

FILED FOR RECORD  
AT 11:57 O'CLOCK A M

FEB 24 2023

*Jamie Clark*  
Clerk, County Court, Sabine County  
By \_\_\_\_\_ DEPUTY



**NTIA BROADBAND INFRASTRUCTURE PROGRAM  
PARTNERSHIP AGREEMENT**

This Broadband Infrastructure Program Partnership Agreement (“Partnership Agreement” or “Agreement”) is made this 24<sup>th</sup> day of February, 2023 (the “Effective Date”), by and between Valor Telecommunications of Texas, LLC (“Windstream,” “Provider” or “Contractor”), and Sabine County, TX (“Applicant”, Awardee”, or “County” (collectively, the “Parties”).

**I. INTENT OF THE PARTIES**

Provider and Applicant agree to partner to participate in the Broadband Infrastructure Program funding opportunity managed by the National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce (“Broadband Infrastructure Program” or “Program”).

Under the Broadband Infrastructure Program (“BIP”), NTIA is awarding grants of federal funds on a competitive basis for deployment of broadband infrastructure to state and local governmental entities. The Program encourages covered partnerships between applicants and providers of fixed broadband services and provides that covered partnerships are eligible for grants.

This Agreement outlines the intent of the Parties to enter into a covered partnership to participate in the Broadband Infrastructure Program. The provisions contained in this Agreement are all subject to compliance with the Program rules, and to the extent that there is a conflict between the Program rules and the terms contained in this Agreement, the Program rules will control. Upon a grant award, this agreement may be amended.

Therefore, the Parties agree to the following:

**II. RESPONSIBILITIES OF EACH PARTY**

The Parties have cooperated to allow Applicant to seek funding for a Covered Broadband Project(s), which is defined by the Program as a “competitively and technologically neutral project for the deployment of fixed broadband service that provides qualifying broadband service in an eligible service area.” See Notice of Funding Opportunity, Broadband Infrastructure Program (“NTIA NOFO”), at 6 (Exhibit A). Provider has performed the work necessary to define the Covered Broadband Project construction components, areas served, possible number of households, and any other information that Applicant required or the Program required for Applicant’s review and approval.

- A. **Construction Of Projects and Payment.** Provider will work in good faith to complete each Covered Broadband Project per the Program rules and barring any request from the Parties for an extension of time due to unforeseen delays not intentionally caused by the Applicant, including but not limited to acts of god, weather-related events, lack of ability to procure necessary supplies due to global or national supply chain shortages, impacts or effects of pandemics or epidemics on labor needs or goods and services needed to finalize the Covered Broadband Project.

Applicant agrees to fund, up to the amount provided by the NTIA award, construction of the Covered Broadband Project. Applicant shall reimburse Windstream for eligible Covered Broadband Project expenses for work completed within thirty (30) days of receipt of funds from the NTIA, unless a longer or shorter timeframe is required by BIP rules. Applicant shall apply for reimbursement within ten (10) days of receiving the necessary supporting documentation from Provider in a form acceptable to and approved by Applicant. Applicant and provider agree that the only source of payment provider may receive is the NTIA grant award and not any other payment or compensation from applicant or applicant's ad valorem taxes, general funds, accounts, monies or other revenues. Applicant further agrees to work in good faith with Provider to promptly provide any right of way, easement, or other property right to Provider necessary to complete the Covered Broadband Project in a manner that complies with the Program rules and the allotted time period for construction under the Program rules (i.e., one year from receipt of funds under the grant). The parties agree that if the NTIA withdraws any of the Funds, neither party will be required to make up the difference, and the parties will work together to reach mutual agreement on how to adjust the scope of the project to compensate for the reduced amount of Funds.

- B. **Operation, Maintenance, and Ownership.** Provider retains ownership of the network comprising the Covered Broadband Project and will, at its sole expense, maintain the network associated with the Covered Broadband Project (i) in accordance with prudent industry practice;(ii) in a manner which complies with all federal and state utility commission delivery standards; and (iii) this Agreement.

The Provider shall be a broadband service provider to any end users serviced via the network comprising the Covered Broadband Project and will be responsible for all billing, customer care, and other functions with no responsibility transferring to the Applicant for the provision of services.

Applicant will have no ownership right or interest in any part of the Covered Broadband Project and hereby irrevocably grants, sells, transfers, conveys, sets over, and assigns any interest that it may have or may in the future obtain in the Covered Broadband Project to Provider. Provider retains full legal and/or beneficial title, to any and all components of the Covered Broadband Project, including during construction, and the components will be utilized as part of the Provider network.

Additionally, Provider will manage the Covered Broadband Project's assets for their most efficient use, consistent with current management practices of the Provider network, including transferring title to, or allowing use by, other parties.

- C. **Other Responsibilities.** The Parties hereby agree to abide by all applicable rules and requirements contained in the NTIA Notice of Funding Opportunity (NOFO), shown in Exhibit A, CD-450 (Exhibit B), all supporting documents, and other relevant laws and regulations. Provider agrees that any Covered Broadband Project shall satisfy such requirements in all material respects, including any regulatory requirements.

### III. TERM.

The term of this Agreement shall begin on the later of the date signed by the Parties and shall continue until latter of the Applicant's application has been finally denied or the date the Parties later set forth in the Amendment.

### IV. DEFINITIONS.

This contract needs definitions for the following, at a minimum:

- A. NTIA Award – Award 48-08-I2212, "Broadband Infrastructure Program" grant.
- B. Non-Federal Entity – Sabine County, TX.
- C. Effective Date – latest date on signature pages.
- D. County – Sabine County, TX, as NTIA Awardee

### V. MISCELLANEOUS.

- A. **Administrative Requirements, Cost Principles and Audit Requirements.** Through 2 C.F.R. § 1327.101, the Department of Commerce adopted Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. Part 200, which apply to awards in this program. Refer to <http://go.usa.gov/SBYh> and <http://go.usa.gov/SBg4>. Applicant agrees to prepare and submit all reporting required in connection with its receipt of the Funds (the "Federal Reporting"), including financial reports, performance (technical) reports, and annual reports. On a quarterly basis, or more frequently if required by the Federal Reporting standards, Provider will provide Applicant, in a timely manner, with information within its possession, in its control, or which Provider can reasonably obtain, which is necessary for Applicant to fulfill its Federal Reporting obligations in a form that complies with NTIA and NIST standards. Applicant agrees that, it will not alter any information provided to it by Provider to be used for Federal Reporting or other purposes, without first obtaining Provider's written consent. To the extent possible, Applicant will arrange for Provider to have read-only access to any Federal Reporting electronic portals, but Applicant will still be responsible for completing and submitting all Federal Reporting. Provider agrees that it will provide Applicant with such assistance as is reasonably necessary to allow Applicant to comply with the NTIA NOFO, CD-450, and other relevant laws and regulations and that it will

comply with such portions of the NTIA NOFO, CD-450, and other relevant laws and regulations that are directly applicable to Provider as a for profit sub-recipient.

- B. Project Costs and Financial Contributions** – County will contribute \$12,700,959.02 of federal grant funds (the “Funds”) as its portion of project capital costs. Contractor will contribute \$4,697,614.98 as federal match, as its portion of project capital costs. Contractor will have sole obligation for all operating and maintenance costs of the network for the useful life of fiber, conduit, electronics, and customer premise equipment. (See Exhibit B: Useful Life Schedule). Applicant acknowledges that Provider is receiving the Funds in consideration of Applicant’s decision to install broadband infrastructure in the area covered by the Covered Broadband Project.
- C. Assurances to County.** The Contractor will operate the network constructed with the NTIA funds as a broadband service provider to any end users that subscribe to broadband services via the network comprising the Covered Broadband Project and will be responsible for all billing, customer care, and other functions with no responsibility transferring to the Applicant for the provision of services. Furthermore, if Contractor ceases to operate as a broadband service provider it will consent to the use by a third party broadband service provider of the network, including, the fiber and conduit constructed under this Agreement, any distribution laterals constructed into buildings under this Agreement, and any electronics used at internet points-of-presence (POPs) or for network transport purposes, so that such successor provider may provide continued broadband services to the subscribers. To the fullest extent permitted by law, Contractor will indemnify, defend and hold harmless County and its commissioners, employees, and representatives (collectively, “Indemnitees”), from and against any and all claim, demand, liability, fine, penalty, lien, suit or action (collectively, a “Claim”) asserted by the NTIA against County, including, without limitation, claims for reasonable attorneys’ fees, professional fees, court costs, expenses and disbursements, to the extent arising out of Contractor’s failure to complete the Project or other deficiency which results in County being required to return any of the Funds to the NTIA, whether or not such Funds remain in the County’s possession. Finally, Contractor will maintain in place, until the construction of the Covered Broadband Project has been completed, a performance bond in the amount of \$4,000,000.00 for the benefit of the County/Applicant with the sole condition being the satisfactory completion of the project. Contractor shall furnish County an original copy of this bond within 60 days of execution of this agreement.
- D. Liens. Contractor shall** not cause or permit any of the assets under this Agreement to become subject to any liens, security interest or any encumbrance of any kind. If Contractor breaches its obligations under this Section, it will immediately notify County in writing, and promptly take all steps needed to cause such lien to be discharged and released of record without cost to County.
- E. Lands, Easements, and Rights of Way** – The Contractor will report all encumbrances to the County as encountered, on a frequency not less than quarterly. Contractor shall maintain a master list of encumbrances. As Grant Recipient, the County must disclose all encumbrances to the NIST Grants Officer. The NIST Grants Officer will not accept any

encumbrance that interferes with the construction, intended use, operation, or maintenance of the project during its estimated useful life.

- F. Project Schedule** – Prior to the contract Effective Date, the Contractor shall prepare a Baseline Project Schedule (Exhibit D), denoting planned construction progress with key milestones, and expected dates for connections to communities and offering schedules for provision of at least “qualifying broadband service”, as defined in NOFO. After review, the schedule for implementation of backbone and distribution fiber shall be formally approved by County. Starting the month following the acceptance of the Baseline Project Schedule, the Contractor shall provide to County monthly project schedule updates, along with a written summary of accomplishments, a list of outstanding issues, and a cumulative list of resolved issues.
- G. Quarterly Reporting and Meetings** – As County wishes to track implementation project progress and is also obligated to report program and financial progress, to the extent there is financial information to report, to NTIA on a semi-annual basis, Contractor will provide quarterly program and financial information by the fifth (5<sup>th</sup>) day of the month of January, April, July, and October. If the day reporting is due falls on a weekend or a national holiday, then information must be provided on the next business day. Information at a minimum must be sufficient for County to prepare draft reports, have them reviewed by its compliance contractor, and submitted to NTIA Program Officer and NIST Grants Officer by tenth (10<sup>th</sup>) day of the month. A two-page Executive Summary status shall also be provided.
- H. Requirements During Construction** – During construction, the Contractor is responsible for:
- (a) Ensuring project completion in accordance with approved plans and specifications (Exhibit E);
  - (b) Monitoring project progress and reporting progress to NTIA and the NIST Grants Officer;
  - (c) Providing for required construction permits and adequate construction inspection;
  - (d) Promptly paying costs incurred for the project purposes; and
  - (e) Ensuring compliance with Federal, State, and local requirements.
- I. Contractor Compliance with Applicable Requirements** - The Contractor shall comply, and will be responsible to make certain that each sub-contractor complies, with all applicable Federal, state, and local laws and regulations. The Contractor is responsible for ensuring that all sub-contracts necessary for design and construction of the Covered Broadband Project facilities are implemented in compliance with the Terms and Conditions of this Award.
- J. National Historic Preservation Act** – The Contractor must comply with all environmental standards and identify to NTIA any impact a proposed infrastructure project may have on the environment. The Recipient may not expend any federal infrastructure funds other than for engineering design, permitting and work related to environmental, historical and cultural reviews, and limited, preliminary procurement funds, as described below, prior to the following:

- (a) The completion of environmental review and issuance of a Record of Consideration (REC), Finding of No Significant Impact (FONSI), or Record of Decision (ROD) (hereinafter "decision documents") that meets the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.);
- (b) The completion of any required consultations, to include consultations with the State Historic Preservation Office (SHPO) and the appropriate federally recognized Native American tribes, under Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470, et seq.) (NHPA), and/or consultations with the U.S. Fish and Wildlife Service (USFWS) under Section 7 of the Endangered Species Act (16 U.S.C. 1531, et seq.); and
- (c) Demonstration of compliance with all other applicable federal, state, and local environmental laws and regulations.
- (d) Project implementation (site preparation, demolition, construction, ground disturbance, or any other project implementation activities) may not begin prior to the completion of the above activities. The completion of a draft environmental assessment (EA), and completion of any required consultations under Section 106 of the NHPA, must be completed no later than six months after the award date unless a formal request for extension is submitted and approved by the Grants Officer. **The Contractor must comply with all conditions placed on the project for consultation processes.**

**K. Allowable Use of Funds** - Subject to the Grants Officer's approval of the Recipient's 6-month expenditure plan (described below), the Contractor's allowable use of award funds prior to beginning project implementation includes, but is not limited to, activities necessary for the completion of the following:

- (a) Pre-construction project planning, including collecting environmentally related information;
- (b) Applications for environmental permits;
- (c) Studies such as an Environmental Assessment (EA), and any wetland delineations, biological assessments, archaeological surveys, or other required analyses; and/or
- (d) Required consultation activities.
- (e) The Contractor's allowable use of funds for limited, preliminary procurements prior to beginning project implementation includes, but is not limited to, the initiation of activities necessary to meet the project completion requirements as specified in the award, including the following:
  - (f) Purchase or lease of equipment, or entering into binding contracts to do so;
  - (g) Purchase of applicable or conditional insurance; and/or
  - (h) Funds used to secure land or building leases, including right-of-way easements.

**L. Wages** –Contractor shall comply with applicable Texas wage statutes. Contractor shall adhere to at least the following Texas Wage Determinations (WD) applicable to Sabine County, including later modifications to 2022 WD, and with any WD issued in later years.

- M. Existing Inventory** – Contractor shall prepare supporting documentation for any existing inventoried assets that will not be covered by matching funds from the Contractor that Contractor intends to use for the Covered Broadband Project. Contractor understands that if it uses existing inventory as a part of its matching funds, and the NTIA does not accept the use of the existing inventory as a part of its matching funds, then Contractor will need to find another source of matching funds. The Contractor shall demonstrate that the assets were acquired after competitive solicitation. Contractor shall seek prior approval from County before deploying those assets. County shall seek prior guidance from NTIA, and approvals from NTIA, if and as appropriate.
- N. 6-Month Expenditure Plan** - The Contractor shall prepare for the County a 6-month expenditure plan, subject to the County's written approval. County shall submit, in advance of any drawdowns of funds from ASAP, a 6-month expenditure plan that presents the proposed planning and design activities and limited, preliminary procurement activities and costs. The 6-month expenditure plan will be submitted electronically to the Grants Officer, who will consult the Federal Program Officer and the Environmental Program Officer to ensure that the proposed activities and expenditures are reasonable and necessary in the context of environmental compliance. The 6-month expenditure plan will show expected expenditures in each category on a month-by-month basis. The County must submit the 6-month expenditure plan via <http://UGAM@nist.gov>. The Grants Officer must approve the 6-month expenditure plan in writing prior to the recipient drawing down federal award funds through ASAP.
- (a) The allowable use of preliminary procurement funds is limited; must not result in an irrevocable commitment of resources; and is only allowed after inclusion in and approval of a revised 6-month expenditure plan. All contracts must contain early termination clauses with termination costs clearly specified. All equipment purchased or leased in advance of project implementation and before issuance of the decision document and completion of applicable consultations must be stored in locations other than the proposed project site and where there will be no impact to the environment, human health, or cultural resources (in most cases, this means equipment must be stored in existing warehouses). Under no circumstances will grant funds be drawn down for clearing or excavating land, or demolition or construction of buildings or towers before all environmental SACs are completed and cleared. This limited, preliminary allowable use of funds for purchases and leases is designed for recipient flexibility and to streamline preparation for project implementation simultaneously during environmental review and conducting of consultations; the clause, and all applicable restrictions, is lifted once the decision document and applicable consultations are complete and approved.
- O. Environmental Review** - Once the environmental review has been completed, NTIA will review all documentation and determine whether the review sufficiently addresses all resource areas and whether the project may qualify for approval decision. Projects found to have significant impacts to environmental or historic resources may face de-obligation of funding if impacts cannot be mitigated. The Recipient is required to provide

any information requested by NTIA to ensure both initial and ongoing compliance with environmental and historic preservation laws, regulations, and best practices. The Recipient shall notify NTIA within 24 hours upon receipt of any notices of foreclosure; notices for continuing consultation received from the State Historic Preservation Office (SHPO), Tribal Historic Preservation Office (THPO), or other consulting party; or notices of noncompliance received from consulting authorities or regulatory agencies.

- (a) Any change to the approved project scope that has the potential for altering the nature or extent of environmental or cultural resources impacts must be brought to the attention of NTIA and will be re-evaluated for compliance with applicable regulatory requirements.
- (b) For all ground disturbing activities that occur during project implementation in the vicinity of known archaeological sites or suspected or known burials, the Recipient must ensure that an archaeologist who meets the Secretary of the Interior's Professional Qualification Standards monitors ground disturbance, and if any potential archeological resources or buried human remains are discovered, then the Recipient must immediately cease construction in that area and notify NTIA and the interested SHPO, THPO, and tribes. Such construction activities may then only continue with the written approval of NTIA.

**P. Domestic Preference for Procurements (Buy American)** - Pursuant to 2 CFR § 200.322, the Contractor should, to the greatest extent practicable under the BIP award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including, but not limited to, iron, aluminum, steel, cement, and other manufactured products). The requirements of 2 CFR § 200.322 must be included in all subawards, including all contracts and purchase orders for work or products pursuant to this program.

**Q. Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms** - Pursuant to 2 CFR § 200.321, the Contractor must take all necessary affirmative steps (as described in 2 CFR § 200.321) to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

**R. Open Network Requirements** - The Contractor must comply with NTIA's open network requirements, which allows all other broadband service providers to interconnect with networks and other broadband infrastructure deployed using funds from this grant program on fair and non-discriminatory terms and conditions. The requirement to interconnect will apply to Contractors that deploy middle mile networks or submarine cable landing stations and not last mile networks. The County has the right to approve all agreements between Contractor and any third parties prior to execution.

- (a) **Interconnection:** Contractor shall allow interconnection to grant-funded facilities at any technically feasible point along the network (without exceeding current or reasonably anticipated capacity limitations). This duty includes, at a minimum, the physical interconnection of the Contractor's facilities to a



requesting party's facilities for the exchange of traffic. In addition, Contractor shall connect to the public Internet directly or indirectly and provide requesting parties with an ability to connect to the Internet. Rates and terms for interconnection shall be reasonable and non-discriminatory.

- (b) **Negotiate in Good Faith:** Contractor shall negotiate in good faith with all requesting parties (*i.e.*, public, private, non-profit, or other parties) making a bona fide request for interconnection or wholesale services.
- (c) **Wholesale Broadband Service:** County encourages Contractor to offer wholesale broadband services at rates and terms that are reasonable and non-discriminatory.

V. **Scheduling Inspection for Final Acceptance** – The Contractor will schedule a final inspection when all construction has been completed, the architect/engineer has conducted a final inspection, and any deficiencies have been corrected. Representatives of the County, the architect/engineer, and the contractor(s) will make the final inspection. The NIST Grants Officer must be given advance notice of the final inspection so that the NIST Grants Officer may participate.

W. **Prohibition on Use for Covered Communications Equipment or Services** – The Contractor may not use grant funds received under the BIP to purchase or support any covered communications equipment or service (as defined in section 9 of the Secure and Trusted Communications Networks Act of 2019 (47 U.S.C. 1608)). See also 2 C.F.R. 200.216 (Prohibition on certain telecommunications and video surveillance services or equipment), which also applies to this award.

X. **Prevention of Waste, Fraud, and Abuse** - Consistent with statutory requirements in Section 905(e)(3) of the Consolidated Appropriations Act, 2021, and the principles in 2 CFR part 200, at any time(s) during the grant period of performance, County may direct Contractor's key personnel to take a Government-provided training on preventing waste, fraud, and abuse. Key personnel include those responsible for managing the Contractor's finances and overseeing any sub-contractors (for financial matters and/or general oversight related to the grant). County will provide instructions on when and how to take such training(s), and costs incurred by a Contractor relative to the training (*e.g.*, staff time) are eligible for reimbursement pursuant to the NTIA award.

(a) Further, Contractor must monitor award activities for common fraud schemes, including but not limited to:

- false claims for materials and labor;
- bribes related to the acquisition of materials and labor;
- product substitution;
- mismarking or mislabeling on products and materials; and
- time and materials overcharging.

(b) Should a Contractor detect any fraud schemes or any other suspicious activity, the Contractor shall immediately contact the County, which will in turn contact its assigned NTIA Federal Program Officer and the Department of Commerce, Office of Inspector General Hotline, as indicated at <https://www.oig.doc.gov/Pages/Contact-Us.aspx>, as soon as possible. Additionally, in accordance with 2 CFR § 200.113, the County must disclose, in a timely manner, in writing to the

Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities that have received a Federal award are required to report certain civil, criminal, or administrative proceedings to SAM.gov. Failure to make required disclosures can result in any of the remedies described in 2 CFR § 200.339. (See also 2 CFR Part 180, 31 U.S.C. § 3321, and 41 U.S.C. § 2313.)

**Y. Protection of Whistleblowers** - The Department of Commerce Financial Assistance Standard Terms and Conditions are incorporated into every NTIA grant award. Section F.05 of these Terms and Conditions states that each award is subject to the whistleblower protections afforded by 41 U.S.C. § 4712 (Enhancement of contractor protection from reprisal for disclosure of certain information). Generally, this law provides that an employee or contractor (including subcontractors and personal services contractors) of a 11011-Federal entity may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body information that the employee reasonably believes is evidence of gross mismanagement of a Federal award, subaward, or a contract under a Federal award or subaward, a gross waste of Federal funds, an abuse of authority relating to a Federal award or subaward or contract under a Federal award or subaward, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal award, subaward, or contract under a Federal award or subaward.

(a) Non-Federal entities and contractors under Federal awards and subawards must inform their employees in writing of the rights and remedies provided under 41 U.S.C. § 4712, in the predominant native language of the workforce.

(b) A person that believes they have been the subject of retaliation for protected whistleblowing can contact the Department of Commerce, Office of Inspector General Hotline, as indicated at <https://www.oig.doc.gov/Pages/I-lotline.aspx>, or the U.S. Office of Special Counsel, toll free at 1-800-872-9855.

**Z. Force Majeure** - Except as to payment obligations due to Contractor for completed work, neither Party shall have any claim or right against the other Party for any failure of performance due to Force Majeure. In such event, the non-performing Party shall be excused from further performance of the obligation(s) so affected for as long as such circumstances prevail, and such Party continues to use reasonable efforts to recommence performance whenever and to whatever extent possible without delay. In the event of Force Majeure, the nonperforming Party's performance obligation shall be extended on a day-to-day basis.

**AA. Governing Law** - This Agreement is made pursuant to and shall be construed and enforced in accordance with the laws of Texas without regard to its choice of law principles. Any action arising out of or related to this Agreement shall be brought in the State District Court for the First District of Texas located within Sabine County, Texas.

**BB. Notices** - Any legal notices delivered under this Agreement shall be in writing and shall be delivered by certified mail or recognized overnight courier service addressed to the Parties at the addresses set forth on the signature page of this Agreement or to such

other address as a Party may subsequently designate in a written notice delivered pursuant to this provision.

- CC. Assignment** – Contractor may not assign this Agreement without County’s prior written consent. Any such assignment will require the prior approval of NTIA’s Program Officer and NIST’s Grant Officer. This Agreement shall be binding upon and shall inure to the benefit of and be enforceable by, the parties hereto and their respective successors and permitted assigns. Unless otherwise set forth herein, neither of the parties may assign this Agreement to any other person or entity without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed.
- (i) Unless specifically prohibited by the NTIA NOFO or CD-450, Provider may assign this Agreement without the prior written consent of the Applicant to any Provider affiliate, to the surviving entity into which Provider may merge or consolidate, or to any entity to which Provider transfers all, or substantially all, of its business and assets or its stock or all or a substantial portion of its assets located within the limits of the County, so long as Provider or its successor continue to provide broadband services using the network comprising the Covered Broadband Project and such affiliate or transferee shall assume in writing all of Provider’s obligations under this Agreement. Notwithstanding the foregoing, Contractor understands that any such assignment may still require the prior approval of NTIA’s Program Officer and/or NIST’s Grant Officer.
- (ii) Unless specifically prohibited by the NTIA NOFO or CD-450, Provider may, at any time, transfer its ownership interest in any of the Covered Broadband Project components to any Provider affiliate or third party without the consent of Applicant, provided that Provider shall remain the provider of broadband services utilizing the Covered Broadband Project assets unless the transferee accepts such responsibility in writing. Notwithstanding the foregoing, Contractor understands that any such assignment may still require the prior approval of NTIA’s Program Officer and/or NIST’s Grant Officer.
- DD. Provisions Surviving Termination** - Any provision contained within this Agreement which by its very nature is intended to survive termination of the Agreement shall survive such termination.
- EE. Headings** - The headings and captions of this Agreement are solely for the convenience of the Parties and shall not be deemed to modify or vary any of the substantive terms thereof.
- FF. Modification** - This Agreement shall not be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by County and Contractor. For the avoidance of doubt, this Agreement cannot be amended or modified orally or by course of conduct, and no executory agreement, oral agreement or course of conduct shall be effective to amend or modify this Agreement in whole or in part.
- GG. Inspection And Testing of Materials** - Contractor shall ensure that all materials and equipment used in the completion of the work shall be subject to adequate inspection and testing in accordance with accepted standards. Materials of construction, particularly those upon which the strength and durability of any structure may depend,

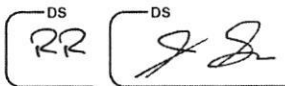
shall be subject to inspection and testing to establish conformity with specifications and suitability for intended uses.

- HH. Energy Efficiency** – Contractor shall apply, where feasible, sustainable, and energy efficient, design principles for the purpose of reducing pollution and energy costs and optimizing lifecycle costs associated with the construction.
- II. Request for Extension** – If necessary, Contractor will assist County to secure extension(s) for the one-year period of performance.
- JJ. Entire Agreement/Modifications/No Waiver** - This Agreement represents the entire agreement of the Parties with respect to the subject matter and supersedes all other agreements, written or oral, between the Parties relating to the Program. This Agreement may only be modified by written agreement of both parties. No term herein shall be deemed waived or breached or default excused unless in writing and signed by the party against which it is to be enforced. Additionally, no consent by a Party to, or waiver of, a breach or default by the other, whether express or implied, shall constitute a consent to or waiver of, any subsequent breach or default.
- KK. Partial Invalidity** - If any provision of this Agreement shall be held to be invalid or unenforceable (either under current law or in the future), the parties shall renegotiate the relevant invalid or unenforceable provision of the Agreement.
- LL. Relationship of Parties** - This Agreement shall not be deemed to create any joint venture between Provider and Applicant. The Parties are independent contractors and shall not be deemed to have any other relationship. Neither Party shall have, or hold itself out as having, the power or authority to bind or create liability for the other by its intentional or negligent act.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be duly executed and to become effective as of the date first written above.

The undersigned Parties have read and agree to the terms and conditions of this Agreement.

<b>Valor Telecommunications of Texas, LLC</b> <small>DocuSigned by:</small>	<b>Sabine County:</b>
Authorized Signature: <i>Tony Thomas</i>	Authorized Signature: <i>Daryl Melton</i>
Name: Tony Thomas <small>3568E8EF31A348F...</small>	Name: Daryl Melton
Title: president & CEO	Title: Sabine County Judge
Effective Date: 2/22/2023	Date: 02/24/2023



**EXHIBITS**

**Exhibit A . . . . . Notice of Funding Opportunity, Broadband Infrastructure Program**  
**Exhibit B . . . . . NTIA Form CD-450**  
**Exhibit C . . . . . Useful Life Schedule**  
**Exhibit D . . . . . Baseline Project Schedule**  
**Exhibit E . . . . . Project Plans & Specifications**

**Exhibit A**

**Notice of Funding Opportunity, Broadband Infrastructure Program**

**NOTICE OF FUNDING OPPORTUNITY  
BROADBAND INFRASTRUCTURE PROGRAM  
EXECUTIVE SUMMARY**

**A. Federal Agency Name**

National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce

**B. Funding Opportunity Title**

Broadband Infrastructure Program

**C. Announcement Type**

Initial

**D. Funding Opportunity Number**

NTIA-Broadband-Infrastructure-Program-2021

**E. Assistance Listing (CFDA Number)**

11.031, Broadband Infrastructure Program

**F. Key Dates**

Complete applications must be received by [www.grants.gov](http://www.grants.gov) no later than 11:59 p.m. Eastern Daylight Time (EDT) on **August 17, 2021**.

Applicants should be aware, and factor in their application submission planning, that the Grants.gov system periodically closes for routine maintenance. Applicants should visit [Grants.gov](http://Grants.gov) for information about any scheduled closures.

NTIA expects to complete its review, selection of successful applicants, and award processing by **November 15, 2021**. NTIA expects the earliest start date for awards under this Notice of Funding Opportunity (NOFO) to be **November 29, 2021**.

Applicants are strongly urged to read Section IV.D, Attachment of Required Documents, with great attention. Applicants should carefully follow the instructions and recommendations regarding attachments and use the Download Submitted Forms and Applications feature on [www.grants.gov](http://www.grants.gov) to check that all required attachments were contained in their submission.

Applications submitted without the required documents will not pass the Initial Administrative Review. When developing the submission timeline, please keep in mind that: (1) all applicants are required to have current registrations in the electronic System for Award Management (SAM.gov) and Grants.gov; (2) the free annual registration process in SAM.gov generally takes between three (3) and five (5) business days but can take more than

three weeks; and (3) applicants will receive e-mail notifications over a period of up to two (2) business days as the application moves through intermediate systems before the applicant learns via a validation or rejection notification whether a federal agency's electronic system has received the application. (See [Grants.gov](https://www.grants.gov) for full information on application and notification through Grants.gov). Please note that a federal assistance award cannot be issued if the designated recipient's registration in SAM.gov is not current at the time of the award.

### **G. Application Submission Address**

Complete application packets must be submitted electronically through [www.grants.gov](https://www.grants.gov). Complete applications or portions thereof submitted by postal mail, courier, email, or by facsimile will not be accepted. See Section IV of this NOFO for detailed information concerning application submission requirements.

### **H. Funding Opportunity Description**

NTIA issues this NOFO to describe the requirements under which it will award grants for the Broadband Infrastructure Program, authorized by the Consolidated Appropriations Act, 2021, Division N, Title IX, Section 905, Public Law 116-260, 134 Stat. 1182 (Dec. 27, 2020) (Act). The Broadband Infrastructure Program provides new federal funding for the Assistant Secretary to make grants on a competitive basis for the deployment of broadband infrastructure. The Act authorizes grants to covered partnerships for covered broadband projects, defined as competitively and technologically neutral projects for the deployment of fixed broadband service that provides qualifying broadband service in an eligible service area. See Section I of this NOFO for the full Program Description.

### **I. Funding Instrument**

Grant.

### **J. Eligibility**

A covered partnership is eligible for a grant under the Broadband Infrastructure Program. The Act defines a covered partnership as a partnership between: (A) a State, or one or more political subdivisions of a State; and (B) a provider of fixed broadband service. A covered partnership may include more than one provider of fixed broadband service as part of its application.

Additionally, a provider of fixed broadband service may participate in more than one covered partnership. See Section III of this NOFO for additional information concerning the eligibility requirements for this program.

**K. Anticipated Amounts**

NTIA will make up to \$288,000,000 available for federal assistance under the Broadband Infrastructure Program. NTIA expects to make awards under this program within the following funding range: \$5,000,000 to \$30,000,000. This range is not a required minimum or maximum, but covered partnerships requesting amounts for projects outside of this range must provide a reasonable explanation for the variance in their project size. The period of performance for grants issued pursuant to this program is one year, unless such period is otherwise extended in writing by the Grants Officer. Given the limited amount of funding available for broadband infrastructure deployment awards and the potentially large number of covered partnerships that may submit applications for this grant program, NTIA will consider applications based on the priorities enumerated in Section 905(d)(4) of the Act (and set forth in Section I.A. of this NOFO) in their statutory order of priority. See Section II of this NOFO for additional information pertaining to award amounts and to the period of performance for grants issued pursuant to this NOFO.

**L. Cost Sharing/Matching**

The Act authorizing the establishment of the Broadband Infrastructure Program does not contain a statutory cost sharing or matching funds requirement for this grant program. NTIA will not require a covered partnership applying for a grant under the Broadband Infrastructure Program to provide a cost match; however, NTIA will favorably consider applications that propose to contribute a non-federal cost share of at least 10 percent of the total eligible costs of a project.

Applicants proposing a cost share amount must document their capacity to provide matching funds in their applications. Matching funds may be in the form of either cash or in-kind contributions consistent with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. Part 200.<sup>1</sup> See Section III.B of this NOFO for more information pertaining to the cost sharing requirements for this program, Section IV of this NOFO for the application requirements for this program, and Section V of this NOFO for the Evaluation Criteria and Selection Factors for this program.

**FULL ANNOUNCEMENT TEXT**

**Table of Contents**

I. Program Description.....	4
II. Federal Award Information.....	7
III. Eligibility Information.....	9
IV. Application and Submission Information .....	11
V. Application Review Information.....	29
VI. Federal Award Administration Information.....	36
VII. Federal Awarding Agency Contacts.....	40
VIII. Other Information.....	41

<sup>1</sup> 2 C.F.R. Part 200, available at <http://go.usa.gov/SBYh>.



## I. PROGRAM DESCRIPTION

NTIA issues this NOFO to describe the requirements under which it will award grants for the Broadband Infrastructure Program, authorized by the Consolidated Appropriations Act, 2021, Division N, Title IX, Section 905, Public Law 116-260, 134 Stat. 1182 (Dec. 27, 2020) (Act). The purpose of the Broadband Infrastructure Program is to provide federal funding to deploy broadband infrastructure to eligible service areas of the country.

**A. Overview of the Broadband Infrastructure Program:** The Broadband Infrastructure Program makes grants on a competitive basis to covered partnerships for covered broadband projects. The term “covered partnership” means a partnership between: (A) a State, or one or more political subdivisions of a State; and (B) a provider of fixed broadband service. A covered partnership may include more than one provider of fixed broadband service as part of its application. Additionally, a provider of fixed broadband service may participate in more than one covered partnership. A provider of broadband service that is part of a covered partnership is not required to be designated as an eligible telecommunications carrier pursuant to section 214(e) of the Communications Act of 1934 (47 U.S.C. 214(e)). NTIA encourages municipalities, non-profits, or cooperatives that own and/or operate broadband networks to participate in this program as part of a covered partnership.

The term “covered broadband project” means a competitively and technologically neutral project for the deployment of fixed broadband service that provides qualifying broadband service in an eligible service area. The term “qualifying broadband service” means broadband service with:

(A) a download speed of not less than 25 megabits per second; (B) an upload speed of not less than 3 megabits per second; and (C) a latency sufficient to support real time, interactive applications. For purposes of this program, NTIA will interpret the 25/3 standard to mean the ability to provide 25 Mbps downstream and 3 Mbps upstream simultaneously to every household in the eligible service area. NTIA will interpret latency to mean 95 percent or more of all peak period measurements of network round trip latency [*i.e.*, the total round-trip latency between the customer premises and the closest designated Internet core peering interconnection point] are at or below 100 milliseconds. Including these particulars in the definition will help ensure that applicants can realistically provide service that meets NTIA’s “qualifying broadband service” standard reliably on the ground while also recognizing the Act’s requirement for technologically neutral projects. Using these standards also maintains consistency with how other federal support programs apply these terms.<sup>2</sup>

The term “eligible service area” means a census block in which broadband service is not available at one or more households or businesses in the census block, as determined by the Assistant Secretary on the basis of: (A) the maps created under section 802(c)(1) of the Communications Act of 1934 (47 U.S.C. 642(c)(1)); or (B) if the maps described in subparagraph (A) are not available, the most recent information available to the Assistant Secretary, including information provided by the Federal Communications Commission (FCC).

<sup>2</sup> See Rural Utilities Service, Department of Agriculture, *Funding Opportunity Announcement and Solicitation of Application for Second Round of the Reconnect Program*, 84 Fed. Reg. 67913, 67918 (Dec. 12, 2019); *In the Matter of Rural Digital Opportunity Fund*, WC Docket No. 19-126; *In the Matter of Connect America Fund*, WC Docket No. 10-90, FCC 20-5, at ¶ 32 (Feb. 7, 2020), <https://docs.fcc.gov/public/attachments/FCC-20-5A1.pdf> at paragraph 36.

To be eligible for a grant under the Broadband Infrastructure Program, Section 905(d)(3) of the Act requires that the covered partnership submit an application that describes the covered partnership, the covered broadband project proposed for funding, including the cost of the project and the speed of the broadband service offerings, and the proposed service area of the project. Additionally, the Act requires the applicant to disclose any other federal or state support that the broadband service provider that is part of the covered partnership has received to deploy broadband service in the proposed service area. NTIA will factor such information as it considers applications eligible for award, but the receipt of other federal or state funds does not necessarily preclude the covered partnership from receiving a grant under the Broadband Infrastructure Program. NTIA will also ensure that necessary investments are designed to provide an adequate minimum level of service and are unlikely to be made using private sources of funds.

In awarding grants under this program, the Assistant Secretary will give priority to applications for covered broadband projects as follows, in decreasing order of priority, as set forth in Section 905(d)(4) of the Act:

- (1) Covered broadband projects designed to provide broadband service to the greatest number of households in an eligible service area;
- (2) Covered broadband projects designed to provide broadband service in an eligible service area that is wholly within any area other than:
  - (i) a county, city, or town that has a population of more than 50,000 inhabitants; and
  - (ii) the urbanized area contiguous and adjacent to a city or town of more than 50,000 inhabitants;
- (3) Covered broadband projects that are the most cost-effective, prioritizing such projects in areas that are the most rural;
- (4) Covered broadband projects designed to provide broadband service with a download speed of not less than 100 megabits per second and an upload speed of not less than 20 megabits per second; and
- (5) Any other covered broadband project that meets the requirements of this NOFO.

Additionally, NTIA is interested in ensuring that any broadband infrastructure deployed under this grant program will have the ability to evolve, sustain, and scale for future advanced services that will also be important to the U.S. economy. In the years ahead, emerging technologies such as cloud technologies, artificial intelligence, health IoT and telemedicine, smart grid, and 5G, will all require broadband networks capable of delivering much faster speeds, lower latency, and higher reliability than those now codified by various federal agencies. Thus, NTIA encourages the submission of project proposals that deploy future-proof infrastructure, *e.g.*, fiber.

It is important that necessary investments in broadband infrastructure be carried out in ways that produce high-quality infrastructure, avert disruptive and costly delays, and promote efficiency. NTIA understands the importance of promoting workforce development and encourages recipients to ensure that broadband projects use strong labor standards, including project labor agreements and community benefit agreements that offer wages at or above the prevailing rate and include local hire provisions, not only to promote effective and efficient delivery of high-quality infrastructure projects but also to support the economic recovery through strong employment opportunities for workers. Using these practices in construction projects may help to ensure a reliable supply of skilled labor that would minimize disruptions, such as those associated with labor disputes or workplace injuries.

The Act requires covered partnerships to complete their covered broadband projects within one year of their receipt of grant funds. The Assistant Secretary, however, may extend the award period for broadband infrastructure construction projects if the covered partnership certifies that:

- (1) it has a plan for the use of the grant funds, (2) the construction project is underway, or
- (3) extenuating circumstances require an extension of time to allow the project to be completed.

NTIA issues this NOFO to invite covered partnerships to submit applications for the Broadband Infrastructure Program, provide information on the amount of funding available for award, discuss how it will allocate funds to qualifying applicants, give instructions on the application process, and describe the evaluation criteria for application review and the factors for award selection. The definitions applicable to this NOFO are set forth below.

**B. Definitions.**—The following definitions are applicable to the Broadband Infrastructure Program:

(a) Assistant Secretary—The term “Assistant Secretary” means the Assistant Secretary of Commerce for Communications and Information.

(b) Broadband or Broadband Service—The term “broadband” or “broadband service” has the meaning given the term “broadband internet access service” in 47 C.F.R. § 8.1(b), or any successor regulation.

(c) Commission—The term “Commission” means the Federal Communications Commission.

(d) Community Anchor Institutions—means schools, libraries, medical and healthcare providers, public safety entities, public housing authorities, institutes of higher education and other community support organizations that provide outreach, access, equipment and support services to facilitate greater use of broadband service by the entire population and local governments.

(e) Covered Broadband Project—The term “covered broadband project” means a competitively and technologically neutral project for the deployment of fixed broadband service that provides qualifying broadband service in an eligible service area.

(f) Covered Partnership— The term “covered partnership” means a partnership between: (A) a State, or one or more political subdivisions of a State; and (B) a provider of fixed broadband

service. A provider of broadband service that is part of a covered partnership is not required to be designated as an eligible telecommunications carrier pursuant to section 214(e) of the Communications Act of 1934 (47 U.S.C. 214(e)).

(g) Department—The term “Department” means the Department of Commerce.

(h) Eligible Service Area—The term “eligible service area” means a census block in which broadband service is not available at one or more households or businesses in the census block, as determined by the Assistant Secretary on the basis of: (i) the maps created under section 802(c)(1) of the Communications Act of 1934 (47 U.S.C. 642(c)(1)); or (ii) if the maps described in subparagraph (i) are not available, the most recent information available to the Assistant Secretary, including information provided by the Commission.

(i) Qualifying Broadband Service—The term “qualifying broadband service” means broadband service with: (i) a download speed of not less than 25 megabits per second; (ii) an upload speed of not less than 3 megabits per second; and (iii) a latency sufficient to support real-time, interactive applications. For purposes of this program, NTIA will interpret the 25/3 standard to mean the ability to provide 25 Mbps downstream and 3 Mbps upstream simultaneously to every household in the eligible service area. NTIA will interpret latency to mean 95 percent or more of all peak period measurements of network round trip latency [*i.e.*, the total round-trip latency between the customer premises and the closest designated Internet core peering interconnection point] are at or below 100 milliseconds.

(j) State—Any State of the United States, the District of Columbia, Puerto Rico, American Samoa, Guam, the United States Virgin Islands, the Northern Mariana Islands, and any other territory or possession of the United States.

(k) Unserved.—The term “unserved,” with respect to a household, means: (A) the household lacks access to qualifying broadband service; and (B) no broadband provider has been selected to receive, or is otherwise receiving, Federal or State funding subject to enforceable build out commitments to deploy qualifying broadband service in the specific area where the household is located by dates certain, even if such service is not yet available, provided that the Federal or State agency providing the funding has not deemed the service provider to be in default of its buildout obligations under the applicable Federal or State program.

## II. FEDERAL AWARD INFORMATION

### A. Funding Availability

NTIA will make up to \$288,000,000 available for federal assistance under the Broadband Infrastructure Program.

### B. Project/Award Period

As established in Section 905(d)(5)(A) of the Act, the award period for the Broadband Infrastructure Program is one year from the initial receipt of grant funds.

**1. Extensions:** The Assistant Secretary may extend the one-year award period for a covered partnership that proposes to use the grant funds for construction of broadband infrastructure if the covered partnership certifies that:

- (i) the covered partnership has a plan for use of the grant funds;
- (ii) the construction project is underway; or
- (iii) extenuating circumstances require an extension of time to allow the project to be completed.

**2. Petition for Extension:** The covered partnership may submit a request for an extension of the one-year award period with its application or not later than ninety (90) calendar days before the end of the award period.

**3. Reversion of Funds:** NTIA will make any grant funds not expended by a covered partnership by the end of the one-year award period set forth in the Act available to other covered partnerships for the purposes provided in the Broadband Infrastructure Program, unless the Assistant Secretary has granted the covered partnership an extension of time to complete its project.

### C. Award Amount

NTIA will make the amounts appropriated under the Broadband Infrastructure Program available on a competitive basis to covered partnerships, as defined in Section I.B.f of this NOFO, to implement covered broadband projects, as defined in Section I.B.e of this NOFO.

NTIA expects to make awards under this program within the following funding range: \$5,000,000 to \$30,000,000. This range is not a required minimum or maximum, but covered partnerships requesting amounts for projects outside of this range must provide a reasonable explanation for the variance in their project size.

Given the limited amount of funding available to award for broadband infrastructure deployment and the potentially large number of covered partnerships that may submit applications for this grant program, NTIA will consider applications based on the priorities enumerated in Section 905(d)(4) (and set forth in Section I.A. of this NOFO) in their statutory order of priority. Thus, NTIA will sequence all applications that address priority one and propose a covered broadband project designed to provide broadband service to the greatest number of (unserved) households in an eligible service area and evaluate them against the objective criteria set forth in Section V.A of the NOFO to determine their eligibility for award. To the extent that funding remains available after NTIA completes its review of priority one applications, NTIA will then sequence applications that address priority two. NTIA will continue this priority sequencing process until it has awarded all available funding.

In addition, NTIA retains discretion to make supplemental awards to a covered partnership to the extent that another covered partnership does not expend some or all of its grant funds during the other covered partnership's period of performance.

#### **D. Treatment of Unallocated Funds**

**1. In General:** In accordance with Section 905(e)(2)(F) of the Act, if a covered partnership does not submit an application by the deadline established under this NOFO, or the Assistant Secretary does not approve an application submitted by a covered partnership under this NOFO, the Assistant Secretary will make the amounts allocated for the covered partnership available to other covered partnerships applying to the Broadband Infrastructure Program.

**2. Second Process:** The Assistant Secretary will initiate a second notice and application process to reallocate any funds that remain available after awarding grants to covered partnerships that submitted approved applications during the initial round of funding for the Broadband Infrastructure Program.

#### **E. Type of Funding Instrument**

The funding instrument for awards made pursuant to the NOFO will be a grant.

### **III. ELIGIBILITY INFORMATION**

#### **A. Eligible Applicants**

**1.** An applicant must be a covered partnership as defined in Section I.B.f of this NOFO. Specifically, the term “covered partnership” means a partnership between: (A) a State, or one or more political subdivisions of a State; and (B) a provider of fixed broadband service. The partnership does not need to be documented in a formal legal agreement at the time of application submission but should be expressed in the application as a general intent to cooperate in implementing the covered broadband project proposed for an award. A covered partnership may include more than one provider of fixed broadband service as part of its application. Additionally, a fixed broadband service provider may participate in more than one covered partnership.

Furthermore, the Assistant Secretary will not require a provider of broadband service that is part of a covered partnership to be designated as an eligible telecommunications carrier pursuant to section 214(e) of the Communications Act of 1934 (47 U.S.C. 214(e)) to be eligible to receive a grant under this NOFO or as a condition of receiving a grant under this NOFO.

**2. Designation of Lead Applicant**—The governmental entity (either a State or a political subdivision of a State that must be included in a covered partnership) must serve as the lead applicant for the covered partnership and would enter into the grant agreement with NTIA and assume primary operational and financial responsibility for completing the project should an award be made.

#### **B. Cost Sharing or Matching**

The Act authorizing the establishment of the Broadband Infrastructure Program does not contain a statutory cost sharing or matching funds requirement. NTIA will not require a covered partnership applying for a grant under the Broadband Infrastructure Program to provide a cost

match; however, NTIA will favorably consider applications that propose to contribute a non-federal cost match of at least 10 percent of the total eligible costs of the project. *See* Section V of this NOFO for the Evaluation Criteria and the Selection Factors for this program. Applicants proposing a cost share amount must document their capacity to provide matching funds in their applications. Matching funds may be in the form of either cash or in-kind contributions consistent with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. Part 200.<sup>3</sup> Non-federal cost share committed to an award by a covered partnership will be treated as voluntary committed cost sharing (as defined in 2 C.F.R. § 200.1) and will be a binding commitment under the award. The failure of a covered partnership to meet its voluntary committed cost share may result in a decrease in federal grant funds.

In-kind contributions, which include third party in-kind contributions, are non-cash donations of property, goods or services, which benefit a federally assisted project, and which may count toward satisfying the non-federal matching requirement of a project's total budgeted costs when such contributions meet certain criteria.<sup>4</sup> In-kind contributions must be allowable and allocable project expenses. The rules governing allowable in-kind contributions are very detailed and encompass a wide range of properties and services. NTIA encourages applicants to thoroughly consider potential sources of in-kind contributions that, depending on the particular property or service and the applicable federal cost principles, could include: employee or volunteer services; equipment; supplies; indirect costs; computer hardware and software; and use of facilities. It is important to note that federal funds may not be used as non-federal match, except as expressly provided by federal statute.<sup>5</sup>

### C. Other

**1. Eligible and Ineligible Uses of Project Funds** – *See* Section IV.J of this NOFO for information concerning the eligible and ineligible uses of project funding (including non-federal cost share) under the Broadband Infrastructure Program.

**2. Single Application** — Section 905(e)(2)(C) of the Act states that a covered partnership may submit only one application for the Broadband Infrastructure Program.

**3. State Coordination on Covered Broadband Projects** — Given the Act's requirement that a covered partnership submit only one application and the limited amount of federal funds available for award, NTIA encourages political subdivisions of a State that are contemplating forming a covered partnership with one or more providers of fixed broadband service to coordinate and consult with the State's Broadband Office or other coordinating body to ensure that the proposal is consistent with a State's broadband plan or priorities. Such coordination enables the State to evaluate the proposed covered broadband projects presented for consideration and ensure the submission of top priority projects for funding under the Broadband

<sup>3</sup> *See id.* and 2 C.F.R. § 200.306.

<sup>4</sup> *See* 2 C.F.R. § 200.306.

<sup>5</sup> *See id.*

Infrastructure Program. Additionally, the applicant must identify on Line 19 of the SF-424 application form whether the application is subject to State review pursuant to Executive Order 12372 and whether the application was selected for review by the State.

#### IV. APPLICATION AND SUBMISSION INFORMATION

##### A. Address to Request Application Package

Application forms and instructions are available on the Grants.gov website ([www.grants.gov](http://www.grants.gov)). To access these materials, go to <http://www.grants.gov>, select "How to Apply for Grants," and then select "Search for Opportunity Package." Enter the CFDA number (11.031) and/or the funding opportunity number (NTIA-Broadband-Infrastructure-Program-2021). Select "Grant Opportunity Package," and then follow the prompts. To download the instructions, go to "Preview Opportunity Package" and select "Download Instructions." NTIA recommends that applicants visit Grants.gov prior to filing their applications so that they fully understand the process and requirements. Failure to properly register and apply for funds under the Broadband Infrastructure Program by the deadline established in this NOFO may result in a covered partnership losing this grant opportunity. Applications are accepted until the deadline and are processed as received. Application packages, or portions thereof, submitted by email, paper, or facsimile will not be accepted.

With respect to electronic methods for providing information about funding opportunities or accepting applicants' submissions of information, NTIA is responsible for compliance with Section 508 of the Rehabilitation Act of 1973, as amended by the Workforce Act of 1998.

##### B. Content and Form of Applications

Applications for the Broadband Infrastructure Program must be complete and follow the format described in this NOFO. Complete applications must be received by [www.grants.gov](http://www.grants.gov) no later than 11:59 p.m. Eastern Daylight Time (EDT) on **August 17, 2021**. Pre-applications are not being accepted for this program.

A complete application packet consists of the following forms and required submissions, which are discussed in more detail below.

###### 1. Standard Form 424: Application for Federal Assistance

This is the title page (SF-424). This form (and all additional forms requiring a signature) must be signed by the applicant's authorized organization representative (AOR). Electronic signatures submitted through [www.grants.gov](http://www.grants.gov) satisfy this requirement.

- SF-424, Item 8.d Zip/Postal Code field, should reflect the Zip code + 4 (#####-####) format.
- SF-424, Item 12, should list the NOFO number as NTIA-Broadband-Infrastructure-Program-2021.
- SF-424, Item 18, should list the total federal budget amount requested for the entire project.



- SF-424, Item 19, Applications under this program are subject to Executive Order 12372, “Intergovernmental Review of Federal Programs,” which requires intergovernmental consultation with state and local officials. Applicants are required to submit a copy of their applications to their designated state Single Point of Contact (SPOC) offices, which should be reflected in Item 19 on the SF-424.
- For SF-424, Item 21, the list of certifications and assurances that are referenced is contained in the Federal Financial Assistance Certifications and Representations (Certs and Reps) as part of the SAM.gov entity registration, as well as the Certifications Regarding Debarment and Suspension, as described in section IV.F of this NOFO below.

**2. Standard Form 424C: Budget Information for Construction Programs (SF-424C)**

Applicants must complete this form and, as indicated in section IV.B.7 below, provide a detailed budget narrative that adequately describes all proposed activities and costs for their grant-funded project(s).

**3. Standard Form 424D: Assurances for Construction Programs (SF-424D)**

The SF-424D is required for all applicants that have not updated their System for Award Management (SAM.gov) entity registration since February 2, 2019 to include the federal financial assistance Certifications and Representations (Certs and Reps). If an applicant has updated their SAM.gov entity registration since February 2, 2019 to include the certifications and representations, then the SF-424D is not required.

**4. CD-511 Certification Regarding Lobbying**

Enter “NTIA-Broadband-Infrastructure-Program-2021” in the Award Number field. Enter the title of the application used in field 15 of the SF-424, or an abbreviation of that title, in the Project Name field.

**5. Standard Form LLL, Disclosure of Lobbying Activities (if applicable)**

**6. Project Narrative**

The Project Narrative is a word-processed document of not more than twenty (20) single-spaced pages (40 double-spaced pages) responsive to the program description, statutory purposes, funding priorities, and the evaluation criteria set forth in this NOFO. The Project Narrative shall include:

- a. An executive summary of the project not to exceed two (2) pages. Please note, if an applicant’s proposal is selected for funding, NTIA may use all or a portion of the Executive Summary as part of a press release issued by NTIA, or for other public information and outreach purposes. Applicants are advised not to incorporate information that concerns business trade secrets or other confidential commercial or financial information as part of the Executive Summary. *See also* 15 C.F.R. § 4.9(c) concerning the designation of business information by the applicant;

b. A description of the covered partnership, including a description of the organizations involved and the qualifications and experience of key personnel responsible for implementing the proposed project, including;

- i. **Table of Funded Project Participants and Unfunded Informal Collaborators.** (Does not count toward the page limit). Provide a table that identifies all organizations that will participate in and contribute to the proposed activities, if funded, known at the time of the application submission. The table should consist of an alphabetically ordered list, by organization, of all Funded Project Participants and all Unfunded Informal Collaborators. The table should include the organization's name, address, administrative role, scope of work (funded participants only) and proposed funding amount (funded participants only). Administrative roles are: applicant, subrecipient, or contractor for funded participants; or collaborator if they will not receive funding.
- ii. **Resumes of Key Personnel.** (Does not count toward page limit but are limited to one-page each). One-page resumes of no more than five key personnel from the participants in the covered partnership (not subrecipients) may be included. Any information beyond one page for each resume and any additional resumes submitted will not be considered.

c. A description of the covered broadband project to be funded by the grant, including the services, speed or tiers of speeds at which the covered partnership plans to offer broadband service, the proposed prices of the broadband service offerings, the technical details of the project, including the type of technology to be deployed, and the cost details of the project, including financial analyses and revenue and expense projections, and a description of why federal financial assistance is needed to implement the covered broadband project;

d. A description of the area to be served by the covered broadband project (referred to as the proposed service area) including a list of the census blocks to be served, or portions thereof, the percentage of the total unserved (lack of infrastructure) population to be served by the project, and the number of unserved households, businesses, and community anchor institutions the project plans to connect;

e. A description of which statutory funding priority(ies) (as set forth in Section I.A of this NOFO) the proposed project would address and how the proposed project would address such funding priority(ies);

f. A description of how the project addresses the evaluation criteria identified in Section V.A of this NOFO, including a description of project beneficiaries, service area level of need, project sustainability, and expected outcomes;

- g. A description of how their deployment will have the ability to scale over time for greater capability (*e.g.*, using integrated advanced services such as 5G or fiber);
- h. A project plan describing all major project activities and timelines for implementation, including key deployment milestones;
- i. A brief description of the physical project area and its surroundings (*e.g.*, disturbed or developed land vs. open space; adjacent natural resources, such as rivers, wetlands, or forestlands; and any protected lands or resources in or near the project area), including site photographs and aerial (*e.g.*, Google Earth or Google Maps images) photographs, if the project includes construction and/or ground disturbing activities. This description should also describe how the covered partnership intends to comply with the environmental and historic preservation requirements applicable to an award received under the Broadband Infrastructure Program (including, but not limited to, the National Environmental Policy Act and the National Historic Preservation Act), and if applicable, provide a copy of any environmental and historic preservation review documentation that has been prepared in connection with obtaining permits or approvals from State, local or other federal entities. It is the applicant's responsibility to obtain all necessary federal, State, and local governmental permits and approvals necessary for the proposed work to be conducted. Applicants are expected to design their projects so that they minimize the potential for adverse impacts on the environment. Applicants also will be required to cooperate with NTIA in identifying feasible measures to reduce or avoid any identified adverse environmental impacts of their proposed projects. The failure to do so may be grounds for not making an award. Environmental and historic preservation review documentation, if provided, is not included in the 20-page limit of the project narrative; and
- j. A description of any support provided to the provider of broadband service that is part of the covered partnership through:
  - i. Any grant, loan, or loan guarantee provided by a State to the provider of broadband service for the deployment of broadband service in the proposed service area;
  - ii. Any grant, loan, or loan guarantee with respect to the proposed service area provided by the Secretary of Agriculture under:
    - 1. Title VI of the Rural Electrification Act of 1936 (7 U.S.C. 950bb *et seq.*), including: any program to provide grants, loans, or loan guarantees under sections 601 through 603 of that Act (7 U.S.C. 950bb *et seq.*); and the Community Connect Grant Program established under section 604 of that Act (7 U.S.C. 950bb-3); or
    - 2. The broadband loan and grant pilot program known as the "Rural eConnectivity Pilot Program" or the "ReConnect

Program” authorized under section 779 of division A of the Consolidated Appropriations Act, 2018 (Public Law 115–141; 132 Stat. 348);

- iii. Any high-cost universal service support provided under section 254 of the Communications Act of 1934 (47 U.S.C. 254);
- iv. Any grant provided under section 6001 of the American Recovery and Reinvestment Act of 2009 (47 U.S.C. 1305);
- v. Amounts made available for the Education Stabilization Fund under the heading “DEPARTMENT OF EDUCATION” in title VIII of division B of the CARES Act (Public Law 116–136; 134 Stat. 564);  
or
- vi. Any other grant, loan, or loan guarantee provided by the Federal Government for the provision of broadband service.

k. A description of whether and, if so, how the project will incorporate strong labor standards, including project labor agreements and community benefit agreements that offer wages at or above the prevailing rate and include local hire provisions, and a description of the applicant’s workforce plans and practices.

### **7. Budget Narrative and Detailed Budget Justification**

Applicants must submit a Detailed Budget Justification in the form of a spreadsheet, as well as a Budget Narrative in the form of a word document. All budget information must support the dollar amounts identified in the SF-424 and SF-424C and demonstrate that the project or activity meets the eligible use requirements in the Act and this NOFO.

The Detailed Budget Justification spreadsheet must reflect the cost categories that appear on the SF-424C (*e.g.*, administrative and legal expenses; land; structures; rights-of-way; appraisals; construction, etc.) and include itemized calculations for each cost placed under those categories. The spreadsheet must be formatted to fit letter-sized paper (8.5” x 11”).

The Budget Narrative must explain the necessity and basis for all costs, clearly correspond to the information included in the Detailed Budget Justification spreadsheet, and reflect only allowable costs that are consistent with the project scope. Information on cost allowability is available in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. § 200, which apply to awards in this program.

If cost sharing or matching funds are included in the budget, the applicant must identify the non- federal source (*e.g.*, state funding) and distinguish the non-federal and federal portions of the budget in the Detailed Budget Justification and Budget Narrative. Information regarding cost sharing or matching funds is available in 2 C.F.R. § 200.306.

## **8. Indirect Cost Rate Agreement (as applicable)**

If indirect costs are included in the proposed budget, provide a copy of the approved negotiated agreement if this rate was negotiated with a cognizant federal agency. If the rate was not established by a cognizant federal agency, provide a statement to this effect. If the successful applicant includes indirect costs in the budget and has not established an indirect cost rate with a cognizant federal agency, the applicant will be required to obtain such a rate in accordance with Section B.06 of the Department of Commerce Financial Assistance Standard Terms and Conditions, dated November 12, 2020.

Alternatively, in accordance with 2 C.F.R. § 200.414(f), applicants, other than entities described in Section D.1.b. of Appendix VII to 2 C.F.R. Part 200, that do not have a current negotiated indirect cost rate (including a provisional rate) may elect to charge indirect costs to the award pursuant to a de minimis rate of 10 percent of modified total direct costs, in which case a negotiated indirect cost rate agreement is not required. As described in 2 C.F.R. § 200.403, costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both. Once chosen, this methodology must be used consistently for all federal awards until such time as a non-federal entity chooses to negotiate for a rate, which the non-federal entity may apply to do at any time. Applicants proposing a 10 percent de minimis rate pursuant to 2 C.F.R. § 200.414(f) must note this election as part of the budget portion of the application.

## **9. Letters of Commitment**

Each application must include a Letter of Commitment from an authorized representative of each member of the covered partnership. The Letter of Commitment will discuss the scope of work to be undertaken by the member of the covered partnership and its relevance to the covered broadband project.

- 10.** Maps of proposed service areas (preferably in shapefiles, .kmz, or .kml formats).
- 11.** Pro forma financial information and analyses, such as balance sheets, income statements, and statements of cash flows; and
- 12.** Network diagram(s) and system design(s).

## **C. Additional Application Materials**

No additional application materials are required, beyond what is enumerated above.

## **D. Attachment of Required Documents**

Items in Section IV.B.1 through IV.B.5 above are part of the standard application package in Grants.gov and can be completed through the download application process.

Items in Section IV.B.6 through IV.B.12 above must be completed and attached by clicking on “Add Attachments” found in item 15 of the SF-424, Application for Federal Assistance. This will create a zip file that allows for transmittal of the documents electronically via Grants.gov.

Applicants should carefully follow specific Grants.gov instructions at www.Grants.gov to ensure the attachments will be accepted by the Grants.gov system. A receipt from Grants.gov indicates only that an application was transferred to a system. It does not provide details concerning whether all attachments (or how many attachments) transferred successfully. Applicants will receive a series of e-mail messages over a period of up to two business days before learning whether a federal agency’s electronic system has received its application.

## **E. Application Format**

### **1. Paper, Emailed and Facsimile (fax) submissions**

Paper, email and facsimile submissions will not be accepted.

### **2. Figures, graphs, images, and pictures**

Should be of a size that is easily readable or viewable and may be landscape orientation.

### **3. Font**

Easy to read font (10-point minimum). Smaller type may be used in figures and tables but must be clearly legible.

### **4. Line spacing**

Applicants may use single spacing or double spacing.

### **5. Margins**

One inch top, bottom, left, and right.

### **6. Page layout**

Portrait orientation except for figures, graphs, images, and pictures. Paragraphs are to be clearly separated from each other by double spacing, paragraph formatting or equivalent.

### **7. Page limit**

The Project Narrative is limited to 20 pages single spaced (40 pages double spaced), noting the limit of two (2) pages for the Executive Summary. Resumes, environmental and historic preservation review documentation, the table of funded project participants, and unfunded informal collaborators are not included in the page count of the Project Narrative. However, if resumes are included, resumes must be a maximum of one (1) page each.

**8. Page numbering**

Number pages sequentially.

**9. Page size**

8½ inches by 11 inches, excluding maps of proposed service areas or network or system diagrams.

**10. Application language**

English.

**11. Typed document**

All applications, including forms, must be typed.

**F. Certifications Regarding Debarment and Suspension** (applies to all members of a covered partnership and to all subrecipients)

By signing and submitting an application for funding pursuant to the Broadband Infrastructure Program, the applicant is making the following certifications (*see* Line 21 on the SF-424):

1. Instructions for Primary Tier Participant Certification (covered partnerships):
  - a. By signing and submitting this proposal, the prospective primary tier participant is providing the certification set out below and agrees to comply with the requirements of 2 C.F.R. Parts 180, 1200 and 1326.
  - b. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective primary tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency’s determination whether to enter into this transaction. However, failure of the prospective primary tier participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
  - c. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency may terminate this transaction for cause or default or may pursue suspension or debarment.
  - d. The prospective primary tier participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary tier participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

- e. The terms *covered transaction, civil judgment, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded*, as used in this clause, are defined in 2 C.F.R. Parts 180, 1200 and 1326. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
  - f. The prospective primary tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. Part 9, Subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
  - g. The prospective primary tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 C.F.R. Parts 180, 1200 and 1326.
  - h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 C.F.R. Part 9, Subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (<https://www.sam.gov/>).
  - i. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
  - j. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. Part 9, Subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency may terminate the transaction for cause or default.
2. Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Tier Covered Transactions:



- a. The prospective primary tier participant certifies to the best of its knowledge and belief, that it and its principals:
- b. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any federal department or agency;
- c. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- d. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- e. Have not within a three-year period preceding this application/proposal had one or more public transactions (federal, state, or local) terminated for cause or default.
- f. Where the prospective primary tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

3. Instructions for Lower Tier Participant Certification (applies to subrecipients):

- a. By submitting this proposal and accepting federal funding, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of 2 C.F.R. Parts 180, 1200 and 1326.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- d. The terms *covered transaction*, *civil judgment*, *debarment*, *suspension*, *ineligible*, *participant*, *person*, *principal*, and *voluntarily excluded*, as used in this clause, are defined in 2 C.F.R. Parts 180, 1200 and 1326. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. Part 9, Subpart 9.4, debarred, suspended, declared

ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

- f. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion- Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 C.F.R. Parts 180 and 1200.
  - g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 C.F.R. Part 9, Subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (<https://www.sam.gov>).
  - h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
  - i. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. Part 9, Subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.
4. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:
- a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any federal department or agency.
  - b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

## G. Dun & Bradstreet Number and System for Award Management

Pursuant to 2 C.F.R. Part 25, an applicant or recipient (as the case may be) is required to: (i) be registered in the System for Award Management (SAM) before submitting its complete application packet; (ii) provide a valid unique entity identifier in its application; and (iii) continue to maintain an active SAM registration with current information at all times during which it has an active federal award or an application or plan under consideration by a federal awarding agency, unless otherwise excepted from these requirements pursuant to 2 C.F.R.

§ 25.110. NTIA will not make a federal award to an applicant until the applicant has complied with all applicable unique entity identifier and SAM requirements and, if an applicant has not fully complied with the requirements by the time that NTIA is ready to make a federal award pursuant to this NOFO, NTIA may determine that the applicant is not qualified to receive a federal award.

### 1. DUNS Number

All applicants must supply a Dun and Bradstreet Data Universal Numbering System (DUNS) number. Applicants can receive a DUNS number at no cost by calling the dedicated toll-free DUNS number request line at 1-866-705-5711 or via the Internet at <http://fedgov.dnb.com/webform>.

### 2. System for Award Management

All applicants must register in the SAM before submitting a complete application packet. Additionally, the applicant must maintain an active SAM registration with current information at all times during which it has an active federal award or an application or plan under consideration by a federal awarding agency. Applicants can register for the SAM at <https://www.sam.gov/>.

## H. Submission Dates and Times

Complete applications must be received by [www.grants.gov](http://www.grants.gov) no later than 11:59 p.m. Eastern Daylight Time (EDT) on **August 17, 2021**. Complete applications or portions thereof submitted by postal mail, courier, email, or by facsimile will not be accepted. All application forms and documents must be included with an applicant's complete application packet submission via [www.grants.gov](http://www.grants.gov). Applicants should be aware, and factor in their application submission planning, that the Grants.gov system periodically closes for routine maintenance. Applicants should visit [Grants.gov](http://Grants.gov) for information about any scheduled closures.

When developing the submission timeline, please keep in mind that: (1) all applicants are required to have current registrations in the electronic System for Award Management (SAM.gov) and Grants.gov; (2) the free annual registration process in SAM.gov generally takes between three (3) and five (5) business days but can take more than three weeks; and (3) applicants will receive e-mail notifications over a period of up to two (2) business days as the application moves through intermediate systems before the applicant learns via a validation or rejection notification whether a federal agency's electronic system has received the application. (See [Grants.gov](http://Grants.gov) for full information on application and notification through Grants.gov). Please

note that a federal assistance award cannot be issued if the designated recipient's registration in SAM.gov is not current at the time of the award.

NTIA expects to complete its review, selection of successful applicants, and award processing by **November 15, 2021**. NTIA expects the earliest start date for awards under this NOFO to be **November 29, 2021**.

## **I. Intergovernmental Review**

Applications from a State or a political subdivision of the State under this program are subject to Executive Order 12372, "Intergovernmental Review of Federal Programs," which requires intergovernmental consultation with state and local officials. All applicants are required to submit a copy of their applications to their designated state Single Point of Contact (SPOC) offices.<sup>6</sup>

## **J. Funding Restrictions**

### **1. Eligible Uses of Funds for the Broadband Infrastructure Program**

Grant recipients may only use federal award funds and any non-federal cost share committed to an award to pay for allowable costs under the Broadband Infrastructure Program.

Allowable costs are determined in accordance with the cost principles identified in 2 C.F.R. Part 200, including Subpart E of such regulations for States and non-profit organizations, and in 48 C.F.R. Part 31 for commercial organizations,<sup>7</sup> as well as in the grant program's authorizing legislation. Federal and non-federal funds committed to an award may only be used to cover allowable costs incurred during the period of performance and for allowable closeout costs incurred during the grant closeout process.

Based on the scope of the Broadband Infrastructure Program, below are non-exclusive examples of how a covered partnership may generally leverage grant funds:

- a. fund the costs of construction, improvement, and/or acquisition of facilities and telecommunications equipment required to provide qualifying broadband service, including infrastructure for backhaul, middle and last mile networks;
- b. fund the cost of long-term leases (for terms greater than one year) of facilities required to provide qualifying broadband service, including infeasible right-of-use (IRU) agreements;

<sup>6</sup> See 7 C.F.R. Part 3015, Subpart V.

<sup>7</sup> The government has established a set of principles for determining eligible or allowable costs. Allowable costs are determined in accordance with the cost principles applicable to the entity incurring the costs. For example, the allowability of costs incurred by State, local or Federally-Recognized Indian tribal governments is determined in accordance with the provisions of 2 C.F.R. Part 200, Subpart E and the allowability of costs for commercial organizations is determined in accordance with the provisions of 48 C.F.R. Part 31, unless the Grants Officer decides in writing to apply the cost principles in 2 C.F.R. Part 200, Subpart E, to commercial organizations pursuant to 2 C.F.R. § 200.101(a)(2).

- c. fund the costs of engineering design, permitting and work related to environmental, historical and cultural reviews;
- d. fund personnel costs, including salaries and fringe benefits for staff and consultants required for the implementation of the Broadband Infrastructure Program (such as project managers, program directors, subject matter experts, grant administrators, financial analysts, accountants, and attorneys);
- e. fund reasonable pre-application expenses in an amount not to exceed \$50,000. Pre-application expenses, which include expenses related to preparing an application, may be reimbursed if they are incurred after the publication date of this NOFO and prior to the date of issuance of the grant award from NTIA, except that lobbying costs and contingency fees are not reimbursable from grant funds. Pre-application costs should be clearly identified in the proposed project budget. Additionally, pre-application costs are incurred at the sole risk of the applicant and will not be reimbursed by NTIA if the proposed project does not receive an award pursuant to this program; and
- f. fund other allowable costs necessary to carrying out programmatic activities of an award, not to include ineligible costs described below in Section IV.J.2 of this NOFO.

## 2. Ineligible Costs for the Broadband Infrastructure Program

Ineligible costs include those costs that are unallowable under the applicable federal cost principles. Please note that costs ineligible for the Broadband Infrastructure Program may not be paid for with non-federal cost share committed to an award. In addition, the following costs are specifically identified as prohibited under the Broadband Infrastructure Program:

**a. Covered Partnership** – The following costs prohibitions apply to all members of a covered partnership:

**i. Prohibition On Use of Grant Funds For Covered Communications Equipment Or Services.**—A covered partnership may not use grant funds received under the Broadband Infrastructure Program to purchase or support any covered communications equipment or service (as defined in section 9 of the Secure and Trusted Communications Networks Act of 2019 (47 U.S.C. 1608)).

**ii. Prohibition on Profit and Fees.**—A profit, fee, or other incremental charge above actual cost is not an allowable cost under this program.

**iii. Prohibition on Use of Grant Funds to Support or Oppose Collective Bargaining.**—A covered partnership may not use grant funds, whether directly or indirectly as an offset for other funds, to support or oppose collective bargaining.

**b. Provider of Broadband Services** – The following cost prohibitions apply to a provider of broadband services that is a member of a covered partnership:

As a condition of receiving a grant under the Broadband Infrastructure Program, a provider of broadband service that is part of a covered partnership receiving the grant is prohibited:

- i. from using the grant amounts to repay, or make any other payment relating to, a loan made by any public or private lender;
- ii. from using grant amounts as collateral for a loan made by any public or private lender;
- iii. from using more than \$50,000 of the grant amounts to pay for the preparation of the grant;
- iv. from using grant funds to pay for previously incurred administrative costs or previously purchased equipment or construction activities undertaken prior to the award; and
- v. from using grant funds to pay for the costs of providing broadband service to any locations that are used to meet an FCC Universal Service Fund (USF) deployment obligation.

**3. Impact On Other Federal Broadband Programs.**—As stated in Section 905(g) of the Act, the use of grant funds received under the Broadband Infrastructure Program by a covered partnership or subrecipient shall not impact the eligibility of, or otherwise disadvantage, the covered partnership or subrecipient with respect to participation in any other federal broadband program.

#### **K. Material Representations and Public Disclosure of Applications**

All forms and supporting documents submitted as part of the complete application packet will be treated as a material representation of fact upon which NTIA will rely in awarding grants. Applicants should be aware that NTIA may make all or portions of their applications for grants under the Broadband Infrastructure Program publicly available as required under applicable federal laws. See Section VIII.A of this NOFO for additional information concerning the confidentiality of information contained in an application.

#### **L. Other Submission Requirements**

Complete applications for the Broadband Infrastructure Program must be electronically submitted through [www.grants.gov](http://www.grants.gov). Late or incomplete applications and applications submitted by mail, courier, or by facsimile will not be accepted.

## 1. How to Register to Apply through Grants.gov

Read the instructions below about registering to apply for the funds available under the Broadband Infrastructure Program. Applicants should read the registration instructions carefully and prepare the information requested before beginning the registration process. Reviewing and assembling the required information before beginning the registration process will alleviate last-minute searches for required information.

Organizations must have a Data Universal Numbering System (DUNS) Number, active System for Award Management (SAM) registration, and Grants.gov account to apply for grants. If individual applicants are eligible to apply for this funding opportunity, then you may begin with step 3, Create a Grants.gov Account, listed below.

Creating a Grants.gov account can be completed online in minutes, but DUNS and SAM registrations may take several weeks. Therefore, an organization's registration should be done in sufficient time to ensure it does not impact the entity's ability to meet required application submission deadlines.

Complete organization instructions can be found on Grants.gov here:  
<https://www.grants.gov/web/grants/applicants/organization-registration.html>

1) *Obtain a DUNS Number*: All entities applying for funding, including renewal funding, must have a DUNS Number from Dun & Bradstreet (D&B). Applicants must enter the DUNS Number in the data entry field labeled "Organizational DUNS" on the SF-424 form. For more detailed instructions for obtaining a DUNS Number, refer to:  
<https://www.grants.gov/web/grants/applicants/organization-registration/step-1-obtain-duns-number.html>

2) *Register with SAM*: All organizations applying online through Grants.gov must register with the System for Award Management (SAM). Failure to register with SAM will prevent your organization from applying through Grants.gov. SAM registration must be renewed annually. For more detailed instructions for registering with SAM, refer to:  
<https://www.grants.gov/web/grants/applicants/organization-registration/step-2-register-with-sam.html>

3) *Create a Grants.gov Account*: The next step is to register an account with Grants.gov. Follow the on-screen instructions or refer to the detailed instructions here:  
<https://www.grants.gov/web/grants/applicants/registration.html>

4) *Add a Profile to a Grants.gov Account*: A profile in Grants.gov corresponds to a single applicant organization the user represents (*i.e.*, an applicant) or an individual applicant. If you work for or consult with multiple organizations and have a profile for each, you may log in to one Grants.gov account to access all of your grant applications. To add an organizational profile to your Grants.gov account, enter the DUNS Number for the organization in the DUNS field while adding a profile. For more detailed instructions

about creating a profile on Grants.gov, refer to:

<https://www.grants.gov/web/grants/applicants/registration/add-profile.html>

5) *EBiz POC Authorized Profile Roles*: After you register with Grants.gov and create an Organization Applicant Profile, the organization applicant's request for Grants.gov roles and access is sent to the EBiz POC. The EBiz POC will then log in to Grants.gov and authorize the appropriate roles, which may include the AOR role, thereby giving you permission to complete and submit applications on behalf of the organization. You will be able to submit your application online any time after you have been assigned the AOR role. For more detailed instructions about creating a profile on Grants.gov, refer to:

<https://www.grants.gov/web/grants/applicants/registration/authorize-roles.html>

6) *Track Role Status*: To track your role request, refer to:

<https://www.grants.gov/web/grants/applicants/registration/track-role-status.html>

*Electronic Signature*: When the complete application packet is submitted through Grants.gov, the name of the organization applicant with the AOR role that submitted the application is inserted into the signature line of the application, serving as the electronic signature. The EBiz POC **must** authorize people who are able to make legally binding commitments on behalf of the organization as a user with the AOR role; **this step is often missed and it is crucial for valid and timely submissions.**

## **2. How to Submit an Application for the Broadband Infrastructure Program via Grants.gov**

Grants.gov applicants can apply online using Workspace. Workspace is a shared, online environment where members of a grant team may simultaneously access and edit different webforms within an application.

Below is an overview of applying on Grants.gov. For access to complete instructions on how to apply for opportunities, refer to:

<https://www.grants.gov/web/grants/applicants/workspace-overview.html>

1) *Create a Workspace*: Creating a workspace allows you to complete it online and route it through your organization for review before submitting.

2) *Complete a Workspace*: Add participants to the workspace to work on the application together, complete all the required forms online or by downloading PDF versions, and check for errors before submission. The Workspace progress bar will display the state of your application process as you apply. As you apply using Workspace, you may click the blue question mark icon near the upper-right corner of each page to access context-sensitive help.

a. *Adobe Reader*: If you decide not to apply by filling out webforms, you can download individual PDF forms in Workspace. The individual PDF forms can be



downloaded and saved to your local device storage, network drive(s), or external drives, then accessed through Adobe Reader.

NOTE: Visit the Adobe Software Compatibility page on Grants.gov to download the appropriate version of the software at: <https://www.grants.gov/web/grants/applicants/adobe-software-compatibility.html>

b. *Mandatory Fields in Forms:* In the forms, you will note fields marked with an asterisk and a different background color. These fields are mandatory fields that must be completed to successfully submit your application.

c. *Complete SF-424 Fields First:* The forms are designed to fill in common required fields across other forms, such as the applicant name, address, and DUNS Number. Once it is completed, the information will transfer to the other forms.

3) *Submit a Workspace:* An application may be submitted through workspace by clicking the Sign and Submit button on the Manage Workspace page, under the Forms tab. Grants.gov recommends submitting your application package at least 24-48 hours prior to the close date to provide you with time to correct any potential technical issues that may disrupt the application submission.

4) *Track a Workspace Submission:* After successfully submitting a workspace application, a Grants.gov Tracking Number (GRANTXXXXXXXX) is automatically assigned to the application. The number will be listed on the Confirmation page that is generated after submission. Using the tracking number, access the Track My Application page under the Applicants tab or the Details tab in the submitted workspace.

For additional training resources, including video tutorials, refer to:  
<https://www.grants.gov/web/grants/applicants/applicant-training.html>.

*Applicant Support:* Grants.gov provides applicants 24/7 support via the toll-free number 1-800- 518-4726 and email at [support@grants.gov](mailto:support@grants.gov). For questions related to the specific grant opportunity, contact the number listed in the application package of the grant you are applying for.

If you are experiencing difficulties with your submission, it is best to call the Grants.gov Support Center and get a ticket number. The Support Center ticket number will assist NTIA with tracking your issue and understanding background information on the issue.

### 3. Timely Receipt Requirements and Proof of Timely Submission

*Online Submission.* Proof of timely submission is automatically recorded by Grants.gov. An electronic date/time stamp is generated within the system when the application is successfully received by Grants.gov. The applicant with the AOR role who submitted the application will receive an acknowledgement of receipt and a tracking number (GRANTXXXXXXXX) from Grants.gov with the successful transmission of their application. This applicant with the AOR

role will also receive the official date/time stamp and Grants.gov Tracking number in an email serving as proof of their timely submission.

When NTIA successfully retrieves the application from Grants.gov, and acknowledges the download of submissions, Grants.gov will provide an electronic acknowledgment of receipt of the application to the email address of the applicant with the AOR role who submitted the application. Again, proof of timely submission shall be the official date and time that Grants.gov receives your application. Applications received by Grants.gov after the established due date for the program will be considered late and will not be considered for funding by NTIA.

Applicants using slow internet, such as dial-up connections, should be aware that transmission can take some time before Grants.gov receives your application. Again, Grants.gov will provide either an error or a successfully received transmission in the form of an email sent to the applicant with the AOR role attempting to submit the application. The Grants.gov Support Center reports that some applicants end the transmission because they think that nothing is occurring during the transmission process. Please be patient and give the system time to process the application.

#### **4. Amendments**

Any amendments to this NOFO will be announced through Grants.gov. Applicants may sign up on Grants.gov to receive amendments by email or may request copies by e-mail from [broadbandusa@ntia.gov](mailto:broadbandusa@ntia.gov).

### **V. APPLICATION REVIEW INFORMATION**

#### **A. Evaluation Criteria for the Broadband Infrastructure Program**

NTIA will evaluate those eligible applications that satisfy the statutory purposes and funding priorities set forth in the Act and in this NOFO against objective evaluation criteria to determine whether an application merits an award. Applications that satisfy the funding priorities of the Broadband Infrastructure Program and score highly when evaluated against the objective evaluation criteria during the Merit Review will advance to the Programmatic Review. From this pool of applications, NTIA will select awardees based on the results of the Merit and Programmatic Reviews, and by applying the Selection Factors listed in this NOFO.

The evaluation criteria that will be used by the Merit Reviewers to review and analyze Broadband Infrastructure Program applications are grouped into three categories: (1) Project Purpose and Benefits; (2) Project Viability; and (3) Project Budget and Sustainability. Each application will be evaluated against the following objective criteria.

#### **1. Project Purpose and Benefits (30 points)**

a. Level of Impact in the Proposed Service Area (20 points). Reviewers will consider the number of total households, businesses and community anchor institutions that the project will connect in the proposed service area; the total number of unserved households, as

defined in Section I.B.10 of the NOFO, that the project will connect in the proposed service area; the total number of households, businesses, and community anchor institutions that will receive qualifying broadband service; and the total number of households, businesses, and community anchor institutions that will receive broadband service at speeds greater than qualifying broadband service.

Reviewers will consider the extent to which the provider(s) of broadband service comprising the covered partnership has received support from other federal or state sources to deploy broadband service in the proposed service area. Reviewers will also consider whether there are service providers already present in all or part of the area, as well as the pricing, coverage, and available capacity of those providers. Reviewers will consider what proportion of the end users projected to be served are located in unserved areas and may take into account any comments submitted by existing broadband service providers in response to the announcement described in Section VIII.B of this NOFO in making this evaluation.

Applications that propose a Last Mile project must connect 100 percent of total unserved households, as defined in Section I.B.(k) of this NOFO, in the proposed service area to receive the full 20 points in this category. Projects to deploy middle mile networks must prioritize connecting with last mile networks serving unserved households and substantiate the incremental value to the last mile connection to the middle mile network, including, increased network capacity for last mile circuits, increased network performance, and lower costs that are passed onto end users, as well as identify potential or partnered last mile networks that could or would leverage the middle mile network, in the proposed service area to receive points in this category.

b. Affordability of Services Offered (10 points). Applications will be evaluated on the pricing of the broadband services offered compared to existing broadband services in the proposed service area or based on nationwide averages. Applicants should demonstrate that this pricing is competitive and affordable to their target markets.

To receive a full score in this category, the applicant must address all of the criteria in the category with distinction as well as all of the factors for which an applicant may receive additional consideration.

## **2. Project Viability (40 points)**

a. Technical Approach and Related Network Capacity and Performance (20 points). Applications will be scored on the comprehensiveness and appropriateness of the technical solution for the community need and related benefits (capacity and performance). Applications will be evaluated on the proposed technological solution and the ability of the proposed network to provide sufficient capacity, as well as scalability, to meet the needs of the households, businesses, and community anchor institutions in the proposed service area. Networks with higher end-user speeds and the potential for incremental future capacity/bandwidth increases to offer higher broadband speeds in the future, will receive greater consideration. Proposed networks that deliver broadband service with 95 percent or more of all peak period measurements of network round-trip latency at or below 80 milliseconds will receive 10 points.

Reviewers will give additional consideration for construction projects that are “shovel ready” and capable of completion within a one-year award period.

b. Applicant’s Organizational Capability (20 points). Reviewers will assess whether the applicant has the organizational capability necessary to undertake and complete the project. Reviewers will consider the experience and expertise of the project management team and the past track record of the organization with projects of a similar size and scope, as well as the organization’s capacity and readiness. Reviewers will also assess the applicant's partnership and/or subrecipient strategy, including how it complements the applicant's organizational capacity, as well as the project approach, feasibility, and timely completion of proposed project. NTIA will only fund proposals where it determines that the applicant has the organizational capability necessary to carry out the project to completion.

### **3. Project Budget and Sustainability (30 points)**

a. Reasonableness of the Budget (10 points). Reviewers will evaluate the reasonableness of the budget based on its clarity, level of detail, comprehensiveness, appropriateness to the proposed technical and programmatic solutions, the reasonableness of its costs, and whether the allocation of funds is sufficient to complete the tasks outlined in the project plan.

b. Sustainability of the Project (15 points). Applicants must convincingly demonstrate the ability of the project to be sustained beyond the award period. Reviewers will consider business plans, market projections, third-party funding commitments, and other data as may be appropriate to the nature of the applicant and the proposed project. Reviewers will consider demonstrations of community commitments or anchor tenant commitments that would help promote sustainability. Project plans that describe the ability to scale and integrate evolving advanced services over time (such as interoperable interfaces for fifth generation fixed wireless capability or by deploying fiber) will receive up to 8 points.

c. Leverage of Non-Federal Resources (5 points). Reviewers will give additional consideration to those applications that propose to contribute a non-federal cost share of at least 10 percent of the total eligible project costs as reflected in the proposed project budget.

To receive a full score in this category, the applicant must address all of the criteria in the category with distinction as well as all of the factors for which an applicant may receive additional consideration.

## **B. Review Process for the Broadband Infrastructure Program**

The review process will be divided into three stages as outlined below:

### **1. Initial Administrative and Eligibility Review of Complete Application Packets**

NTIA will conduct an initial review of timely received applications submitted in response to this NOFO to determine eligibility, completeness and responsiveness to the programmatic

requirements of the Broadband Infrastructure Program, including a review of the project narrative and budget justification. Applications submitted by other than an eligible applicant will be eliminated from further review. NTIA may continue the initial administrative review process for an application that is timely submitted by an eligible applicant, but that is missing certain information or documentation required by this NOFO, and will request missing or incomplete information from the applicant as needed. The applicant will have seven (7) calendar days to submit materials responsive to the feedback provided by NTIA, unless this period is extended by NTIA. Pursuant to Section 905(e)(2)(B) of the Act, an eligible applicant's failure to remedy deficiencies in a timely manner may result in NTIA's denial of the application.

Given the limited amount of funding available for broadband infrastructure deployment awards and the potentially large number of covered partnerships that may submit applications for this grant program, NTIA will review applications based on the priorities enumerated in Section 905(d)(4) of the Act (and set forth in Section I.A of this NOFO) in their statutory order of priority. Thus, NTIA will first sequence all applications that address priority one by proposing a covered broadband project designed to provide broadband service to the greatest number of households in an eligible service area and evaluate them against the objective criteria set forth in Section V.A of the NOFO to determine their eligibility for award. To the extent that funding remains available after NTIA completes its review of priority one applications, NTIA will then review applications that address priority two. NTIA will continue this priority sequencing process until it has awarded all available funding.

## 2. Merit Review

Applications satisfying the Initial Administrative and Eligibility Review will be evaluated by at least two objective reviewers who have demonstrated expertise in the programmatic aspects of the Broadband Infrastructure Program. They may be federal employees or non-federal persons. During the review process, the reviewers may discuss the applications with each other, but scores will be determined on an individual basis. As applicable, reviewers will be required to sign and submit a nondisclosure and confidentiality form pertaining to the dissemination of confidential information and to potential financial and other conflicts of interest.

NTIA Program Staff will prioritize applications for Merit Review based on the priorities set forth in Section 905(d)(4) of the Act (*see* Section I.A of this NOFO). Reviewers will evaluate applications according to the evaluation criteria provided in Section V.A of this NOFO and independently score each application based on a scale of 0-100. In response to reviewer feedback, NTIA may seek additional clarifying information or corroborating documentation from an applicant during the course of a merit review and may suggest revisions be made to an application to resolve perceived material programmatic or financial weaknesses or deficiencies. In such cases, NTIA will review the feedback from the Merit Reviewers, and will contact the applicant and provide the applicant with an opportunity to respond to the Merit Review feedback. The applicant will have ten (10) calendar days to respond to the reviewer feedback, unless this time period is extended by NTIA. Pursuant to Section 905(e)(2)(B) of the Act, an eligible applicant's failure to remedy application deficiencies in a timely and constructive manner may result in NTIA's denial of the application.

Based on an average of the reviewers' scores, applications will be assigned adjectival ratings for each priority group in accordance with the following scale:

Qualified for Funding – (70-100 points) Unqualified for Funding – (0-69 points)

NTIA may use its sole discretion to terminate the Merit Review revision process for an applicant if, after multiple opportunities to respond to Merit Review feedback, NTIA determines that the applicant is not sufficiently responding to requests for additional information or remedying application deficiencies.

### 3. Programmatic Review

NTIA Program Staff will review applications determined to be qualified for funding during the Merit Review process for conformity with programmatic objectives, requirements and priorities. NTIA Program Staff will prioritize applications for Programmatic Review based on the priorities for the Broadband Infrastructure Program set forth in Section 905(d)(4) of the Act (*see* Section I.A of this NOFO).

During Programmatic Review, NTIA may ask applicants to submit additional information, as appropriate, to clarify or to further substantiate the representations made in their applications. NTIA Program Staff will review the supplemental information, along with all information submitted with the application, to confirm eligibility and evaluate the applications with respect to the requirements and priorities of the Broadband Infrastructure Program. NTIA Program Staff will use available data from the FCC, as required in the Act, to validate eligible service areas. The FCC Form 477 data is a data layer in NTIA's National Broadband Availability Map (NBAM), and NTIA will rely on the FCC's data, along with other datasets contained in the NBAM and other available information, to validate applicants' proposed service areas as meeting the Act's definition of eligible service area.<sup>8</sup>

Applicants whose supporting documents are not complete, accurate and timely submitted or that do not adequately substantiate the representations in their applications may be denied. NTIA will request supplemental documentation before deciding to deny such applications and will re-evaluate the application package based on all of the information presented. Applicants will have ten (10) calendar days to submit information responsive to the feedback provided by NTIA, unless this time period is extended by NTIA.

NTIA reserves the right at any time during the Merit and Programmatic Review processes to negotiate with the applicant relative to specific modifications to the application, including but not limited to the resolution of any differences that may exist between the applicant's original

<sup>8</sup> The NBAM is a geographic information system platform that allows for visualization and analysis of federal, state, and commercially available data sets. This includes data from the Federal Communications Commission, U.S. Census Bureau, Universal Service Administrative Company, U.S. Department of Agriculture, Ookla, Measurement Lab, and the state governments. The mapping platform provides users, including administrators from 29 participating states, with access to the NBAM and its data to better inform broadband projects and funding decisions in their states.

request and NTIA's determination of eligible service areas, eligible costs, and Broadband Infrastructure Program funding priorities. Upon completion of the Programmatic Review, NTIA Program Staff will summarize their analysis for each application reviewed.

### C. Selection Factors and Selection Process

At the conclusion of the Programmatic Review, the Associate Administrator for the Office of Telecommunications and Information Applications (OTIA Associate Administrator) will prepare a rank order of applications within a particular priority grouping and present a package or packages of recommended grant awards to the Selecting Official for review and approval. The OTIA Associate Administrator's recommendations to the Selecting Official will consider the following selection factors:

1. The scores and technical comments of the objective expert reviewers during Merit Review;
2. The analysis of NTIA Program Staff during Programmatic Review;
3. Satisfaction of multiple Broadband Infrastructure Program priorities set forth in Section 905(d)(4) of the Act;
4. The extent to which the applicant proposes to contribute non-federal cost share to fund a portion of the total eligible costs of the project;
5. The equitable geographic distribution of the proposed grant awards;
6. The extent to which the infrastructure investment is necessary to provide qualifying broadband service in the proposed service area and is unlikely to be made using private sources of funds;
7. Whether, and the extent to which, the applicant proposes to incorporate strong labor protections into the performance of the construction project, including paying prevailing wages;<sup>9</sup>
8. Avoidance of duplication with the initiatives of other federal agencies, including Department of Agriculture loan and grant programs for broadband services, applicable universal service programs authorized by the Federal Communications Commission; and
9. The availability of funds.

<sup>9</sup> This means that all laborers and mechanics employed by contractors and subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act") or, for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate state entity pursuant to a corollary state prevailing-wage-in-construction law (commonly known as "baby Davis-Bacon Acts").

The Assistant Secretary, or their designee, will serve as the Selecting Official for the Broadband Infrastructure Program. The Assistant Secretary will generally select and recommend applications for funding based on the rank order within each priority grouping prepared by the OTIA Associate Administrator. As the Selecting Official, the Assistant Secretary retains discretion to select and recommend an application for funding that was not recommended by the OTIA Associate Administrator based on one or more of the selection factors enumerated above, or not to select an application that was recommended for funding by the OTIA Associate Administrator. The Assistant Secretary will submit the applications recommended for funding, along with the bases for the selection decisions, to the National Institute of Standards and Technology (NIST) Grants Officer, who serves as the Grants Officer for the Broadband Infrastructure Program. The final approval of selected applications and the issuance of awards will be made by the NIST Grants Officer. The award decisions of the NIST Grants Officer are final.

Awards will be made for each priority grouping (as set forth in Section I.A of this NOFO) once NTIA completes its review and evaluation of all applications within a particular priority group. All awards are subject to the availability of federal award funds at the time of award.

Unsuccessful applicants will be notified in writing.

As set forth in Section 905(e)(2)(B)(ii) of the Act, the Assistant Secretary may deny an application submitted under the Broadband Infrastructure Program only if the Assistant Secretary provides the applicant an opportunity to cure any defects in the application; and, after receiving the opportunity to cure any defects in the application, the applicant still fails to meet the requirements of this grant program. The multiple opportunities described in Section V.B of this NOFO for an applicant to remedy any deficiencies with its application satisfy this requirement.

#### **D. Federal Awarding Agency Review of Risk Posed by Applicants**

After applications are proposed for funding by the Selecting Official, the NIST Grants Management Division (GMD) will perform pre-award risk assessments in accordance with 2

C.F.R. § 200.206, which may include a review of the financial stability of an applicant, the quality of the applicant's management systems, the history of performance, reports and findings from audits, and/or the applicant's ability to effectively implement statutory, regulatory, or other requirements imposed on non-federal entities. In addition, prior to making an award where the total federal share is expected to exceed the simplified acquisition threshold (currently

\$250,000), NIST GMD will review and consider the non-publicly available information about that applicant in the Federal Awardee Performance and Integrity Information System (FAPIS). Upon completion of the pre-award risk assessment, NIST GMD will determine whether the applicant is qualified to receive the award and, if so, whether appropriate specific award conditions that correspond to the degree of risk posed by the applicant should be applied to the award.

#### **E. Anticipated Announcement and Award Dates**

NTIA expects to complete its review, selection of successful applicants, and award processing by **November 15, 2021**. NTIA expects the earliest start date for awards under this NOFO to be



**November 29, 2021.** NTIA anticipates announcing awards made under the Broadband Infrastructure Program on a rolling basis during calendar year 2021.

## **VI. FEDERAL AWARD ADMINISTRATION INFORMATION**

### **A. Federal Award Notices**

A grants officer from the NIST Grants Office will serve as the Grants Officer for awards issued pursuant to this NOFO. Applicants will be notified in writing by the NIST Grants Officer if their application is selected for an award. If the application is selected for funding, the NIST Grants Officer will issue the grant award (Form CD-450), which is the authorizing financial assistance award document. By signing the Form CD-450, the recipient agrees to comply with all award provisions, terms, and conditions.

If an applicant is awarded funding, neither NTIA nor NIST is under any obligation to provide any additional future funding in connection with that award or to make any future award(s). Amendment of an award to extend the period of performance is at the discretion of NTIA and the NIST Grants Officer.

### **B. Notification to Unsuccessful Applicants.**

Unsuccessful applicants will be notified by e-mail and will have the opportunity to receive a debriefing after the opportunity is officially closed. Applicants must make a request within 10 business days of the email notification to receive a debrief from NTIA. NTIA will then work with the unsuccessful applicant in arranging a date and time of the debrief.

### **C. Retention of Unsuccessful Applications.**

Unsuccessful applications will be retained in accordance with NTIA recordkeeping requirements.

### **D. Administrative and National Policy Requirements**

Grant recipients will comply with applicable statutes and regulations, including but not limited to:

- 1. Uniform Administrative Requirements, Cost Principles and Audit Requirements.** Through 2 C.F.R. § 1327.101, the Department of Commerce adopted Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. Part 200, which apply to awards in this program. Refer to <http://go.usa.gov/SBYh> and <http://go.usa.gov/SBg4>.
- 2. Department of Commerce Financial Assistance Standard Terms and Conditions.** The Department of Commerce will apply to each award in this program, the Financial Assistance Standard Terms and Conditions in effect on the date of award. The current version, dated November 12, 2020, is accessible at Department of Commerce

Financial Assistance Standard Terms and Conditions. Refer to Section VII of this NOFO, Federal Awarding Agency Contacts, Grant Rules and Regulations, if you need more information.

- 3. Pre-Award Notification Requirements.** The Department of Commerce will apply the Pre-Award Notification Requirements for Grants and Cooperative Agreements dated December 30, 2014 (79 FR 78390), accessible at <http://go.usa.gov/hKkR>. Refer to Section VII of this NOFO, Federal Awarding Agency Contacts, Grant Rules and Regulations, for more information.
- 4. Environmental and National Historical Preservation Requirements.** Awarding agencies are required to analyze the potential environmental impacts, as required by the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) and the National Historic Preservation Act (NHPA) (54 U.S.C. 300101 *et seq.*) for applicant proposals and awardee projects seeking funding under the Broadband Infrastructure Program. Applicants with projects containing construction and/or ground disturbing activities are required to submit all required environmental documentation with their application package or describe in their project narrative the physical project location and included photographs, as described above, and how they will comply with applicable environmental and national historical preservation requirements. It is the applicant's responsibility to obtain all necessary federal, state, and local governmental permits and approvals necessary for the proposed work to be conducted. Applicants are expected to design their projects so that they minimize the potential for adverse impacts on the environment. Applicants also will be required to cooperate with NTIA in identifying feasible measures to reduce or avoid any identified adverse environmental impacts of their proposed projects. The failure to do so may be grounds for not making an award. Applications will be reviewed to ensure that they contain sufficient information to allow agency staff to conduct a NEPA analysis so that appropriate NEPA documentation can be submitted to NTIA, along with the recommendation for funding of the selected applications. If additional information is required after an application is accepted for funding, funds can be withheld by NTIA under a specific award condition requiring the awardee to submit additional environmental compliance information sufficient for the agency to make an assessment of any impacts that a project may have on the environment.
- 5. Property Trust Relationship and Public Notice Filings for Grant-Acquired Property.** In accordance with 2 C.F.R. § 200.316, real property, equipment, and intangible property, that are acquired or improved with a Federal award must be held in trust by the recipient or subrecipient as trustee for the beneficiaries of the project or program under which the property was acquired or improved. In this connection, NTIA may require the non-Federal entity to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with a Federal award and that use and disposition conditions apply to the property. Awards issued pursuant to this NOFO may contain specific award conditions pertaining to the use and disposition of grant-acquired property and to a requirement

that the recipient or subrecipient file certain public notices (*e.g.*, UCC-1, Covenant of Purpose, Use and Ownership, etc.) with respect to grant-acquired property.

6. **Open Network Requirements.** NTIA will require a recipient receiving funds to deploy broadband infrastructure under this grant program to make the network open for interconnection with other broadband service providers. The requirement to interconnect will apply to applicants that deploy middle mile networks and not last mile networks. Awards issued pursuant to this NOFO may contain a specific award condition imposing a requirement to comply with NTIA's open network requirements, which allows all other carriers to interconnect with these networks on fair and non-discriminatory terms and conditions. Such specific award condition may include the following:
  - **Interconnection:** Recipients shall allow interconnection to grant-funded facilities at any technically feasible point along the network (without exceeding current or reasonably anticipated capacity limitations). This duty includes, at a minimum, the physical interconnection of the recipient's facilities to a requesting party's facilities for the exchange of traffic. In addition, recipients shall connect to the public Internet directly or indirectly and provide requesting parties with an ability to connect to the Internet. Rates and terms for interconnection shall be reasonable and nondiscriminatory.
  - **Negotiate in Good Faith:** Recipients shall negotiate in good faith with all requesting parties (*i.e.*, public, private, non-profit, or other parties) making a bona fide request for interconnection or wholesale services.
  - **Wholesale Broadband Services:** NTIA encourages recipients to offer wholesale broadband services at rates and terms that are reasonable and nondiscriminatory.
7. **Domestic Preference for Procurements (Buy American).** Pursuant to 2 C.F.R. 200.322, a non-federal entity should, to the greatest extent practicable under a federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including, but not limited to, iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products pursuant to this program.
8. **Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.** Pursuant to 2 C.F.R. 200.321, a non-federal entity must take all necessary affirmative steps (as described in 2 C.F.R. 200.321) to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

## E. Reporting

**1. Reporting Requirements.** The following reporting requirements described in Sections A.01, Reporting Requirements, of the Department of Commerce Financial Assistance Standard Terms and Conditions (dated November 12, 2020), apply to awards in this program:

- a. Financial Reports.** Each award recipient will be required to submit an SF-425, Federal Financial Report on a semi-annual basis for the periods ending March 31 and September 30 of each year. Reports will be due within 30 days after the end of the reporting period to the NTIA Federal Program Officer, Grants Officer and Grants Specialist named in the award documents. A final financial report is due within 120 days after the end of the project period.
- b. Performance (Technical) Reports.** Each award recipient will be required to submit a technical progress report to the NTIA Federal Program Officer, Grants Officer and Grants Specialist named in the award documents on a semi-annual basis for the periods ending March 31 and September 30 of each year. Reports will be due within 30 days after the end of the reporting period. Technical progress reports shall contain information as prescribed in 2 C.F.R. § 200.329 (<http://go.usa.gov/xkVgP>) and Department of Commerce Financial Assistance Standard Terms and Conditions (dated November 12, 2020), Section A.01.

**2. Annual Report.**—Not later than one year after receiving grant funds under the Broadband Infrastructure Program, and annually thereafter until the funds have been expended, a covered partnership shall submit to the Assistant Secretary (via email to the NTIA Federal Program Officer listed in the recipient’s award documents) a report, with respect to the one-year period immediately preceding the report date, that:

- (a) describes how the covered partnership expended the funds;
- (b) certifies that the covered partnership complied with the requirements of the Act and the Broadband Infrastructure Program, including:
  - (i) a description of each service provided with the grant funds; and
  - (ii) the number of locations or geographic areas at which broadband service was provided using the grant funds; and
- (c) identifies each subrecipient that received a subgrant from the covered partnership and a description of the specific project for which grant funds were provided.

**3. Provision Of Information To FCC and USDA.**—The Assistant Secretary will provide the information collected under Section VI.E.2 of this NOFO to the Commission and to the Department of Agriculture to be used when determining whether to award funds for the deployment of broadband under any program administered by those agencies. *See* Section 905(f)(1)(B) of the Act.

## F. Recipient Integrity and Performance Matters

In accordance with section 872 of Public Law 110-417 (as amended; see 41 U.S.C. 2313), if the total value of a recipient's currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of an award made under this NOFO, then the recipient shall be subject to the requirements specified in Appendix XII to 2 C.F.R. Part 200,<sup>10</sup> for maintaining the currency of information reported to SAM that is made available in the Federal Awardee Performance and Integrity Information System (FAPIS) about certain civil, criminal, or administrative proceedings involving the recipient.

## G. Audit Requirements

2 C.F.R. Part 200, Subpart F, adopted by the Department of Commerce through 2 C.F.R. § 1327.101 requires any non-federal entity that expends federal awards of \$750,000 or more in the recipient's fiscal year to conduct a single or program-specific audit in accordance with the requirements set out in the Subpart. Additionally, unless otherwise specified in the terms and conditions of the award, entities that are not subject to Subpart F of 2 C.F.R. Part 200 (*e.g.*, commercial entities) that expend \$750,000 or more in grant funds during their fiscal year must submit to the Grants Officer either: (i) a financial related audit of each DOC award or subaward in accordance with Generally Accepted Government Auditing Standards; or (ii) a project specific audit for each award or subaward in accordance with the requirements contained in 2 C.F.R. § 200.507. Applicants are reminded that NTIA, the Department of Commerce Office of Inspector General, or another authorized federal agency may conduct an audit of an award at any time.

## H. Federal Funding Accountability and Transparency Act of 2006

In accordance with 2 C.F.R. Part 170, all recipients of a federal award made on or after October 1, 2010, are required to comply with reporting requirements under the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. No. 109-282). In general, all recipients are responsible for reporting sub-awards of \$25,000 or more. In addition, recipients that meet certain criteria are responsible for reporting executive compensation. Applicants must ensure they have the necessary processes and systems in place to comply with the reporting requirements should they receive funding.<sup>11</sup>

## VII. FEDERAL AWARDING AGENCY CONTACT(S)

### A. Please direct programmatic inquiries to:

<sup>10</sup> See 2 C.F.R. Part 200, Appendix XII, available at <http://go.usa.gov/cTBwC>.

<sup>11</sup> See OMB, Requirements for Federal Funding Accountability and Transparency Act Implementation, Interim final guidance to agencies with opportunity to comment, 75 FR 55663 (Sept. 14, 2010), available at <http://go.usa.gov/hKnQ>.

Jennifer Duane  
Senior Broadband Program Specialist  
Office of Telecommunications and Information Applications National  
Telecommunications and Information Administration  
U.S. Department of Commerce  
1401 Constitution Avenue, NW, Room 4874  
Washington, DC 20230  
Phone: (202) 482-2048  
Email: [jduane@ntia.gov](mailto:jduane@ntia.gov)

**B. Please direct grant management inquiries to:**

Dean Iwasaki  
NIST Grants Officer  
Grants Management Division  
National Institute of Standards and Technology 100 Bureau  
Drive, MS 1650  
Gaithersburg, MD 20899-1650  
Phone: (301) 975-8449  
Email: [dean.iwasaki@nist.gov](mailto:dean.iwasaki@nist.gov)

**C. Please direct media inquiries to:**

Stephen F. Yusko Public  
Affairs Specialist Office of  
Public Affairs  
National Telecommunications and Information Administration  
U.S. Department of Commerce  
1401 Constitution Avenue NW, Room 4897  
Washington, DC 20230  
Phone: (202) 482-7002  
Email: [press@ntia.doc.gov](mailto:press@ntia.doc.gov)

**VIII. OTHER INFORMATION**

**A. Protected and Proprietary Information.** The applicant acknowledges and understands that information and data contained in applications for financial assistance, as well as information and data contained in financial, performance, and other reports submitted by applicants, may be used by NTIA in conducting reviews and evaluations of its financial assistance programs. For this purpose, applicant information and data may be accessed, reviewed, and evaluated by NTIA employees, other federal employees, federal agents and contractors, and/or by non-federal personnel, all of whom enter into appropriate confidentiality and nondisclosure agreements covering the use of such information. As may be provided in the terms and conditions of a specific financial assistance award, applicants are expected to support program reviews and evaluations by submitting required financial and performance information and data in an accurate and timely manner, and by cooperation with NTIA and external program evaluators. In accordance with 2 C.F.R. § 200.303(e), applicants are reminded that they must

take reasonable measures to safeguard protected personally identifiable information and other confidential or sensitive personal or business information created or obtained in connection with a Department of Commerce financial assistance award.

NTIA will protect confidential and proprietary information from public disclosure to the extent authorized by applicable law, including the Freedom of Information Act (FOIA), as amended (5 U.S.C. 552), the Trade Secrets Act, as amended (18 U.S.C. 1905), and the Economic Espionage Act of 1996 (18 U.S.C. 1831 *et seq.*). Applications submitted in response to this NOFO may be subject to requests for release under the FOIA. In the event that an application contains information or data that the applicant deems to be confidential commercial information that is exempt from disclosure under FOIA, that information should be identified, bracketed, and marked as Privileged, Confidential, Commercial or Financial Information. Based on these markings, the confidentiality of the contents of those pages will be protected to the extent permitted by law.

Additionally, some of the information submitted in the course of applying for funding under this program, or provided in the course of its grant management activities, may be considered law enforcement sensitive or otherwise important to national security interests. This may include threat, risk, and needs assessment information, and discussions of demographics, transportation, public works, and industrial and public health infrastructures. While this information under federal control is subject to request made pursuant to the FOIA, 5 U.S.C. 552, all determinations concerning the release of information of this nature are made on a case-by-case basis and may fall within one or more of the available exemptions under the FOIA. The applicant is encouraged to consult its own state and local laws and regulations regarding the release of information, which should be considered when reporting sensitive matters in the grant application. The applicant may consult with NTIA regarding concerns or questions about the release of information under state and local laws. The applicant should be familiar with the regulations governing Protected Critical Infrastructure Information (6 C.F.R. Part 29) and Sensitive Security Information (49 C.F.R. Part 1520), as these designations may provide additional protection to certain classes of homeland security information.

**B. Announcement of Proposed Service Areas.** To ensure that NTIA targets federal funds appropriately to areas lacking qualifying broadband service, NTIA will post an announcement identifying each application from a covered partnership that is currently undergoing NTIA review for funding, along with a description of the eligible service area it proposes to serve through its project, including a list of the census blocks, at <https://www.broadbandusa.ntia.doc.gov>. The posting of this announcement will provide existing broadband service providers with a 15-day window to voluntarily submit to NTIA information about the broadband services they offer in any of the proposed service areas a covered partnership designates for funding. NTIA will consider the comments of existing broadband service providers as a factor in its evaluation of a covered partnership's project proposal provided that they include the following information, some of which will be made public: (1) the name of the company providing information on its broadband service offerings; (2) a summary describing the information the provider has submitted to NTIA; (3) the number of households and businesses that have access to broadband service in that portion of the provider's service territory that overlaps with the applicants' proposed service area by census block and the number

lacking access to qualified broadband service as defined in this NOFO; (4) the type of broadband services the provider offers in its service territory by census block and the technology used to provide those services, including, for wireless carriers, the spectrum that is used; (5) the speed of the broadband services that are offered; (6) the number of subscribers that the provider currently has for each of the broadband services it offers in its service territory by census block; (7) a list of the provider's Points of Presence (POPs) in or near the census blocks listed by the announcement; and (8) such other information that NTIA may request after reviewing the data that the existing broadband service provider submitted. Existing broadband service providers may provide maps indicating where they provide broadband service in an applicants' proposed service area, preferably in shapefiles, .kmz, or .kml formats.

NTIA will treat information submitted by an existing broadband service provider designated as proprietary and confidential consistent with applicable federal law. If any of these responses do contain information or data that the submitter deems to be confidential commercial information that should be exempt from disclosure under FOIA, that information should be identified, bracketed, and marked as Privileged, Confidential, Commercial or Financial Information.

Otherwise, the responses will be made publicly available. The information described in items (1) and (2), which includes the identity of the company submitting information and a summary of its response, will be made publicly available. NTIA will post at <https://www.broadbandusa.ntia.doc.gov> a list of the census blocks in which existing broadband service providers have indicated that they provide broadband service. NTIA may consider any information submitted by existing broadband service providers as relevant to its prioritization and review of the eligible service areas proposed for funding in applications from covered partnerships.

**C. Funding Availability and Limitation of Liability.** Funding for the program listed in this NOFO is contingent upon the availability of appropriations. In no event will NTIA, NIST or the Department of Commerce be responsible for application preparation costs, including, but not limited to, if the program fails to receive funding or is cancelled because of agency priorities. Publication of this NOFO does not oblige NTIA, NIST or the Department of Commerce to award any specific project or to obligate any available funds. NTIA will fund only projects that are deemed likely to achieve the Broadband Infrastructure Program's goals and for which funds are available.

**D. Third Party Beneficiaries.** The Broadband Infrastructure Program is a discretionary grant program that is not intended to and does not create any rights enforceable by third party beneficiaries.

**E. Waiver Authority.** It is the general intent of NTIA not to waive any of the provisions set forth in this NOFO. However, under extraordinary circumstances and when it is in the best interest of the federal government, NTIA, upon its own initiative or when requested, may waive the provisions in this NOFO. Waivers may only be granted for requirements that are discretionary and not mandated by statute or other applicable law. Any request for a waiver must set forth the extraordinary circumstances for the request.

**F. Paperwork Reduction Act.** This NOFO contains an information collection requirement subject to the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*). The PRA requires each federal agency to seek and obtain OMB approval before collecting information from the public. Federal agencies may not collect information unless it displays a currently valid OMB control number. For purposes of the Broadband Infrastructure Program, NTIA will use Standard Forms 424 (Application for Federal Assistance), 424C (Budget Information for Construction Programs), 424D (Assurances for Construction Programs), 425 (Federal Financial Report), and SF-LLL (Disclosure for Lobbying Activities) under the respective control numbers 4040-0004, 4040-0008, 4040-0009, 4040-0014, and 4040-0013.

**G. Transparency, Accountability, And Oversight Required.**—The Assistant Secretary has adopted measures, including audit requirements, to implement the Broadband Infrastructure Program that:



a. ensure sufficient transparency, accountability, and oversight to provide the public with information regarding the award and use of grant funds under the Broadband Infrastructure Program;

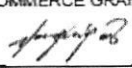
b. ensure that a recipient of a grant under the Broadband Infrastructure Program uses the grant funds in compliance with the requirements of Section 905 of the Act, this NOFO, and the overall purpose of the Broadband Infrastructure Program; and

c. deter waste, fraud, and abuse of grant funds.

**H. Unauthorized Use of Funds.**—To the extent that the Assistant Secretary or the Inspector General of the Department determines that a covered partnership has expended grant funds received under the Broadband Infrastructure Program in violation of the requirements set forth in Section 905 of the Act, the Assistant Secretary will recover the amount of funds that were so expended. *See* Section 905(e)(5) of the Act.

**Exhibit B**

**NTIA Form CD-450**

FORM CD-450 (REV. 10/18)	U.S. DEPARTMENT OF COMMERCE	<input checked="" type="checkbox"/> GRANT	<input type="checkbox"/> COOPERATIVE AGREEMENT
<b>FINANCIAL ASSISTANCE AWARD</b>		FEDERAL AWARD ID NUMBER	
		48-08-I2212	
RECIPIENT NAME Sabine County, TX	PERIOD OF PERFORMANCE 03/01/2022 - 02/28/2023		
STREET ADDRESS 201 Main Street	FEDERAL SHARE OF COST \$12,700,959.02		
CITY, STATE ZIP Hemphill, TX 75948-7269	RECIPIENT SHARE OF COST \$4,697,614.98		
AUTHORITY Section 905(d) of Public Law 116-260	TOTAL ESTIMATED COST \$17,398,574.00		
CFDA NO. AND NAME 11.031 Broadband Infrastructure Program			
PROJECT TITLE: Broadband Infrastructure Build Out in Sabine County, TX			
<p>This Award Document (Form CD-450) signed by the Grants Officer constitutes an obligation of Federal funding. By signing this Form CD-450, the Recipient agrees to comply with the Award provisions checked below and attached. Upon acceptance by the Recipient, the Form CD-450 must be signed by an authorized representative of the Recipient and returned to the Grants Officer. If not signed and returned without modifications by the Recipient within 30 days of receipt, the Grants Officer may unilaterally withdraw this Award offer and de-obligate the funds.</p> <p><input checked="" type="checkbox"/> DEPARTMENT OF COMMERCE FINANCIAL ASSISTANCE STANDARD TERMS AND CONDITIONS</p> <p style="padding-left: 20px;"><input type="checkbox"/> R &amp; D AWARD</p> <p style="padding-left: 20px;"><input type="checkbox"/> FEDERAL-WIDE RESEARCH TERMS AND CONDITIONS, AS ADOPTED BY THE DEPT. OF COMMERCE</p> <p><input type="checkbox"/> SPECIFIC AWARD CONDITIONS</p> <p><input checked="" type="checkbox"/> LINE ITEM BUDGET</p> <p><input checked="" type="checkbox"/> 2 CFR PART 200, UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS, AS ADOPTED PURSUANT TO 2 CFR § 1327.101</p> <p style="padding-left: 20px;"><input type="checkbox"/> 48 CFR PART 31, CONTRACT COST PRINCIPLES AND PROCEDURES</p> <p style="padding-left: 20px;"><input type="checkbox"/> MULTI-YEAR AWARD. PLEASE SEE THE MULTI-YEAR SPECIFIC AWARD CONDITION.</p> <p><input checked="" type="checkbox"/> OTHER(S): GENERAL TERMS AND CONDITIONS for the NTIA BROADBAND INFRASTRUCTURE PROGRAM, February 2022 (see attached)</p>			
SIGNATURE OF DEPARTMENT OF COMMERCE GRANTS OFFICER		DATE	
Yongming Qiu 		Digitally signed by YONGMING QIU Date: 2022.02.25 08:00:03 -05'00'	
PRINTED NAME, PRINTED TITLE, AND SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL		DATE	

Award Number: 48-08-I2212, Amendment Number 0  
Federal Program Officer: Christopher Holt  
Requisition Number: BIP2212  
Employer Identification Number: 756001136  
Dun and Bradstreet Number: 0849693020000  
Recipient ID:  
Requestor ID:

**Award ACCS Information**

Bureau	FCFY	Project-Task	Organization	Object Class	Obligation Amount
61	2022	4844003-000	06-00-0000-00-00-00-00	41-19-00-00	\$12,702,094.00

**Award Contact Information**

Contact Type	Contact Name	Email	Phone
Administrative	Malinda Bryan	malinda.bryan@co.sabine.tx.us	409-787-5228

**NIST Grants Officer:**  
Yongming Qiu  
100 Bureau Drive, MS 1650  
Gaithersburg, MD 20899-1650  
(301) 975-5437

**NIST Grants Specialist:**  
Claire Woody  
100 Bureau Drive, MS 1650  
Gaithersburg, MD 20899-1650  
(301) 975-0000

**Exhibit C**  
**NTIA Useful Life Schedule**

**FACT SHEET**  
**Broadband Technology Opportunities Program**  
**Useful Life Schedule**

Category	Type	Estimated Useful life
<b>Buildings</b>	■ Construction of new buildings, prefabricated buildings, or concrete pads	■ 20 years
	■ Modification, rehabilitation, or outfitting of existing buildings	■ 15 years
<b>Outside Plant</b>	■ Aerial coaxial plant, aerial copper plant, aerial fiber plant, buried copper plant, buried coaxial plant, buried fiber plant, underground plant, taps, amplifiers, drops, NIDs, etc.	■ 20 years
<b>Towers and Poles</b>	■ Construction of new towers or poles or modifications of existing towers or poles	■ 20 years
	■ Emergency power generation equipment at tower site	■ 10 years
<b>Network and Access Equipment</b>	■ Broadband switching equipment, broadband routing equipment, broadband transport equipment, network broadband access equipment (e.g., CMTSs, DSLAMs, Radio Network Controllers, etc.), wireless base stations, antennas, emergency power supply equipment	■ 10 years
<b>Operating Equipment</b>	■ Billing/Operations systems	■ 10 years
	■ Office furniture and fixtures	■ 10 years
	■ Work equipment and vehicles	■ Five years for non-construction related motor vehicles; 10 years for work-related motor vehicles
<b>Customer Premise Equipment</b>	■ Customer broadband access equipment (e.g., cable modems, DSL modems, wireless modems, etc.), general purpose computers and peripheral equipment, office machinery	■ Five years

**Exhibit D**

**Baseline Project Schedule**

**[To be added by Valor]**

**Exhibit E**

**Project Plans & Specifications**

[To be added by Valor]

The State Of Texas §  
County of Sabine §  
I hereby certify that these documents were filed and duly  
recorded in the Commissioner Court Minutes of Sabine  
County, Texas.



Volume 4 Page 784  
Jamie Clark - County Clerk  
By: Bucky Childers  
Deputy

Vol 4 Page 1013