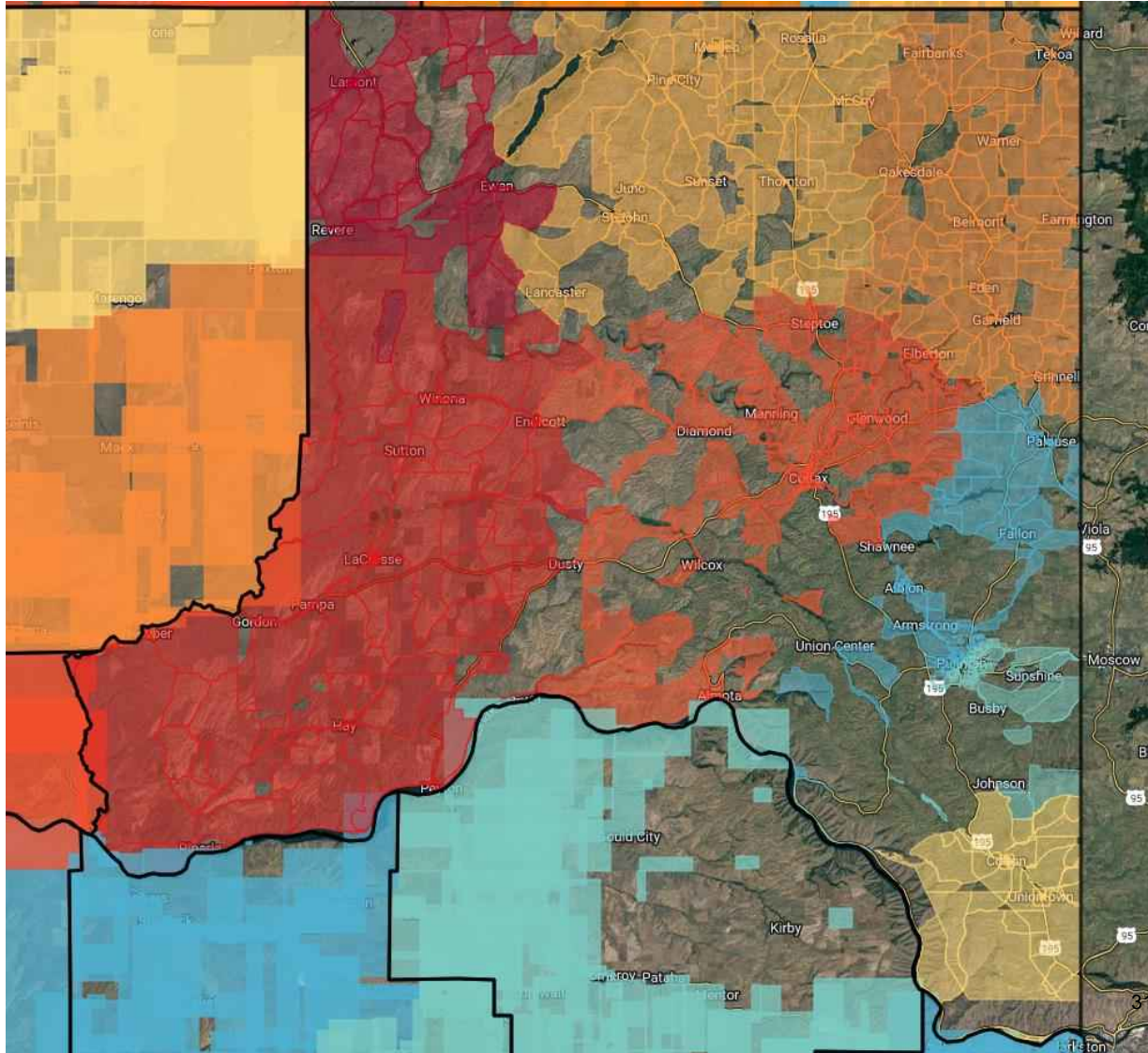
Attached to this email is a PowerPoint presentation made by Kalvin Johanson that illustrates the concerns with the project areas noted above. Thank you for your consideration of these concerns.

Sincerely,

Kara Riebold
Executive Director

Areas with ~1000 bls in county boundary

School Districts
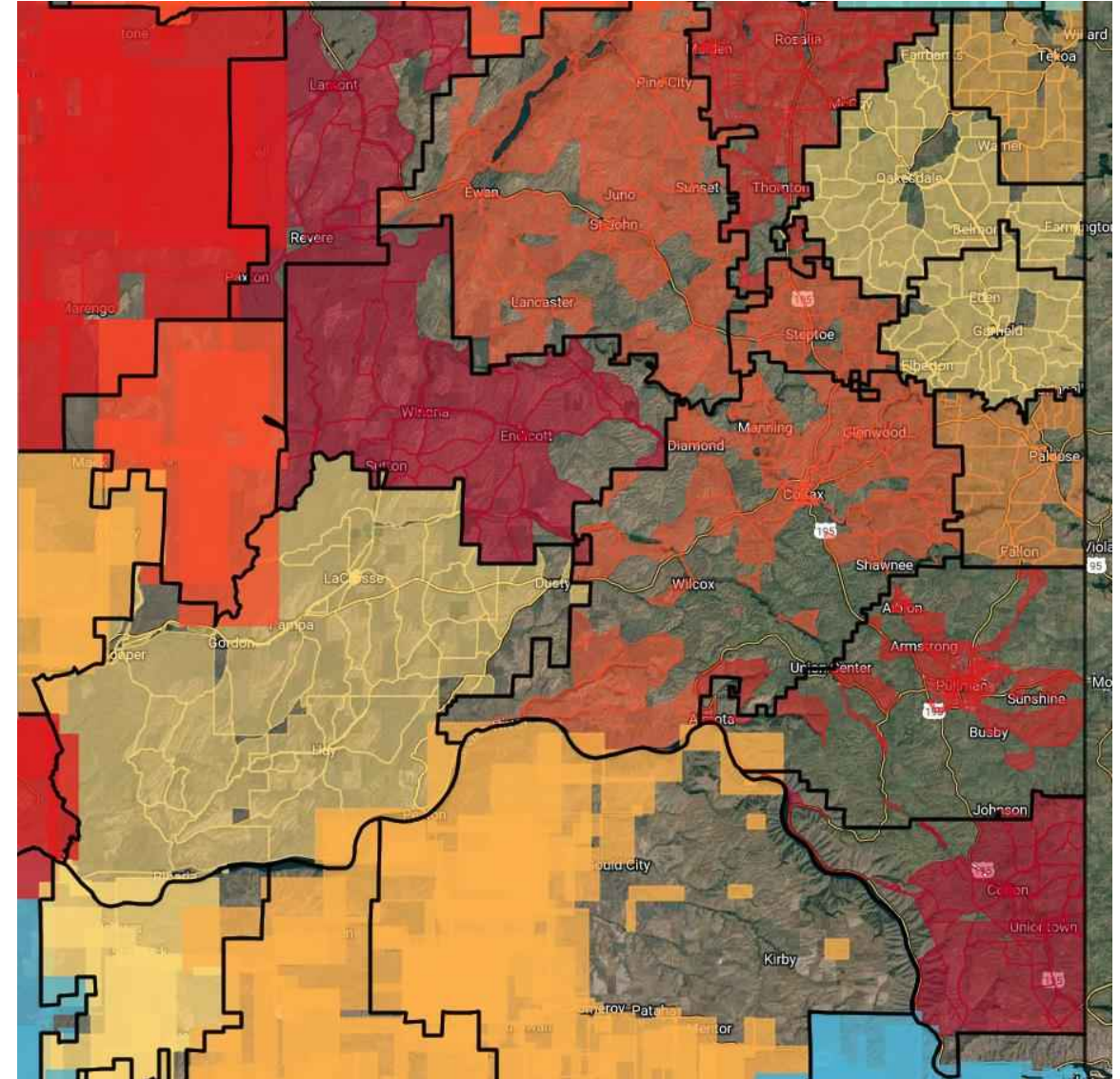
Whitman County

Areas with ~1000 bls in county boundary
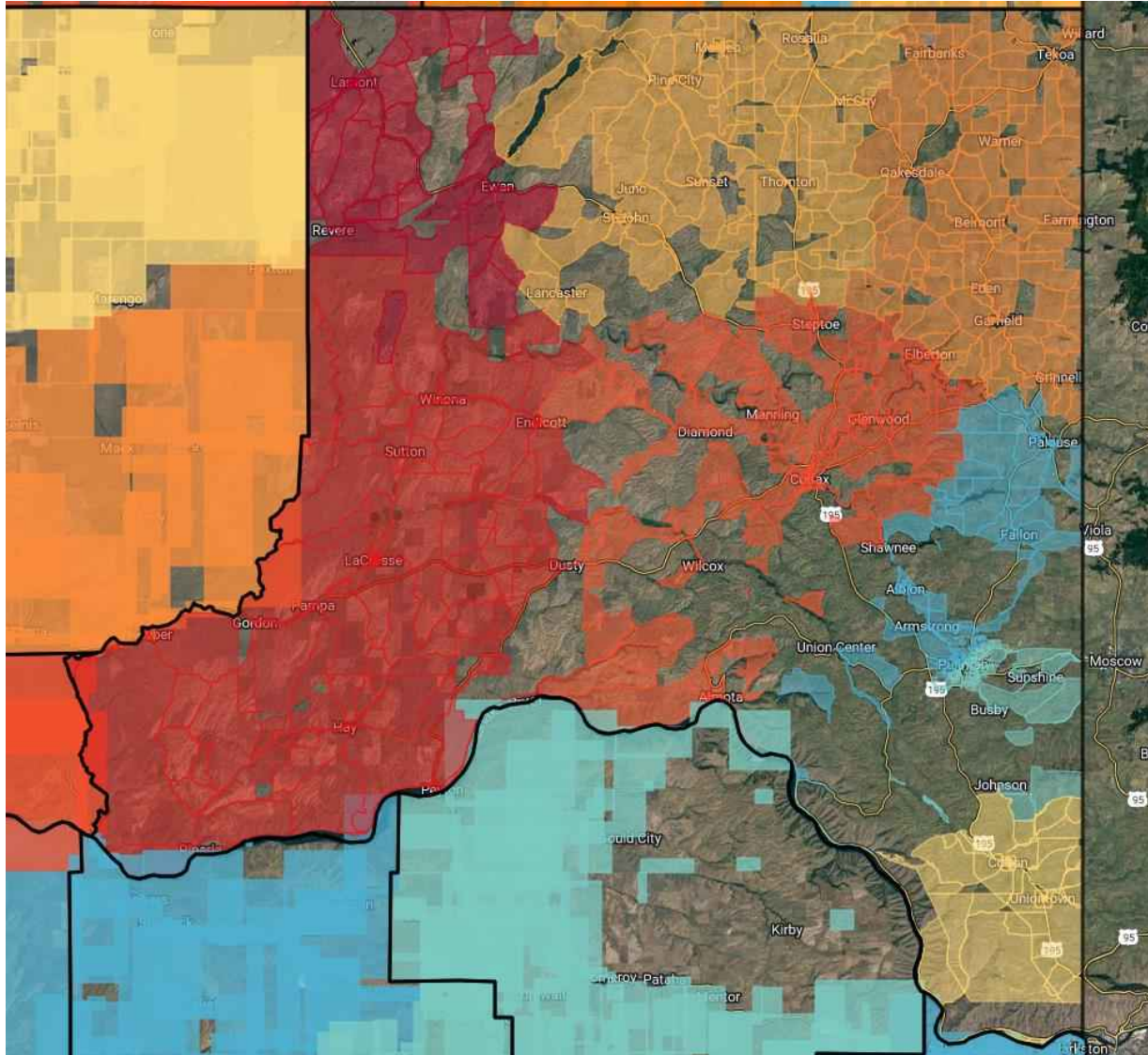
FCC National Broadband Map
All Wired and Licensed Fixed Wireless 100/20 or greater

St John

Areas with ~1000 bls in county boundary

FCC National Broadband Map
All Wired and Licensed Fixed Wireless 100/20 or greater

100.00% coverage

317
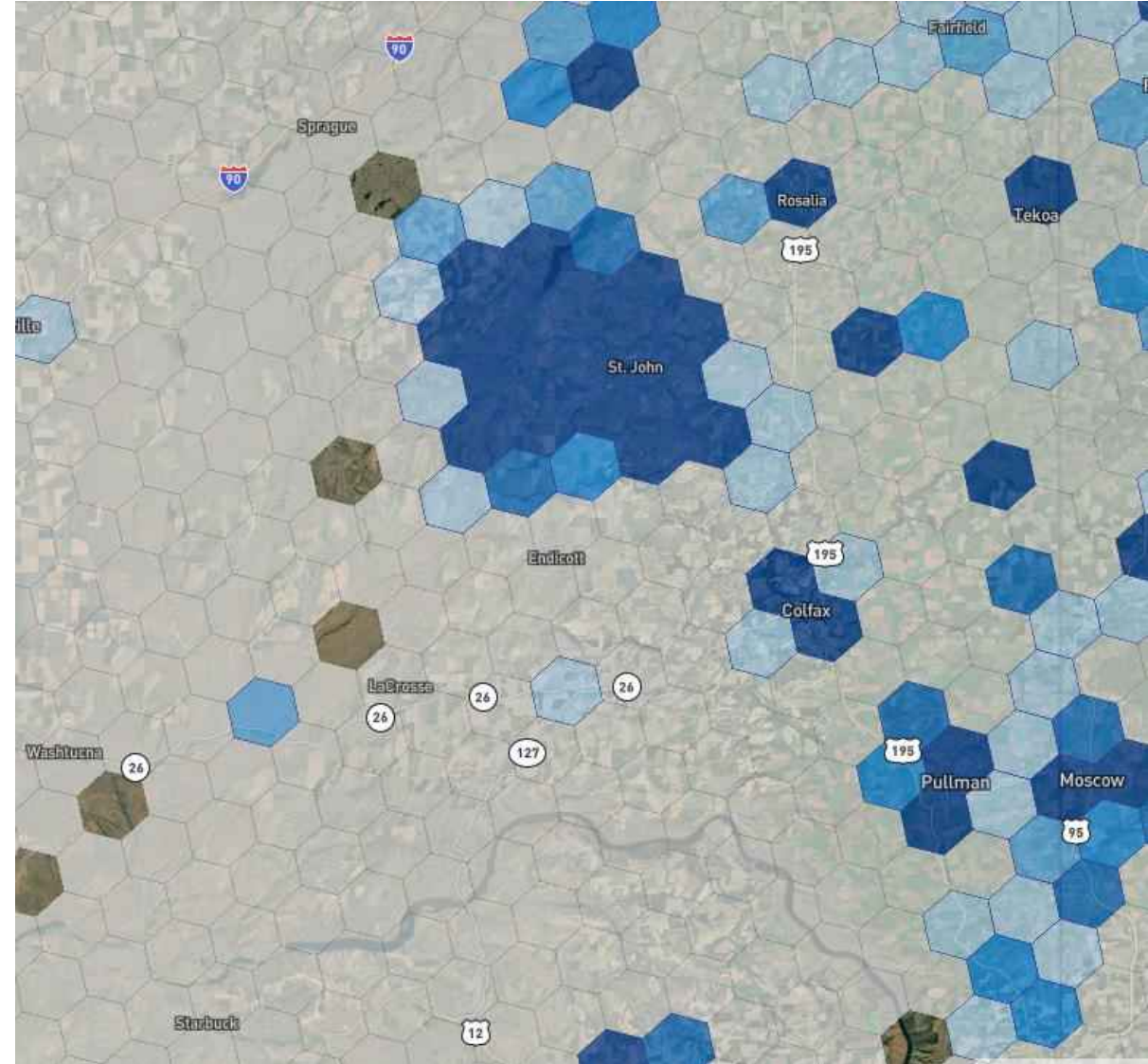
Banner/Reid Rd North of Pullman

Areas with ~1000 bls in county boundary

FCC National Broadband Map

All Wired and Licensed Fixed Wireless 100/20 or greater

Johnson

Areas with ~1000 bls in county boundary

FCC National Broadband Map
All Wired and Licensed Fixed Wireless 100/20 or greater

Thorton

Areas with ~1000 bls in county boundary

FCC National Broadband Map
All Wired and Licensed Fixed Wireless 100/20 or greater

320

Wilcox / Kammerzell Rd

Areas with ~1000 bls in county boundary

FCC National Broadband Map
All Wired and Licensed Fixed Wireless 100/20 or greater

321

November 30, 2023

Mark Vasconi, Director
Washington State Broadband Office
PO Box 42525
Olympia, WA 98504-2525

RE: Public Broadband Stakeholder Group comments on the Initial Proposal – Volume 2

Dear Director Vasconi,

Thank you for the opportunity to provide comment on Volume 2 of the state's Initial Proposal for federal Broadband Equity, Access, and Deployment (BEAD) funding. As representatives of the state's Cities, Counties, PUDs, Ports, libraries, and public broadband corporations, we feel uniquely positioned to advocate for the long-term interests of Washington's public, who we all serve.

The Public Broadband Stakeholders appreciate the efforts of the Washington State Broadband Office (WSBO) toward ongoing stakeholder engagement. We remain committed to continued engagement with the WSBO and other stakeholders to ensure that Washington maximizes the long-term public benefit of this funding opportunity. The comments herein are provided in response to the WSBO's publication of the Draft BEAD Initial Proposal – Volume 2.

Application Process

We acknowledge the extensive effort invested by the WSBO in crafting Vol. 2 of the Initial Proposal. Given the diverse array of factors to be considered, there exists a substantial volume of material necessitating preparation. The magnitude of this content poses a significant workload for applicants seeking to adequately prepare their proposals. Given the vast scope of potentially more than 300 project areas aimed at overcoming broadband barriers, we strongly urge the WSBO to contemplate a reduction in the overall burden imposed on applicants.

The public broadband stakeholders recommend the addition of a pre-qualification phase at the beginning of the application cycle to address the minimum readiness requirements of an applicant. This phase could be accomplished as a checklist, with those applicants who meet all requirements moving forward to the project area proposal round. This would provide applicants with a level of assurance prior to moving forward with project proposals, as well as provide the WSBO with an accurate scope for continued engagement, moving forward.

We recommend the state consider a multiple project area application. In the initial review of the proposed project areas, it is reasonable to assume applicants will submit for multiple project areas; it is also reasonable to assume that one project area's infrastructure may require facilities necessary to construct broadband from an adjacent project area's geography (these could include, but are likely not limited to, adjacent towers in a project area for wireless connectivity, access to rights-of-way for backhaul, use of utility pole lines owned by the applicant, connectivity to existing infrastructure, and developing sustainable systems for the applicants). By including adjacent projects areas, an applicant

can effectively construct a network that is more economical and affordable to the applicant, maximizing affordability to its subscribers, and eliminating duplication of infrastructure across multiple geographies. In addition, the multiple project area application creates efficiencies in the aggressive (60 days) application cycle, allowing applicants to embrace collaboration and partnerships, reducing application costs and overhead, supplying efficiencies for the WSBO in application evaluation.

We further propose the establishment of a model that includes a negotiation phase between WSBO and applicants in project areas for which there are competing proposals. Following the pre-qualification and application phases, the negotiation phase might consist of a virtual meeting for each area with competing applicants, where the WSBO facilitates solution-oriented discussion. If the negotiation is unsuccessful, the applications would be subject to scoring for a final determination of funding award. This approach aims to determine the best value for citizens while achieving the WSBO's goals. The objective should be to ensure each project area is adequately and affordably funded, that high-cost areas are effectively served, and the broadband plan is achievable.

The group recommends that Priority Broadband Project applications should not be scored against Other Last Mile Deployment Project applications. Although the scoring rubrics outline differing criteria, as the total scores are equal, it is unclear whether this is the intention; please clarify.

Additionally, for those project areas which receive no proposals, our recommendation is that the WSBO hold a secondary application round open to all pre-qualified applicants, based on remaining funding availability. This secondary application round might allow for alternative technologies which would not be allowable in the first round, such as Low Earth Orbit (LEO) Satellite, or a lower/waived match requirement, to incentivize providers.

We support the decision of the WSBO for the application review and evaluation to be performed by a Selection Committee to come from local Washington State public agencies, as outlined in Volume 2. We would also suggest the Selection Committee be allowed a brief timeframe for direct engagement with applicants to allow reviewers to ask for further clarification from applicants which would support a more thorough and accurate evaluation cycle.

We request the removal of the requirement for broadband service installation to be completed within 10 days of any request (as outlined in Deployment Subgrantee Requirements – Financial Capability, Section 4.11) as this may not always be feasible due to circumstances such as timing of utility locates and easement negotiations.

Additionally, the public broadband stakeholders request that the WSBO waive the Letter of Credit (LOC) to the extent allowable under the BEAD program rules and corresponding waivers. We also suggest that the WSBO work with financial institutions to establish lines of credit that meet the program's requirements. Having a solid relationship with a bank or financial institution can help streamline this process and enable stakeholders to participate in the program.

Definition of "Internet Service Provider"

As included in our comments on the WSBO's 5-Year Action Plan, the Public Broadband Stakeholders reiterate our request to include a definition for the term "internet Service Provider (ISP)" within the Initial Proposal as well as any other WSBO planning documents as appropriate. Our suggested definition is, "A company or organization that owns, operates, and/or provides broadband internet access, whether privately or publicly owned by an individual entity or consortium of entities."

Alignment with State Broadband Goals

As stated in the introductory remarks of Volume 2, "Washingtonians have ambitious goals for broadband access, including universal service, equitable broadband access and adoption for all underserved populations, and scalable and sustainable 'future proof' broadband infrastructure." These are admirable goals which we support and further encourage the WSBO to ensure these goals are the underline minimum standard for the BEAD funding program.

> *RCW 43.330.536 Broadband office—Goals.*
> *It is a goal of the state of Washington that:*
> *(1) By 2024, all Washington businesses and residences have access to high-speed broadband that provides minimum download speeds of at least twenty-five megabits per second and minimum upload speeds of at least three megabits per second;*
> *(2) By 2026, all Washington communities have access to at least one gigabit per second symmetrical broadband service at anchor institutions like schools, hospitals, libraries, and government buildings; and*
> *(3) By 2028, all Washington businesses and residences have access to at least one provider of broadband with download speeds of at least one hundred fifty megabits per second and upload speeds of at least one hundred fifty megabits per second*

By leveraging the BEAD funding allocation in support of the state broadband goals as outlined above we maximize this opportunity to support future proof broadband infrastructure. We would wholeheartedly support the alignment of the BEAD Volume 2 goals with the state broadband office goals as outlined in RCW 43.330.536.

Project Area Definition

The public broadband stakeholder group would support either option of county or school district defined project areas. We look forward to the opportunity to review project area groupings, following deduplication of existing enforceable commitments, which could impact some potential project areas substantially more than others.

We do believe that applicants should have the option of submitting a proposal for a percentage of locations that represents an amount of less than 100% of the unserved and underserved locations, removing that percentage or BSL's that fall within a Project Area which are: geographically incapable of being served by fiber optic services or wireless infrastructure; BSLs which are determined to be extremely high cost but do not fall into high cost areas as outlined on the project area maps; BSLs for which community engagement has determined no further interest in broadband adoption due to cultural, lifestyle, or privacy choices; or BSLs which are blocked by regulatory hurdles. Washingtonians live in a diverse geographic climate, and due to reasons outside of an applicant's control, some areas may not be reasonably serviceable or may not fall within a similar scope of service as the remainder of the project area. Applicants should be allowed to supply an exceptions list, including the rationale as to why BSL's were not solvable by traditional fiber construction or wireless access, and recommendation as to how service might be provided to those BSLs, if applicable.

Additionally, recognizing that public agency applicants may be restricted from providing broadband services outside of their jurisdictional boundaries, the process should allow for applicants to adjust their application project boundaries to reflect these real-world circumstances.

Scoring Rubric

Acknowledging that the scoring rubric is valid only in instances for which there are multiple applicants within the same project area, we recommend that criterion be weighted accordingly to allow the WSBO to prioritize those applications which most closely align with the goals of the office, over those applications that are less aligned.

Accordingly, measures which are required of all applicants should not receive points.

Minimal BEAD Program Outlay - We urge the WSBO to consider scalability and resiliency along with matching funds. While provision of matching funds may broaden the overall reach of the program, it's equally, if not more important that this funding has a lasting benefit to the public. Scalability can be scored according to scalability of technology used. Given the importance of network adoption to the long-term sustainability of the system, resiliency could be measured through demonstration of community support, such as letters from Community Anchor Institutions (CAIs) and Broadband Action Teams (BATs).

The group also requests that the explanation of matching funds which have been set aside by the Legislature for public entities, should explicitly state that "public entities who receive BEAD funding will be provided 25% match, as set aside by the Legislature."

Affordability should offer equal weight to both retail and wholesale providers. Since the WSBO has established that the median residential rate for 1/1 Gbps is $75 per month total cost to the customer, then points could be awarded for meeting that goal, with additional points for pricing below that. Additionally, wholesale points should be awarded for 1/1 Gbps at $50 per month residential, with additional points for pricing below. Scoring metrics should specify that pricing reflects total monthly cost to residential customers. The Affordability category should also include points for offering a low-income price tier – however these points should not be tied to a predetermined rate or waiving of connection fees, as service provision costs will vary, and there should not be an expectation that service may be provided at rates below the actual cost of service.

Fair Labor Practices are a basic requirement of applicants and should not be awarded additional points. Points for this category could be based on demonstration of experience as the employer of a telecommunications workforce, such as certification that the applicant or its parent company has a minimum history of two years operating as an employer in the State of Washington.

Speed to Deployment – While this is an important consideration for project planning and funding implementation, we recognize that these projects take time to design, obtain materials, permit, build backbone, and then install service. We recommend adjustment of the metrics to eliminate construction completion within 12 months as a goal.

Open Access - The public broadband stakeholders support the scoring criterion of Open Access, including the metric described as "two or more committed ISPs with signed agreements." We believe this deserves the full 6 points as listed, with the three metrics regarding wholesale rate reassigned to the Affordability category, as previously mentioned.

Local and Tribal Coordination – Given the importance of local and tribal coordination to the ultimate network adoption by subscribers, we believe that this criterion warrants a higher assignment of points.

In addition, the description for this criterion should be expanded to include the counties, cities, towns, Broadband Action Teams (BATs), elected officials, community leaders and public agencies who have worked tirelessly over the past eighteen months to help the WSBO develop the state's plan for BEAD funding. Identifying local partners and stakeholders is imperative for WSBO, with a specific focus on public and tribal agencies who are dedicated to advancing broadband network development in local communities. WSBO should prioritize the allocation of resources to empower these partners, enabling them to effectively devise and implement broadband plans for areas lacking service, underserved regions, and qualifying anchor institutions.

Topics which Warrant Broader Engagement & Discussion

Affordability - Throughout the Volume 2 proposal, the WSBO asserts rate controls for the Affordable Connectivity Plan, Affordability Plans, and Middle Income pricing plans. Although the public broadband stakeholder group strongly support affordability as an objective, we do not believe the state should seek to determine rates as a method to ensure affordability. To require applicants to subsidize rural connectivity will jeopardize the long term sustainability of these networks. These revenues are the only tool applicants will have to offset the high cost of serving rural broadband customers, which are the most expensive and hardest to serve. We recommend instead that Internet Service Providers (ISPs) be required to establish a commitment of affordability and to demonstrate that services on BEAD-funded infrastructure will be at or below rates consistent with other areas the service provider operates within the state or adjacent states for similar service. We do support minimum speed commitments.

We further recommend that the WSBO explore the establishment of a statewide affordability program which could provide low-income and middle-income households with the financial support they need.

Streamlined Access to Poles, Conduits, and Easements – The group appreciates and supports the WSBO's intention of ensuring effective and timely permitting reviews. However, the language used in Volume 2 refers to the WSBO and the Washington Utilities and Transportation Commission (UTC) as coordinating to "establish leading practices" to "establish a fair distribution of costs" and "set [pole] height standards" and "require utility owners" to consider future telecommunications attachments to poles. The recommendations included in Volume 2 also include investigating legislative solutions.

While the group is not opposed to discussion on permit review and establishment of best practices, the recommendations currently included within Volume 2 fail to acknowledge or address the role of the telecom industry and the need for well-developed and fully completed applications to help expedite permit review. Prior to pursuing legislation, we would request that a robust stakeholder process be held, to include local permitting authorities and municipal pole owners. We would also request that greater emphasis be placed on the streamlining of State right-of-way management entities and not encroach on local right-of-way control.

Additionally, we would support the establishment of a pole replacement fund that could be used to offset pole replacement costs.

Digital Navigation – As publicly-owned broadband providers, this group understands the value of digital navigation services. While we, as infrastructure owners, are developing partnerships with those organizations who are providing such services to our communities, the public broadband stakeholders believe the most impactful way that the WSBO can support digital navigation efforts is by providing funding to a diverse range of organizations throughout the state – particularly in rural areas – in order to establish sustainable services and support these important partnerships.

Again, the Public Broadband Stakeholders appreciate your consideration of our comments and we welcome the opportunity for continued discussion as we all work to leverage this historic funding in the most meaningful way possible to ensure a more equitable and connected future in Washington State.

Signed,

Association of Washington Cities
Kitsap Public Utility District
Northwest Open Access Network
Petrichor Broadband
Washington Association of Telecommunications Officers and Advisors
Washington Public Ports Association
Washington Public Utility Districts Association
Washington State Library

November 30, 2023

Mark Vasconi, Director
Washington State Broadband Office
PO Box 42525
Olympia, WA 92804-2525

Dear Director Vasconi,

Re: Washington Public Ports Associations Comments on Initial Proposal -Volume 2

The Washington Public Ports Association (WPPA) would like to thank the Washington State Broadband Office (WSBO) for all of their hard work on the Initial Proposal Volume 2. We appreciate the opportunity to be able to share our thoughts and comments on important broadband policies. The Broadband Equity Access and Deployment (BEAD)funding is a once in a lifetime opportunity for the broadband community public and private to connect Washingtonians with quality affordable internet. However, we need to ensure the policies and processes in place create mechanisms that will distribute funds equitable and will reach all areas of our state.

Our intention is not to make comments on every component of the Initial Proposal Volume 2. We have identified certain policy areas which have the highest impact on the process and in the distribution of BEAD funding with the hopes of providing WSBO with constructive recommendations.

<u>Grant Application Process</u>
We appreciate WSBO thinking through the grant process and trying to utilize multiple rounds of applications to ensure every project area is bid upon. We understand there are an extensive number of project areas throughout the state and WSBO's goals as is WPPA is to ensure all project areas are covered especially high need hard-to-reach areas. However, we are concerned this process will lead to unintended consequences. The process as currently outlined in the Initial Proposal Volume 2 will result in the high need and cost areas being applied for or negotiated in the final round with a high probability that all the BEAD funding will have already been spent.

We would recommend the state consider adding a pre-application phase to the process. This will achieve two goals for the state. One, it will enable the state to provide a check list and identify qualified applicants. Then the state will be able to identify those who are close to being a qualifying applicant but may need some additional items. Second, help the state identify what project areas will be bid upon and enable them to develop a strategy for the second round of

applications.   Part of the second round of application will be to allow for multiple project areas and to encourage the inclusion of high cost and high need areas.

Project Area Definition

Project area definition is defined by either by county census data containing 1,000 broadband service locations (BSL) or by school districts.   WPPA would support either option as a base for proposed project areas. We are concerned as with many including WSBO with the accuracy or completeness of the data. We know that there are address issues that need to be resolved. We encourage WSBO to continue to work with NTIA and the FCC to work on the fabric data to ensure we have the most accurate unserved and underserved BSL locations to develop our project areas in order to serve as many in our community as possible.   We look forward to the opportunity to work with WSBO through the deduplication process which will significantly impact certain project areas.

We support the option of application submitting a proposal for a percentage of location of less than the full 100% of unserved and underserved BSL but still being considered a priority project. We would like understand consideration under the exemption these locations are geographically incapable of being served by either fiber or wireless infrastructure. Some of these locations may include BSL which are high cost but are not located in high-cost areas, BSL in which for certain reasons do not wish to be served, or which are blocked by other regulatory reasons such as RDOF.

Priority Scoring Rubric

This rubric will be used to score priority applications which are defined as applications that will serve all BSL with fiber. This scoring rubric proves to be a challenge for reasons outlined below:

1. ***Affordability-***Affordability is important and a key component in the broadband work we do. We support WSBO weighing this high in the rubric and only request understanding the challenge of being able to charge as low of price in the rural market as in the urban market. Due to lack of density and the inability to subsidize only ISPs who also serve urban areas and may use those revenues to subsidize their rural markets can change extremely low prices, which puts them at an advantage over rural ISPs. We understand that this must be looked at within reason and asked this be taken into consideration when evaluating the applications.

2. ***Speed of deployment-***This is a critical piece to consider for any construction project and understanding the need to connect people as soon as possible. However, design, engineering, issuing the correct request for proposals, following proper procurement policies set by the state and the federal government take time and makes it challenging to make a 12-month timeline. We would suggest starting the timeline at 18 months to make it a more achievable construction timeline.

3. ***Digital Navigation Services***-We recommend WSBO wanting to ensure community members have access to digital equity. There is little value in having access to broadband infrastructure if they lack the resources to utilize it to its full potential. We ask the State Broadband Office if they require the applicant to provide digital navigation services, then we request WSBO to award digital navigation funding to more organization throughout the state to ensure BEAD applicants have access to organizations that are providing those services, especially in rural areas. We as public infrastructure owners will continue to partner with our stakeholders such as our libraries to support them in the digital equity work, they do in our community.

There are other areas we could comment on regarding Initial Proposal Volume 2 however, we believe this to be these to be some of the highest priority for WPPA members and for the success for the deployment of BEAD funding in Washington state. We appreciate all the work WSBO has put in the Proposal and in gathering initial feedback from our members. We look forward to continuing to engage with WSBO as we work through these important policy issues.

We appreciate you taking the time to consider our comments. Please feel free to reach out if you have any questions.

Sincerely.

Eric ffitch
Executive Director
Washington Public Ports Association

November 30, 2023

Mark Vasconi, Director
Washington State Broadband Office
PO Box 42525
Olympia, WA 98504-2525

RE: comments on the Initial Proposal – Volume II

<u>**Project Area Definition**</u>

The Washington State Association of Counties (WSAC) appreciates the opportunity to make comments. WSAC supports county defined project areas, and school districts where it is more beneficial and cost effective for unserved communities. The Washington State Broadband Office (WSBO) has done important work in creating project areas in the Vol II initial proposal. While not required by NTIA, analyzing and presenting project areas requires subgrantee applications to be strategic to bring broadband service to all of Washington. Through defining these project areas, applicants can model a hybrid approach of technologies with different performance factors to reach the hardest to serve.

The project areas defined by WSBO gives applicants time to acquire resources and partners and bring a comprehensive approach to BEAD applications. Unfortunately, there will be some BSLs that will not be reasonably served, but by providing project areas early, these locations will be kept to a minimum.

With the passage of the Infrastructure Investment and Jobs Act (IIJA), the Broadband Equity, Access and Deployment (BEAD) rules positioned the NTIA away from the tradition of technological neutrality in broadband grantmaking and adopted and explicit scheme of technological prioritization, which WSBO is required to follow. Subgrantee applicants will first target end-to-end fiber and then, where it is too costly, look for less expensive alternatives such as cable (hybrid fiber-coax-RFC) systems, and fixed wireless using licensed spectrum. These technologies can meet the performance standards outlined in BEAD and will allow all Washingtonians to fully participate in 21st century society and economy.

We also recognize the need to work with broadband providers in developing an approach to bring internet to all, in both the BEAD public consultation process and to develop cost factors for project areas. It is equally important to partner with Tribes to ensure everyone in Washington is served.

Counties greatly appreciate the WSBO sponsored decision package in Governor Inslee's budget to obtain funding for the important work ahead. Through WSAC, some counties have begun to

prepare. Counties submit these comments on project areas we believe will streamline the effectiveness of the proposed project areas as we prepare for future BEAD applications.

The proviso in the Governor's budget would allow public entities to greatly benefit from having these project areas defined early, giving them an opportunity to model outcomes and setting thresholds ranking all locations from highest fiber deployment cost to lowest wireless solution cost. This will give Washington's counties a total cost curve to deploy fiber to any given number of locations.

A similar cost curve will be calculated for the cheapest reliable technology, which will sometimes be fiber—but sometimes fixed wireless. Based on the cheapest reliable technology on a cumulative total cost curve, counties can estimate, for any given number of locations, how much a county can afford to pay for fiber deployment to that many locations and still have enough funds left over to close the rest of the statewide broadband coverage gap using the cheapest reliable technology. Based on this, counties can project the maximum amount of prioritized fiber BSLs that can be afforded per project area.

Estimating these costs for all project areas prior to BEAD applications is vital. We respectively submit our modest changes to project areas that are justified by saving money or removing geographic boundaries and costly crossings to bring backhaul to portions of project areas. Additionally, there are still known address issues that were not thoroughly resolved through the FCC challenge process. To ensure we have all unserved addresses properly mapped in project areas, we ask for these project areas to be kept preliminary until all addressing issues for unserved households are resolved.

We request that WSBO advocate with the Federal Dept of Commerce to engage both the NTIA and FCC to address ongoing FCC fabric map address issues. For example, the attached Exhibit A map of a residence outside of Pullman, WA was originally identified as an unserved BSL as of Oct. 27, 2023. It was subsequently updated to the correct location on Nov. 28, 2023, but now shows it as "served," which is incorrect. The same FCC fabric map designates hay bale storage as unserved addresses in Kittitas County as shown in Exhibit A. These ongoing issues have affected addresses across the United States, and this vital advocacy will ensure Washington's resulting project areas truly capture all unserved addresses. WSAC has been working with fabric maps since the first challenge period in 2022 and can provide subject matter expertise on solving these issues.

Additionally, we request WSBO work with its contractors on mapping project areas. Exhibit B shows unserved homes in Whitman County and Stevens County that are not part of a project area. The algorithm used to draw project areas did not make the project boundaries continuous when generated, which has left homes that are unserved outside project areas. We recommend that WSBO evaluate these gap areas and refine boundaries as well as evaluate

all potential data accuracy issues to include all unserved and underserved homes that qualify for BEAD funding.

Exhibit A: FCC mapping issues

Residence outside of Pullman, WA that was identified as an unserved BSL in the incorrect location:

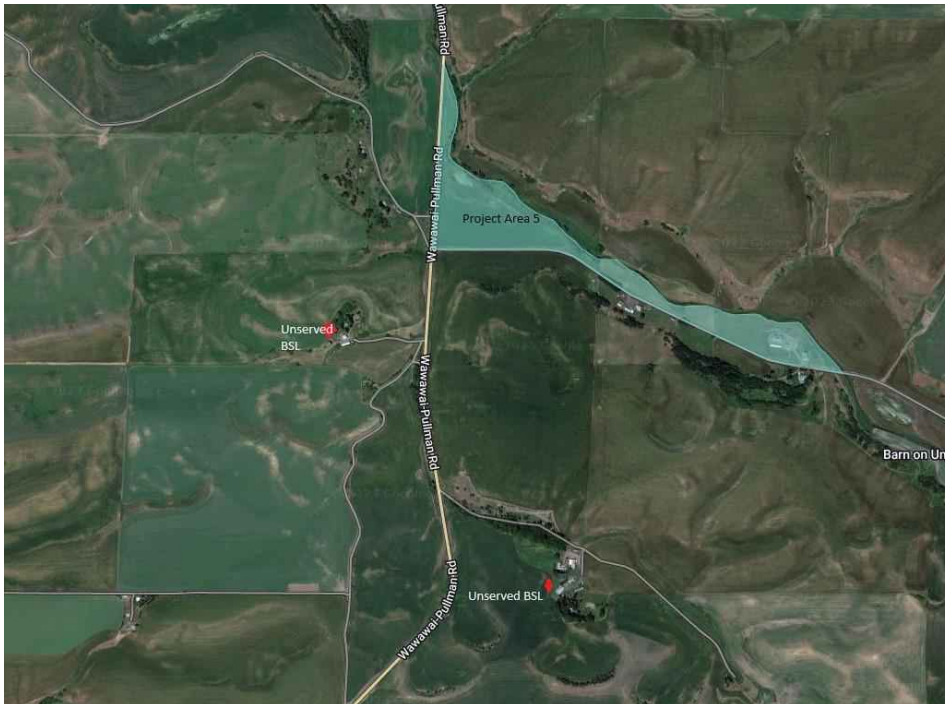**Hay bale storage facilities in Kittitas County designated as unserved addresses:**

Exhibit B: Corrections to project areas to include unserved addresses

Whitman County example A:
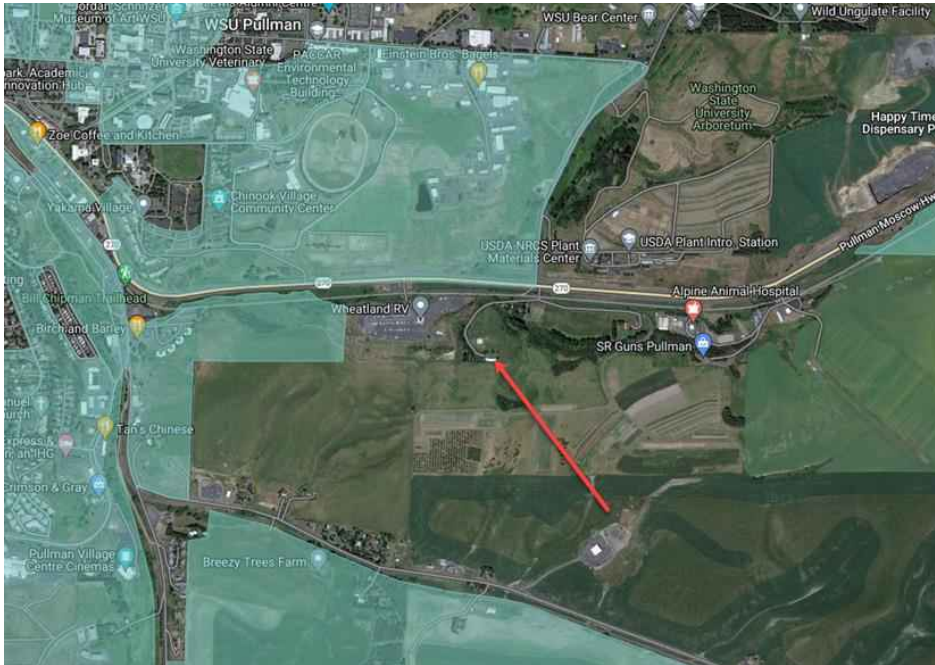
Whitman County example B:

Stevens County example:

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FROM THE DESK OF FORBES MERCY

30 November 2023

The only place to start is to quote the original intent of the BEAD fund, as quoted from the NTIA. "The Broadband Equity, Access, and Deployment (BEAD) Program, provides $42.45 billion to expand high-speed internet access by funding planning, infrastructure deployment and adoption programs in all 50 states, Washington D.C., Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands."

This means the goal of this fund was to recognize the private legacy Internet Service Providers have worked hard for 30 years, after the National Science Foundation, asked the private sector to introduce and build the previously owned government Internet, used in colleges, and the Military to the public.

Small community private companies were born, providing first dial-up, then increasing Fixed Wireless, then higher speeds to an at first skeptical public and corporations to this new technology. We watched the Telephone industry try to throttle the industry, refusing to provide lines for dial-up, calling the Internet "just a fad that will go away". Then, after the Internet started to grow, they violated the 1996 Telecom Act overpricing phone lines, while they sold their Digital Subscriber Lines (DSL) for less cost.

Of course, now that the Internet has grown far past its origins, ISP's have grown with the demands of content providers, who refuse to compress data into efficient use of rural slower speeds, forcing ISP's to fund emerging technologies in Wireless and Cable to accommodate the demands of content providers.

ISP's were the first to begin building fiber optic networks, which at first were very high cost, in what we named "future proofing" the Internet, as the FCC heavily preferred and funded their Phone Companies who were now losing 30% of their customers every year to the Internet. They refused to give us ISP's the frequency spectrum necessary to provide higher speeds to match the content, instead granting billion-dollar auctions, that they ended up giving the funds back to those Cell Phone companies to pay those costs, while taking the spectrum out of affordability of the community ISP's. Small business credits of miniscule value were provided at bids, stating their help for small ISP's that meant nothing at the end of the auction.

Once the government became involved, small business ISP's felt it was our time to finally grow our networks into our service areas that showed no chance of a return on investment (ROI) based on the sparsity of potential customers per mile built. The separation of the NTIA funding from the FCC who still to this days shows preference to legacy Telephone companies over the long established Broadband industry, perhaps meant that we could finally have help spending the money to equip our most rural

areas with fiber to the home, or at least NTIA might force the FCC to finally release the spectrum needed for community ISP's to finally deliver a product consistent with the growth of unfunded content expansion in our service areas, based on the original intent of the BEAD fund.

That didn't last long, once the government, the Biden Administration, and special interests got their hands on the NTIA Infrastructure bill, and the possibility of making a lot of people other than ISP's wealthy, they started to warp the intent as stated into something that nobody recognized.

I guess the place to start is to see what the current Administration did, soon they referred to it more as a "Jobs Bill", instead of a Broadband expansion bill, they were able to apply Davis-Bacon Prevailing wage. So immediately the cost of building the Internet went up nearly 30 percent, over what it would have cost. The President often traveled with speeches proclaiming the unionization of the industry, and all the new jobs it would produce. So now immediately everyone knew 45 billion wouldn't do the job.

At this point ISP's realized the goal of this Infrastructure Bill wasn't to build rural America with Internet in non ROI areas, it was to add massive overhead, and ultimately to introduce cronyism into the fund. The formation of non-profit organizations to "administer" fund use added billions into intermediary groups that were neither needed, or a value-added function of building the Internet. This is pure cronyism for states to hand money to organizations who know nothing about the Internet. Our own state uses groups called "Broadband Action Teams", that has nothing to do with the Internet, and are solely responsible for making false claims about the actual Internet, and to ask for money to perform non-sensical functions that add no value to building the Internet. In most communities, they don't even communicate with area ISP's, but make policies, and recommendations with no accurate data.

Soon NTIA's demands for no flexibility in technologies, such as helping to get more spectrum so that Fixed Wireless could meet the needs of the most rural areas. Like asking any organization that is based solely in urban areas, they have no idea how a rural areas operates, and assume that certainly a cabin in the forest deserves to have a speed they will never be able to use sounds right to them.

In fact, the lobbying by the National Fiber Association stole the "future proofing" term, while selling Congress members into thinking that a gigabit was the minimum that people need, so decisions and legislation was made based on no facts or data, but simply that "fiber makes sense" for everyone, it doesn't, and they are dead wrong in assuming that. The government's own studies show that usage of the Internet is still less than 35mbps download, and 15mbps upload. During my ISP daily use, we reach 8 gigabit download during peak hours TOTAL, for over 3000 accounts, and 200mbps upload.

One very false data supplier that states and federal officials use is the Ookla company's speed test program. One must understand that this program ONLY counts the remaining speed available after what is being used. The only time a customer runs speed tests is when they get a buffer during their use of the Internet. So, if you take 2 gamers using 18mbps, plus streaming, etc. on a 30 mbps Wireless connection, their Ookla result reported will be less than 2mbps connection, it's false yet taken seriously.

Let's bore down to the state level, Washington State, one of the most liberal states is the classic true Democrat states. Anyone who knows the Democratic party knows if they truly had their way, all money that people make would go through the government, they would run all business, and money would be portioned back to all citizens as they see fit. Obviously, that isn't the American free enterprise system, but when they are voted in, that's what you get.

Our state has truly lived up to that Democrat goal by passing incremental laws that essentially steals the Broadband Industry. First is SHB 1336 that allowed the heavily lobbied state from their right-hand man the Port, PUD Districts, and other government groups into allowing retail sales of the Internet. This was an extension of only wholesale sales of the middle-mile Internet connections, who I should add that NOANET, the Governors personal state agency for middle-mile continues to bleed taxpayers' money. A government paid for network; their monthly prices are far above the highest private sector middle-mile Internet. A testament to the inefficiency of government playing in the private sector.

Follow-up laws, pushed heavily by the phone companies, legislated renaming the Broadband industry into Telecommunications, which we have nothing to do with, are covered by draconian, and unapplicable laws all with the purpose of taking control of the once free Internet Information service. These special interest hijacking of our industry, something that has been done no other business is outrageous action taken against us, then to have NTIA call us "fossils" when referring to those who built the Internet is insulting and disrespectful of the many millions, we have put into building the Internet.

The 149 page "BEAD Initial Proposal Vol II FINAL DRAFT" is a document with more regulations than has ever been so rapidly placed on an industry. The worst part is as government keeps adding these and the many other FCC rules, based on the assumption that we have taken your condition filled grants, so somehow, we are beholden to change our entire operation to report and build our networks to your special interest driven dream of what the internet should be.

Requiring that we build open access networks? That we pay prevailing wage? That we accept any new reports, and specifications on how we build our network? Ignoring overbuilding reporting requirements! Narrowing timelines for contesting overbuilding, and adding requirements to prove that we have valid networks so there is no transparency, or ability? Pure cronyism in action.

Listening to your zoom session on November 29th, was a true example of why the government can't be trusted to be in the retail business. Private sector's goal is to make people as happy as possible. Yet, in the meeting, an NTIA official gleefully said, "If nobody is happy, we must be doing something right" - Tracie Blackburn NTIA Official. Pretty much sums up why the government doesn't belong to doing retail services.

On one hand you tell us you want the cost of Internet lowered, while on the other hand wanting to add taxes, fees, and force us to hire supposed "professional Engineers" (there is no such certification), file reports that cost us many thousands of dollars. You will be the cause of raising prices while you publicly claim the price will go down.

And don't get me started on how you are driven by the cost that supposed open networks will operate. Yakima county who broke the law by failing to notify us so we couldn't challenge a grant that they were awarded based on all lies, has prices of under $30 for a gigabit of Internet, and even proposes 10gbps service for a few dollars more. They nor you have any idea what that much bandwidth costs to build into rural areas, it's a speed that won't be used in the 50 year life of the fiber optic cable, and the ratios you show equal oversubscription just like the phone companies use in DSL allowing 250 people to use the same 1gbps, while we in the private sector use the standard of 3 gigabit oversubscription for one Gig.
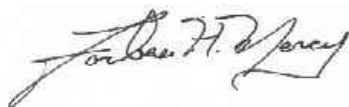
We know the real costs of building networks, without going union, without having to pay some nonsensical non-profit to make someone wealthy that probably can't program their home router, but the emphasis you put on making non-profits, government agencies, tribes, and lastly is the private sector. You require that the private sector, who built the Internet MUST partner with a government or non-profit, while non-profits, and government do not have to partner with the private sector.

I realize that you will take none of this into consideration because you have strayed so far from the original stated goal of this grant it no longer resembles helping rural America. Millions if not billions will be wasted on many hands profiting due to cronyism before anything is built.

I still find it comical that working with pole attachments from Pacific Power, have been fair and inexpensive. Only my ISP friends in counties ran by PUD's report impossible engineering costs, purposeful delays in approval, and dramatically higher pole attachment rent ONLY happens on government owned power networks, not the private sector. You have turned this grant into a gift for your friends, and with a favorable media who would never do a deep dive into this clear injustice for obviously personal monetary gains. Very little network will be built, you'll constantly award grants to fly-by-night companies, and ask for more money when government costs 30% times more to build anything, and the cost of rebidding to legitimate ISP's.

Washington State has turned the Infrastructure Bill into a joke with huge budgets for Commerce, and your friends, already millions wasted. Meanwhile the private sector will try to continue to build the Internet as it has for 30 years. I'll openly admit a little help so I could build negative ROI areas would have been nice, but I knew once our Governor got involved it would go sideways.

Thank you,

Forbes Mercy
President – Washington Broadband, Inc.

Department of Commerce BEAD Vol II
WTECB RESPONSE TO PUBLIC COMMENT REQUEST

[DRAFT Initial Proposal Volume II document here](#)

P19-Acknowledging that there may still be a need for targeted listening sessions and focus groups to reach specific covered populations, the WSBO intends to prioritize events that best align with the principle of "meeting people where they are" whenever possible in future engagement events. As mentioned, engaging with trusted partners – schools, libraries, local and tribal officials, and community-based organizations – is critical to amplify communication, reach community members, and expand multilingual outreach opportunities. This is especially essential for those who may rely primarily on word of mouth or non-digital forms of outreach, including those who lack broadband altogether. Accordingly, the WSBO will continue to engage and coordinate with community-based organizations and community anchor institutions (CAIs) as it arranges additional engagement activities during the BEAD implementation phase. The WSBO has scheduled monthly webinars related to BEAD and the Internet for All in Washington initiative through 2024 and ~~will also hold a dedicated public comment session on workforce development co-hosted by the Workforce Training and Education Coordinating Board and the Employment Security Department.~~ *the timeline did not allow for this we should highlight the efforts that were made to obtain public comment on the workforce sections of this plan. The Workforce Training and Education Coordinating Board included a call out in their monthly newsletter to 3 500 recipients. The Washington Workforce Association sent an email to all attendees from the 2023 Workforce Association conference asking specific questions related to workforce prompting feedback on the plan.

P30/31

Chapter 3 – Local Coordination will be used, including press releases, webinars, the website, and attending stakeholder events such as the Affiliated Tribes of Northwest Indians 2024 Winter Conference in January 2024. The WSBO will also consult the Office of Minority and Women's Business Enterprises to identify ways to encourage the participation of minority- and women-

owned business enterprises and spread awareness of the to-be-developed Washington State

BEAD NOFO. Associate Development Organizations, Workforce Development Councils, the

Workforce Training and Coordination Board (WTB), and the Employment Security Department

(ESD) will also be notified to promote the involvement of labor surplus area firms across the

state.10 ~~The WSBO is partnering with WTB and ESD to schedule a workforce-focused virtual open house before the end of 2023.~~ *I think this is the same effort mentioned on Page 19? If so mention efforts made or remove.

P35-41

Suggest including in the BEAD application process and considerations additional points beyond Fair Labor Practices for partnerships with at least one training provider and employer local to the region of the project. Support local training models to recruit, train, or hire workers, especially in rural and Tribal communities with persistent poverty. Encourage partnership with CBOs working with women and underrepresented groups.

Build in encouragement for employers to invest in resources and supports like tuition assistance, childcare, transportation costs, etc. that often are barriers for workers to participate in training.

Give additional points for model employer commitments, prioritizing hiring of workers and small businesses in their community for state and local projects and developing diverse hiring goals.

P80

State that the BEAD NOFO makes workforce development an eligible use of BEAD grant funds, and requires a highly-skilled workforce, which can be fulfilled through the use of graduates of registered apprenticeships or other joint labor-management training.

P83

Workforce Development Strategy

 -is it possible to require or notate that the "appropriately skilled workforce" should be recruited from within Washington state?

P84

Coordinate with Workforce Stakeholders and Partners Across the State

Coordinating with workforce stakeholders across the state will allow Washington to develop and

promote sector-based partnerships and support a skilled and ready workforce prepared to deliver

on broadband deployment projects. This strategy stems from feedback given by regional

Workforce Development Councils, Washington's Workforce Training and Education Coordinating Board

(WTB) and the Washington Employment Security Department (ESD), two of the leading workforce

agencies in the state. WTB is Washington's principal workforce policy advisor, responsible for the

state's workforce development system **and is the designated oversight entity for federally funded** Career and Technical Education, and as a regulator of private career schools and veteran education programs. WTB's unique **board** composition – one-third business, one-third workers, and one-third government – means that business and labor are at the same table, supplying a real-world view of workforce challenges

and opportunities.

Our agency name is *wrong* on page 84, under Developing and Promoting Partnerships: It should be Washington's Workforce Training and Education Coordinating Board (WTB).

P85

Table 10, Agency name is also wrong under Organization.

Table 10, Basic Food (or SNAP) also has a separate counterpart wraparound service called Basic Food Employment & Training (BFET) which provides employment readiness opportunities for SNAP recipients who are not participating in TANF. BFET services are provided through contracted community & technical colleges and/or community based organizations (CBO). BFET is an important part of the state's comprehensive workforce development system, helping low-income individuals, displaced workers, and employers reach their human potential by encouraging economic well-being through skill acquisition, personal responsibility and gainful employment.

P87

Expand Workforce Programs

In addition to connecting trainees to wraparound services, the WSBO will work with statewide and local partners to expand existing workforce programs and develop new programs, as needed, to

promote sector-based partnerships to advance Washington's equitable workforce development

goals. Engaging the Broadband Workforce Development Taskforce, the WSBO seeks to increase access to education and training opportunities to support worker attraction, training, retention, or

transition to meet local workforce needs and increase high-quality job opportunities. WTB, in

partnership with ~~other workforce organizations~~ **a wide** range of statewide workforce stakeholders (including higher education, CBO's, state agencies and industry associations) recently submitted its final decision package to

the Washington State Legislature for Digital Literacy and IT Career Equity.48 WTB and its partners

identified that Washington's employers face a severe skilled IT worker shortage, with many

people from disadvantaged and marginalized communities unable to access these high-paying

jobs. WTB recommends public, private, state, and local collaboration to ~~promote~~ **expand** digital literacy

And equitable access to IT careers. ~~Specifically,~~ **In addition to several key program components,** the decision package **also** outlines two new funding pools to be

overseen by WTB, pending legislative approval. Over four years, these funds will promote IT-

related workforce development efforts that apply to BEAD.

• Technology Access Devices for Jobseekers: This fund will procure devices, such as

laptops, for jobseekers to facilitate job training and access. This responds to the need of

low-income jobseekers for devices to access online training in preparation for livable

wage jobs and to secure and be successful in those jobs. This will also allow marginalized

populations to access livable wage remote or hybrid employment options, rather than low-

wage, low-barrier jobs that are solely in-person customer interactive. Local workforce

development councils will manage device distribution, with initiative staff overseeing

program rules, guidelines, and effectiveness monitoring.

• Public-Private New Program Funds: These funds are allocated when critical skills gaps

are identified, often through regional partners, BEAD plan implementation, or the

Workforce Board's mapping process working with hiring employers. This fund addresses

critical gaps in the state's education and training investment framework, such as the

recent need in trucking and warehousing businesses in some Washington counties for

workers skilled in installing and maintaining digital sensors and controllers.

- **Strongly encourage acknowledgment of the role local workforce development boards play in workforce programs. Collaborating with local workforce development boards on state-funded projects is crucial for ensuring that the projects are aligned with the needs of the local labor market and the community. Workforce development boards play a key role in providing valuable insights into labor market data, training needs, and career pathways, and their collaboration can help state-funded projects to be more effective and inclusive.**
- **Recommend being more explicit regarding the available uses of funding to build and grow workforce programs and pipelines to supply the needed skilled workforce.**

P 91

Materials on key BEAD occupations and associated training or education opportunities will also

be shared on the Washington Career Bridge, which WTB oversees.55 A BEAD-specific webpage

can be built to help job seekers find employment opportunities, understand the skills or licenses

needed, locate applicable education and training opportunities and more. Local economic

development councils and regional workforce boards can also disseminate and spread

awareness of upcoming broadband career opportunities through their community relationships.

Similarly, by sharing the Washington Career Bridge resource on its project website or with

community engagement partners, the WSBO will promote broadband-related educational

opportunities and occupations

-consider adding in a sentence or two explaining what Career Bridge is since the reader may not know. Something like: This tool allows job seekers to explore potential career paths, compare education and training opportunities as well view compensation data.

Digital Equity Forum – Team Feedback on Broadband, Equity, Access and Deployment (BEAD) Initial Proposal Volume II

Preparation for Nov. 16 Special Meeting of the Digital Equity Forum

Team # (1-5)	3
Convener	Kristine Marree Williams
Scribe	
Presenter	Bre Urness-Straight
Team members	Kristine Marree Williams
	Bre Urness-Straight
	Trevor Lane
	Leslie Hardwick
	Rep. Mia Gregerson
	Cynthia Tamayo
Organizations/agencies represented	Department of Social and Health Services
	Washington State University, Community & Economic Development
	Spokane Tribe of Indians
	Washington State House of Representatives
	Office of the Superintendent of Public Instruction
	Commission on Hispanic Affairs
Represent and/or identify as part of covered population group(s)	
Date	11/16/2023

Please complete the feedback template for each of the BEAD Initial Proposal Volume II requirements using complete sentences. The template will need to be completed for all chapters of this document in preparation for the Digital Equity Forum meeting on November 16, 2023. This is the list of the BEAD Initial Proposal Volume II requirements:

- Chapter 1 - Requirement 1: Objectives
- Chapter 2 - Requirement 2: Local, Tribal, and Regional Broadband Planning Processes
- Chapter 3 - Requirement 4: Local Coordination
- Chapter 4 - Requirement 8: Deployment Subgrantee Selection
- Chapter 5 - Requirement 9: Non-Deployment Subgrantee Selection
- Chapter 6 - Requirement 10: Eligible Entity Implementation Activities

- Chapter 7 - Requirement 11: Labor Standards and Protection
- Chapter 8 - Requirement 12: Workforce Readiness
- Chapter 9 - Requirement 13: Minority Business Enterprises, Women's Business Enterprises, and Labor Surplus Area Firms Inclusion
- Chapter 10 - Requirement 14: Cost and Barrier Reduction
- Chapter 11 - Requirement 15: Climate Assessment
- Chapter 12 - Requirement 16: Low-Cost Broadband Service Option
- Chapter 13 - Requirement 20: Middle-Class Affordability
- Chapter 14 - Requirement 17: Use of 20 Percent Funding
- Chapter 15 - Requirement 18: Eligible Entity Regulatory Approach
- Chapter 16 - Requirement 19: Certification of Compliance with BEAD Requirements
- Chapter 17 - Initial Proposal Volume II Public Comment
- Appendices 18

Please reference the page, and paragraph(s), tables or graphs in the document when listing your comments, recommendations and questions.

Once this template is complete, prioritize the feedback you will present at the next Digital Equity Forum meeting by using the PowerPoint template provided. Your team will have 6 minutes for the presentation and Q&A.

All materials presented at the Forum will be saved to the team's folder in SharePoint for posting after the meeting.

Chapter 1 - Requirement 1: Objectives

Suggested edits or corrections:
- Page 6 beginning of second paragraph: note the year, not just the month, of Volume 1's release. This is anticipated to be a multi-year plan, so readers shouldn't need to dig for publish dates to read the content.
- Page 6 second sentence would benefit from a re-write. The current content indicates the purpose for the document is largely to satisfy grant requirements. It would also be good to call out the benefits of the proposal to Washingtonians.
- Page 8 Objective 1.1 apparent typo between first bullet reference to "residences" and third bullet reference to "residents" – need to determine which one is intended and remain consistent, or else add explanation of reasoning for the difference so it doesn't appear like a typo.
- Page 8 Objective 1.3 add the words "internet service" in front of the last word of the sentence, "provider" to specify what kind of provider is being referenced.
- Page 8 subscript 3 needs updating to reflect the finalized list of CAIs referenced in Vol. I. It seems odd the list would be current and final in Vol. I but referenced as still getting finalized for Vol. I within the Vol. II reference.
- Page 9 Objective 1.6 In addition to supporting digital inclusion activities, emphasize commitment toward achieving digital equity, speaking to specific objectives and accountability by the state to not only increase awareness of programs and partnerships of

organizations supporting digital inclusion, but taking it to the next level of work to directly ensure equitable access and abilities to use this acknowledged "critical service."

- Page 9 Goal 2 Objective 2.1 change wording to "Facilitate a more inclusive approach to create equitable workforce development, intentionally reduce barriers for covered populations across the state, and actively work to create overall equity in opportunities for broadband expansion, online training, education, and employment."
- Page 9 Objective 2.2 Only focusing here on those entering the workforce could imply that those in the workforce already, and those outside of it for reasons such as retirement or severe disabilities don't need or shouldn't receive skill development. Given those groups also hold significant value towards economic development, this plan should reflect the value the state holds for all individuals – not just those entering the workforce.
- Page 9 Objective 3.1 regarding the final reference to the 2028 goal leaves critical key words out of the statement (e.g., *access* to 150/150 Mbps, not that someone is personally somehow 150/150 Mbps themselves.) Writers need to consider how sentences read if they were to switch out the key noun used, when looking at whether all critical key words are present (e.g., "the goal of hat for all residents and businesses" is a partial statement missing a key verb, whereas "the goal of *access* to a hat for all residents and businesses" is a fully formed statement).

Additional content to include:

- Page 7 starts with the Vol. 2 content as if a continuation from Vol. 1, while clearly being a standalone document with separate introduction. As a separate document, it should provide the critical introductory content that made up Vol. 1's Executive Summary, explaining what the proposal requirements are, how many there are total v. in that volume, a list of the requirements (e.g., Appendix 6.1 in Vol. 1), and a summary of the ones included in Vol. 2, as well as explaining those requirements display as "Textbox" instructions from NTIA. This is necessary to give context before diving into the content of Vol. 2, and in alignment with the state's Plain Talk.
- Page 8 Objective 1.1 first and third bullets need explanation of how being "scalable to all residences and businesses" is substantially different from broadband "to all residents and businesses" four years later. This could give the appearance that within a couple months all Washington residences and businesses will have broadband access, at least at 25/3 Mbps as of Jan. 1, 2024, which is the meaning behind "By 2024." That information is significantly different messaging from prior BEAD-related documents which detailed multiple barriers and time needed to achieve this level of access – documents that went public only a handful of months ago. Also need to address if "By 2024" was really intended, or if the planned timeframe is by 2024 close.
- Page 9 Objective 2.3 should include not just an uptick in job creation but also societal participation towards economic growth associated with developing broadband infrastructure. Suddenly enabling entire populations ("covered" individuals) with equitable access and broadband adoption allows participation in the both the online economy and the economic growth potential benefitting from online access (e.g., social media sharing of great products, vendor and product reviews info, knowledge access regarding available technologies – and new ability to engage with those technologies facilitated by broadband access, etc.).

Recommendations:

- Pages 8-9 objectives under Goal 1 overall appear to start off as ambitious, then by objectives 1.4, 1.5, and 1.6 appear to lack ownership and accountability by the state in addressing the key title of the objectives – for critical areas of affordability, adoption, and digital equity. It

needs updating to reflect the state's commitment to universal access for all residents – the entire point of the program. Recommend elevating those three objectives to the same level as the initial three objectives under Goal 1.

- Page 9 Objective 3.3 consider specifying that this training needs to be available on a continual or cadenced basis and aligned with evolving cybersecurity needs, so it remains relevant and isn't perceived as a one-off they offered years earlier and therefore don't need to ever offer again.
- Overall, for Section 1, there's a lot of references to each residences and to residents and it seems the writers frequently either got these two words very confused with one another, or need to include critical information and/or key words (e.g., verbs) to capture the rationale of using each one in the areas currently appearing inconsistent or as typos.

Questions:
- Page 8 Objective 1.5 is it necessary to look specifically at growing the number of residents (not residences?) subscribed to broadband? Also, this objective seems split between the first part, speaking about adoption (which is the objective) and the second part, speaking about "supporting accessible digital literacy and skills-building services." Without a bridge statement or clear direct correlation between more people subscribing to broadband (for the adoption objective) and simply supporting accessible services, it's unclear how they're linked. Where is the bridge between the two?
- Page 9 Objective 3.1 – On the final reference to the 2028 goal, what does the 150/150 Mbps for all residents and businesses really mean? Is the intent that even newborns have 150/150 Mbps, or is the intent that all individuals have access to that speed of broadband, or that all households and residences have that speed access (or something else entirely)?

Chapter 2 - Requirement 2: Local, Tribal, and Regional Broadband Planning Processes

Suggested edits or corrections:
- Page 10 second-to-last paragraph, final sentence bolds, underlines, and uses orange text referencing other areas of this document. That leads the user to expect these to be hyperlinks to that area of the document (like it performs in the very next paragraph's final sentence), while no hyperlinks exist. Need to include the intended hyperlinks.
- Page 10 final paragraph, first sentence indicates WSBO incorporated the requested prior feedback into this document "whenever possible." With the federal deadlines and brief turnaround times for receiving comments, need to speak to how that's been incorporated and the intent to continue incorporating as the plan work initiated already. If not added, it can appear that the state is using the "whenever feasible" phrase as a loophole to ignoring valuable feedback, rather than approaching this as a living document/plan undergoing creation and submission while adjusting based on all feasible feedback incorporation.

Additional content to include:
- Page 10 final statement needs to include a hyperlink to the referenced Digital Equity Plan (or at least the current draft plan publicly available), not just the state's Five-Year Action Plan document.
- Page 11 Table 1 Examples of Ongoing Broadband and Digital Equity Activities would be helpful to update and note within the table the areas of new or additional details from previously-published examples in earlier version documents (e.g., DE Plan draft, 5-Year BEAD Action Plan, BEAD Initial Proposal Vol. 1), as a clear indicator of how this is a living, continually-

improving plan based on feedback received and evolving statewide efforts towards digital equity (i.e., give ourselves credit for the active work underway).

Recommendations:
- Ensure tables and details from prior plan/BEAD publicly available documents incorporate all feasible recommended feedback to language, reflecting the work to actively leverage that feedback towards plan improvement. This builds public confidence in the plan activities and for the state's commitment to digital equity.

Questions:
-

Chapter 3 - Requirement 4: Local Coordination

Suggested edits or corrections:
-

Additional content to include:
- Page 14 section 3.1, subsection Pre-BEAD Public Engagement recommend noting as either direct content statement or as subscript that these details are copied forward from the BEAD 5-Year Action Plan and subsequent plan documents, with hyperlink to original reference material.

Recommendations:
- Noting the federal requirements allowing for "eligible entities" to copy from their submitted BEAD 5-year Action Plans, recommended to create a subscript for all areas of this Initial Proposal where that copying occurred for Washington's Vol. II BEAD Initial Proposal. This is particularly helpful for everyone who provided earlier feedback/input on prior drafts, to know why all "feasible" feedback isn't included in those copied areas (e.g., majority of Chapter 3 and subsequent copied areas).
- Page 20 linked reference to Section 3.1 Attachment – Local Coordination Tracker Tool recommend updating link to where the planned living document is publicly-available (if not currently, then adjusted on this final draft as soon as it exists). This will allow ease of locating/access to the actual maintained living document versus a point-in-time attachment.

Questions:
-

Chapter 4 - Requirement 8: Deployment Subgrantee Selection

Suggested edits or corrections:
- Not an edit/correction but just positive feedback that page 36 Table 7 Affordability row sub-header of "Nonpromotional rates" is a fantastic call-out to facilitate equity for this area *and* that scoring details directly tied to specific cost amounts gives ISPs clear parameters of what constitutes actual affordability!
- Not an edit/correction but just positive feedback that page 36 Table 7 Secondary Criteria section gives clear weight to promoting ISP market competitiveness towards equity versus historical systemic tendencies falsely inflating competitor and subsidiaries' rates to the customers' detriment (i.e., rich getting richer, poor getting poorer).

- Page 37 Minimal BEAD Program Outlay Description, second to last sentence: Recommended to plain talk this critical point, promoting transparency around the expectations by WSBO that there won't be enough funding to reach the project goal of universal service and access.
- Page 58 Sustainability / Pro Forma Analyses of the Proposed Project final statement indicates a link for Chapter 13 – Middle-Class Affordability (in orange bolded text that is underlined), but is missing the link.
- Page 65 first paragraph, last sentence typo. The word "party's" should be a plural possessive noun, as "parties'," instead.

Additional content to include:
- Page 35 section 4.2 second paragraph: recommended to add hyperlink to the BEAD NOFO guidelines references as being on pages 42-46. Current reference is unclear if pointing readers to the earlier subscript 11 reference from the prior paragraph, or to the pages within the Vol. II Initial Proposal document.
- Overall for this and related documents: Add the (updated-version) glossary from the original BEAD 5-Year Action Plan document, as many terms and acronyms are not addressed within this standalone document which need explanation (e.g., ACP references a specific broadband federal program, yet within Washington state is also used by state RCW and department as a reference to Washington state's Address Confidentiality Program, a radically different program than what's referenced by using ACP in these documents).
- Page 49 first bullet: include a subscript or a link to the referenced federal act (47 U.S.C. §1608).
- Page 54 subscript 19 would benefit from a link to the referenced project overview.

Recommendations:
- Page 36 Table 7 Local and Tribal Coordination row second line description: Consider additional point or half-point rating for those who don't just provide a record of tribal or local government consultations, but incorporate feedback from the consultations into their submission plans (i.e., giving a bit more weight for those who didn't just attempt consultation but achieved feedback *and* incorporated it).
- Page 37 Affordability Rationale section: Consider specifying that the referenced "previous grant applications" were specific to broadband rate bracket, so it is clearer those rate brackets of affordability were created from directly applicable data. This same statement also needs incorporating in the similar Page 41 reference under Affordability Rationale.
- Overall – reduce the duplicated details. The exact same sentences/paragraphs appear multiple times within the document (and in certain instances, within this single chapter) without new context or substantive additions in subsequent duplications.
- Overall – adhere to plain talk principles. Conciseness over repetitiveness.
- Page 59 sixth bullet – need to explain what is meant by "windshield" time, as this isn't a commonly known term for the public.

Questions:
- Page 51, statement number 8: Does this mean there cannot be any CAIs located in areas considered "served," regardless of covered population in those areas?
- Page 58 Audited Financial Statements section, final sentence/paragraph: Regarding the statement of not approving any great unless WSBO determines the documents submitted demonstrate the applicant's financial capability concerning the proposed project – will this still be the case in the event no grant applications are received for unserved areas where the WSBO requests a provider of an adjoining area expand coverage?

- Page 59 third bullet: Would this be on a case-by-case basis for an extended period for addressing customer complaints? If not, there's a concern that customers may be forced to "agree" if an ISP is the only provider for that area and/or has a longer response time by way of policy for all customers.
- Page 59 ninth bullet: What is the rationale for why infrastructure owned or controlled by a third party is preferable? Recommend adding in this explanation, as done with other bullets.

Chapter 5 - Requirement 9: Non-Deployment Subgrantee Selection
Suggested edits or corrections: • Page 72 section 5.2 second paragraph introduction, include the link to the Digital Equity Plan referenced, for alignment with a link to the 5-Year Action Plan listed just prior to it.. • Page 72 section 5.2 third paragraph is missing the indicated link for "Chapter 3 – Local Coordination," which is bold, in orange font, and underlined.
Additional content to include: •
Recommendations: •
Questions: •

Chapter 6 - Requirement 10: Eligible Entity Implementation Activities
Suggested edits or corrections: • Page 75 final sentence is missing the term "Washington state" in advance of listing Washington State entities: "Attorney General, Internal Auditor, and Budget Office."
Additional content to include: •
Recommendations: •
Questions: •

Chapter 7 - Requirement 11: Labor Standards and Protection
Suggested edits or corrections: •
Additional content to include: •
Recommendations: • Page 77 section A, third bullet: include links or subscript to each referenced law for consistency within the document. • Page 78 section 7.2, "b.": include link to referenced law for consistency within the document.

Chapter 8 - Requirement 12: Workforce Readiness

Suggested edits or corrections:
- Page 85 first line is missing the indicated link for "Chapter 9 – Minority Business Enterprise, Women's Business Enterprises, and Labor Surplus Area Firms Inclusion," which is bold, in orange font, and underlined.
- Not an edit/correction but just positive feedback The outlined plans to leverage this work to develop a more diverse and accessible workforce which also addresses the social and well-being factors is exceptional.

Additional content to include:
-

Recommendations:
- Page 80 Workforce Needs Assessment section, second sentence: include link to referenced law for consistency within the document.

Questions:
-

Chapter 9 - Requirement 13: Minority Business Enterprises, Women's Business Enterprises, and Labor Surplus Area Firms Inclusion

Suggested edits or corrections:
- Page 96 section 9.2, final term of "BEAD Notice of Funding Opportunity": include a link for consistency within the document.

Additional content to include:
-

Recommendations:
-

Questions:
-

Chapter 10 - Requirement 14: Cost and Barrier Reduction

Suggested edits or corrections:
- Page 100 Increasing Workforce Readiness first line and final line are missing the indicated links for "Chapter 8 – Workforce Readiness," which is bold, in orange font, and underlined.

Additional content to include:
-

Recommendations:
- Page 100 Creating a Centralized Broadband Database references working with other state agencies and developing data-sharing agreements. Based on current work, and coming from a data viewpoint, WSBO must ensure the data teams from those agencies are involved prior to

documenting (for public record) or pursuing any planned data points. Frequently, programs decide which data they want in their plans and programs, report and commit to this with Federal partners, then finally speak to the applicable data teams – only to find out that their committed data is not possible or feasible to obtain. Essential to bring in the data teams before making decisions or commitments of data the state will collect, publicize, or report.

Questions:

- Page 100 Streamlining Rights-of-Way section, final paragraph: Who would be accountable for bringing this forward and ensuring such a proposal is seen by the state legislature? The accountability / ownership part of this planned streamlining seems to be missing.

Chapter 11 - Requirement 15: Climate Assessment

Suggested edits or corrections:

- Page 103, subscript [88], delete duplicate reference to [88 88].
- Confirm that all hyperlinks throughout the document are correctly referenced and link to the correct URLs.
- Page 105, Table 11, Flooding Hazard, third row Aerial Infrastructure, fourth column Hazard Mitigation Strategy, second bullet, change "Uninterruptable power supply (UPS) systems can…" to "Use uninterruptable power supply (UPS) systems to…"
- Page 105, Table 11, Heat Wave Hazard, last row, Aerial, Buried, and Wireless Infrastructure, fourth column Hazard Mitigation Strategy, add a period to the end of all three strategies to "Ensure sufficient backup power supply."
- Page 106, Table 11, Landslide Hazard, first row, Aerial Infrastructure, fourth column Hazard Mitigation Strategy, change "UPS systems can…" to "Use UPS systems to…"
- Page 106, Table 11, Landslide Hazard, second row, Buried Infrastructure, fourth column Hazard Mitigation Strategy, add a period at the end of the "Ensure sufficient backup power supply" sentence and check for consistent punctuation at the end of sentences throughout all tables in the proposal.
- Page 106, Table 11, Severe Storm Hazard, Aerial Infrastructure, fourth column Hazard Mitigation Strategy, third bullet, change "Surge protectors can be installed to limit the voltage surge…" to "Install surge protectors to limit the voltage surge…"; last bullet, change "UPS systems can…" to "Use UPS systems to…"
- Page 107, Table 11, include the Severe Storm Natural Hazard name in the first column (currently blank); include the Infrastructure and Main Risks in the first row; change the Hazard Mitigation Strategy first bullet from "Surge protectors can be installed to limit the voltage surge…" to "Install surge protectors to limit the voltage surge…"; second bullet change "Cables should be specified…" to "Specify cables with an appropriately rated grounding conductor…"
- Page 107, Table 11, Volcanic Activity Natural Hazard, Aerial Infrastructure, second bullet change "UPS systems can…" to "Use UPS systems to…"; Buried Infrastructure, first bullet, add a period to the end of the sentence ["Ensure sufficient backup power supply."]
- Page 108, Table 11, Wildfire Natural Hazard, Aerial Infrastructure, fourth bullet change "UPS systems can…" to "Use UPS systems to…"

- Page 109, fourth bullet, change "facility sitting" to "facility siting" and specify which types of "processes" are intended as mitigation measures.

Additional content to include:
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Recommendations:

Questions:
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Chapter 12 - Requirement 16: Low-Cost Broadband Service Option
Suggested edits or corrections:
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Additional content to include:
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Recommendations:
• Page 112, first bullet, last sub-bullet, add "extra" between "no" and "cost" [...the subgrantee must permit eligible subscribers subscribed to a low-cost service option to upgrade at little to no extra cost.]
Questions:
•

Chapter 13 - Requirement 20: Middle-Class Affordability
Suggested edits or corrections:
•
Additional content to include:
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Recommendations:
•
Questions:
•

Chapter 14 - Requirement 17: Use of 20 Percent Funding
Suggested edits or corrections:
•
Additional content to include:
• Page 116, second bullet, add a hyperlink to Initial Proposal Volume I.
Recommendations:
• Page 117, first paragraph after Table 12, include "last mile" and "middle mile" definitions in a glossary of digital equity-related terms referenced in the plans and proposals.
Questions:

- Page 119, Section 14.2, should the Initial Proposal Funding Request Amount include a high-level breakdown of the total $1,227,742,066.30 request?
- Page 119, Section 14.3, should the WSBO certification that it will adhere to BEAD program requirements regarding Initial Proposal funds usage include signatures/dates, or does the simple statement suffice? [The WSBO certifies that it will adhere to BEAD program requirements regarding Initial Proposal funds usage.]

Chapter 15 - Requirement 18: Eligible Entity Regulatory Approach

Suggested edits or corrections:
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Additional content to include:
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Recommendations:
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Questions:
-

Chapter 16 - Requirement 19: Certification of Compliance with BEAD Requirements

Suggested edits or corrections:
- Page 126, add a period to the end of the last sentence in the text box.
- Page 126, first line in the text box, change "Check Box 2.16.4" to "Text Box 2.16.4"
- Page 126, last line of text box, add a period to the end of the last sentence.

Additional content to include:
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Recommendations:
- Page 122, first paragraph under REPORTING MANDATES, add a hyperlink to **Text Box 2.16.1.**
- Page 124, first paragraph, define KMZ map.
- Page 124, fourth and fifth bullets in next to last paragraph, and wherever mentioned, include definition/example of labor surplus area firm outreach.
- Page 126, last sentence, and wherever mentioned, consider adding a hyperlink to the **BEAD NOFO.**
- Page 126, Cybersecurity section 2, consider adding link to NIST Framework for Improving Critical Infrastructure Cybersecurity, and to Executive Order 14028.
- Page 126, SCRM section 2, consider adding link to NISTIR 8276.

Questions:
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Chapter 17 - Initial Proposal Volume II Public Comment

Suggested edits or corrections:
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Additional content to include:
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Recommendations:
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Questions:
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Appendices 18

Suggested edits or corrections:
- Page 132, Secondary Criteria, next to last section on Local and Tribal Coordination, add an "s" to "Records of local or tribal government consultations"
- Page 133, Secondary Criteria, third row on Local and Tribal Coordination, add an "s" to "Records of local or tribal government consultations"
- Page 134, Example Risk Assessment Form, question 5, consistently hyphenate the number of years in the Answer options: 0 – 1 year and 1 – 2 years rather than 0 -1 year and 1 – 2 years.
- Page 140, delete colons after STATE REPORTING REQUIREMENTS and SUBGRANTEE REPORTING REQUIREMENTS sub-headings.
- Page 140, fourth and eighth bullets, and page 142 last sentence, specify which "Assistant Secretary" is referenced as requiring any other reporting information. NTIA? WSBO? Would WSBO have an Assistant Director rather than an Assistant Secretary?
- Page 141, third bullet, spell out MBEs and WBEs rather than using only acronyms.
- Page 147, BEAD – Construction Monitoring Checklist, Check for Allowable and Eligible Costs section, add a period to the end of the sentence: ...ensure no duplicate expenditures. In the next row, change "your" to "their" in the last sentence: The BEAD Project Manager will ask the recipient to fill in the table below using three vouchers of ~~your~~ their choice.
- Page 147, BEAD – Construction Monitoring Checklist, item 7, either delete the question mark after RFQ/RFP or add "Was the" to the beginning of the sentence in parenthesis: (Was the RFQ/RFP advertised once per week for two weeks with 14 days allowed after the last publication for respondents to submit RFQ/RFP?)
- Page 148, BEAD – Construction Monitoring Checklist, Construction Procurement section, item 1, either delete the question mark after "(...bidders to submit)~~?~~ or add "Did the advertisement run" to the beginning of the line in parenthesis and move the question mark to within the parenthesis: (Did the advertisement run once weekly for two weeks with 14 days allowed after the last publication for bidders to submit?)
- Page 148, BEAD – Construction Monitoring Checklist, Construction Procurement section, item 3, change the period after "last mile work" to a comma and change "Verify" to lower case: For projects that do NOT contain solely last mile work, verify that the contract contains the following language: and delete the period after "capacity limitations:)" in item 3.a.
- Page 149, BEAD – Construction Monitoring Checklist, Small Purchase/Non-Competitive Procurement section, item 9, change period to colon after "Notice of Contract Award and Start of Construction form:"; item 10 add period after second bullet: Send "Save the date" emails.
- Page 149, BEAD – Construction Monitoring Checklist, Small Purchase/Non-Competitive Procurement section, items 1 and 3, add colon after last word [Name of Contract/Purchase: and Date of SAM.Gov Contractor Clearance:]; change item 6 to either replace the question

mark at the end of the sentence with a colon or make the sentence a question: Were bonding and insurance requirements ~~were~~ met (if applicable)?

Additional content to include:
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Recommendations:
- Page 129, first paragraph, rephrase second sentence to refer to tribal governments as partners rather than stakeholders. [Instead of "The tracker includes a list of tribal governments, organizations, and other stakeholders…" consider "The tracker includes a list of federal, state, municipal, and tribal governments, as well as businesses, community organizations, and other stakeholder groups…"
- Page 132, last row of table, consider spelling out Affordable Connectivity Program rather than just listing the acronym.
- Page 134, Example Risk Assessment Form, question 4 includes directions to "Please mark only one answer" for a Yes/No answer option, but that direction is not given for most other questions. Suggest striking for consistency with other questions.
- Page 134, Example Risk Assessment Form, question 5, either change italicized instruction from *Please "highlight" the appropriate years, only one answer* to *Please mark the one most appropriate range of years*, or delete that instruction as suggested above.
- Page 135, Example Risk Assessment Form, question 13, either change italicized instruction from *Please "highlight" the appropriate award, only one answer* to *Please mark the one most appropriate dollar range*, or delete that instruction as suggested above.
- Pages 137-139 suggest using different font colors in table listing natural hazard risk counties as the current font colors are difficult to read due to low contrast.
- Page 143, item 2, may need to explain/define indefeasible right of use agreements.
- Page 143, item 8, workforce development may need more definition as there seem to be differing understandings around whether and how BEAD funding can apply to workforce development.
- Page 145, BEAD – Project Completion Report, signature block at bottom of page, suggest adding Title to bottom line: Print Name and Title
- Check all forms for consistent case use – either all caps or sentence case throughout (currently mixed case)

Questions:
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Washington State Department of Commerce

Digital Equity Forum – Team Feedback on Broadband, Equity, Access and Deployment (BEAD) Initial Proposal Volume II

Preparation for Nov. 16 Special Meeting of the Digital Equity Forum

Team # (1-5)	4
Presenter	David Keyes
Team members & Organizations	David Keyes, City of Seattle
	Laura Ruderman, Tech Alliance
	Scott Taylor, Nooksack Indian Tribe
	Eu-wanda Eagans, Goodwill Olympics & Rainier Region
	Lisa Wellman, WA Senate
Represent and/or identify as part of covered population group(s)	Represent and work with a broad cross-section of covered populations.
Date	11/30/2023

Chapter 1 - Requirement 1: Objectives

Suggested edits or corrections, content & recommendations:

- Overall: Be bolder on language on race and other equity goals (See language in the Poverty Action Plan).
- P7-8 Make clear that business broadband goals also applies to community-based anchor institutions including non-profits
- P. 8 Objective 1.4 Affordability: Broaden to low-income internet options, not just ACP
- Adoption - recognize whole system and consistency.
- P. 9 Objective 2.2 Skill development: Need to add community-based organizations.

Chapter 2 - Requirement 2: Local, Tribal, and Regional Broadband Planning Processes

Suggested edits or corrections, content & recommendations:

- P 14 Relook at the 4 key themes and note earlier Forum input.

Chapter 3 - Requirement 4: Local Coordination

Suggested edits or corrections, content & recommendations:

- P19 Future partnership plans: Add #6 for Continued relationship building, reporting back and opportunity for input with those that participated and continued to engage communities of need.
- P 21 Outreach methods: Add participatory communications and additional tools & methods to be used.
  Effective tools include listserv, text messaging, What's App. Provide options for user-focused engagement and for them to have more choices in 2-way participation and notification. Plan to create material and use 2-way communications platforms to share materials and provide forums for participation.

Chapter 4 - Requirement 8: Deployment Subgrantee Selection

Suggested edits or corrections, content & recommendations:
- Diversity in subcontracting plan: Ask for plan to parse work and to do outreach to local WMBE vendors

Chapter 8 - Requirement 12: Workforce Readiness

Suggested edits or corrections, content & recommendations:
- P.82-85 Add clear language about committing to people furthest from opportunity to enable a ramp to the broadband jobs - including positions supporting short term credential programs.
- P.82-85 Note that local government and tribal role in permitting will require workforce strengthening to meet needs.
- P.92/ Section 8.2 Include requirements for these workforce provisions:
    - Local marketing and recruitment plan
    - Support for workforce training in area to be served, in State.
    - Support for internships, apprenticeships
    - Documentation of diversity workforce development, recruitment and hiring partnerships

Chapter 12 - Requirement 16: Low-Cost Broadband Service Option

Suggested edits or corrections, content & recommendations:
- P. 111 Revise ISP subgrantee requirements to:
  - Ask ISP's to report their lowest 3 tiers of pricing and eligibility requirements, if any.
  - Require ISP's to allow customer to change to a lower tier of cost and service with no penalty if they can no longer afford the pricing of the initial tier.
  - Require ISP's to distribute annually information to households in their service area, a notification of the availability of the lower cost available tiers of service and eligibility requirements, if any, with phone number and web site link for more information.

Chapter 13 - Requirement 20: Middle-Class Affordability

Suggested edits or corrections, content & recommendations:
- P.115 Revise ISP subgrantee requirements to:
  - Ask ISP's to report their lowest 3 tiers of pricing and eligibility requirements, if any.
- Require ISP's to allow customer to change to a lower tier of cost and service with no penalty if they can no longer afford the pricing of the initial tier.
- Require ISP's to distribute annually information to households in their service area, a notification of the availability of the lower cost available tiers of service and eligibility requirements, if any, with phone number and web site link for more information.

Chapter 14 - Requirement 17: Use of 20 Percent Funding

Suggested edits or corrections, content & recommendations:
- P. 116 Intended Use of Funds: If possible set aside a percentage of funds to support workforce training and marketing of training and employment opportunities related to BEAD implementation and buildout.

Chapter 15 - Requirement 18: Eligible Entity Regulatory Approach

Suggested edits or corrections, content & recommendations:
- P. 132 Letters of support documentation: Change language about government and Tribe approval to be less specific about what specific entity would have to endrose as the representative City Councils to City/County etc. general government