

## U.S DEPARTMENT OF COMMERCE

### ASSISTANCE LISTING 11.028 - CONNECTING MINORITY COMMUNITIES PILOT PROGRAM

#### I. PROGRAM OBJECTIVES

Under the National Telecommunications and Information Administration (NTIA) the Office of Internet Connectivity and Growth (OICG) administers the Connecting Minority Communities (CMC) Pilot Program. The CMC Pilot Program provides new federal funding for the Assistant Secretary to make grants for the expansion of broadband internet access, connectivity, and digital inclusion.

The objective of CMC is to provide funding to eligible recipients in anchor communities. The CMC Pilot Program accomplishes this objective through activities that include: the purchase of broadband internet access service or any eligible equipment, or to hire and train information technology personnel; to facilitate educational instruction and learning, including through remote instruction; to operate a minority business enterprise (MBE); or to operate a tax-exempt 501(c)(3) organization. CMC also authorizes grants to a consortium, led by an eligible recipient institution (i.e., educational institution), that includes an MBE or a tax-exempt 501(c)(3) organization.

#### II. PROGRAM PROCEDURES

The CMC Pilot Program directly addresses the lack of broadband access, connectivity, adoption and equity at our nation's Historically Black Colleges and Universities (HBCUs), Tribal Colleges and Universities (TCUs), and Minority-Serving Institutions (MSIs), and in their surrounding anchor communities. Accordingly, Congress has directed NTIA to provide grants to HBCUs, TCUs, and MSIs to facilitate educational instruction and learning, including through remote instruction; and to consortia including MBEs or tax-exempt 501(c)(3) organizations to operate that MBE or tax-exempt 501(c)(3) organization. Eligible recipients may use grant funds to: (1) purchase broadband internet access service, including the installation or upgrade of broadband facilities on a onetime, capital improvement, basis to increase or expand broadband capacity and/or connectivity at the eligible institution; (2) purchase or lease eligible equipment and devices for student or patron use, subject to any restrictions and prohibited uses; and (3) hire and train information technology personnel who are a part of the eligible anchor institution, MBE, or tax-exempt 501(c)(3) organization.

The CMC Pilot Program expands educational instruction and remote learning opportunities, spur economic development, create opportunities for employment and entrepreneurship, by building the digital capacity of the eligible institutions and furthering broadband access, adoption, and digital skills within those institutions and in their surrounding anchor communities. NTIA is collaborating with HBCU, TCU, and MSI anchor institutions to develop innovative solutions to address digital gaps.

Section 902(c)(1)(A) of the Consolidated Appropriations Act, 2021, Division N, Title IX, Section 902, Public Law 116-260, 134 Stat. 1182 (Dec. 27, 2020) ("the CAA") required NTIA to

promulgate rules establishing CMC Pilot Program, which NTIA has at 47 CFR Section 302 (86 FR 31638). Section 902(c)(1)(B) of the CAA requires that NTIA in these rules establish a method to: identify, determine, and verify applicant eligibility; identify which eligible recipients in anchor communities have the greatest unmet financial needs; and ensure that grants under the CMC Pilot Program are made to eligible recipients in a manner that best achieves the purposes of the CMC Pilot Program, among other requirements.

### **Source of Governing Requirements**

The CMC Pilot Program is authorized by the CAA, 2021, Division N, Title IX, Section 902, Public Law 116-260, 134 Stat. 1182 (Dec. 27, 2020).

### **Availability of Other Program Information**

Other program information is available at:

- [BroadbandUSA](#)
- [Connecting Minority Communities Program](#)
- [Connecting Minority Communities Pilot Program Notice of Funding Opportunity \(NOFO\) \(Original released on August 3, 2021\)\\*](#)
- [Connecting Minority Communities Pilot Program NOFO \(Amended November 9, 2021\)\\*](#)
- [DOC Financial Assistance Standard Terms and Conditions](#)
- [BroadbandUSA Technical Assistance Hub](#)

\*The NOFO was originally released on August 3, 2021 but was amended on November 9, 2021. Links to both documents are included for reference.

## **III. COMPLIANCE REQUIREMENTS**

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the *Safe Harbor Status* discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	Y	Y	N	N	Y	Y	N

**A. Activities Allowed or Unallowed**

1. *Activities Allowed*

Based on the purpose and scope of the CMC Pilot Program and the program regulations, below are non-exclusive examples of how an eligible recipient may generally leverage grant funds within applicant-designated anchor communities:

a. *General Use:*

- (1) Fund personnel costs, including salaries and fringe benefits for staff and consultants required for the implementation of the CMC Pilot Program (such as project managers, program directors, subject matter experts, grant administrators, financial analysts, accountants, and attorneys) (NOFO: Section IV.J.1.a.i);
- (2) Fund increases in broadband networking capability, hardware, software, and other digital technology for broadband services, remote education, and distance learning (NOFO: Section IV.J.1.a.ii);
- (3) Fund equipment and devices (such as laptops, tablets, and hotspots, but excluding mobile phones) to support connectivity for remote education (NOFO: Section IV.J.1.a.iii);
- (4) Fund, provide and implement affordable broadband programs, that facilitate greater access to broadband services, devices, and equipment; including providing free or reduced-cost broadband service and preventing disconnection of existing broadband service (NOFO: Section IV.J.1.a.iv);
- (5) Fund, provide and implement digital training, education, technology support, outreach and awareness programs including curricula and

- web-based resources that facilitate remote education (NOFO: Section IV.J.1.a.v);
- (6) Fund access to broadband services including improvement of broadband services and equipment in eligible institutions (NOFO: Section IV.J.1.a.vi);
  - (7) Conduct needs assessments and develop plans for increasing broadband adoption and access to remote education (NOFO: Section IV.J.1.a.vii);
  - (8) Fund Program Evaluation and Data Collection activities to collect data and document best practices for replicable and sustainable programs. Eligible activities include: gathering data through different methodologies (including surveys, case studies, focus groups, etc.); conducting evaluations of the programs funded by the grant to determine their effectiveness and develop best and replicable practices; and conducting research, publish and disseminate those findings (NOFO: Section IV.J.1.a.viii);
  - (9) Fund subawards and contractual costs associated with carrying out programmatic activities of a CMC Pilot Program grant, including for program implementation and consulting services. Recipients are responsible for monitoring the activities and expenditures of subrecipients (sometimes referred to as “subawards” or as “subgrants”) and vendors, and are responsible for Ensuring that all solicitation documents reflect activities within the scope of the CMC Pilot Program (NOFO: Section IV.J.1.a.ix);
  - (10) 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 the NOFO (NOFO: Section IV.J.1.a.xi); and
  - (11) 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 the NOFO (NOFO: Section IV.J.1.a.xi).
- b. *Where the eligible recipient will build the broadband capacity of the institution of higher education to provide educational instruction and learning opportunities, including through remote instruction:*
- (1) Purchase laptops, hotspots, or other broadband internet and instructional equipment, excluding mobile phones:

- (2) Pay for broadband internet services (through bulk purchase agreements). NTIA encourages grant recipients to negotiate bulk discounts from broadband service and equipment providers;
  - (3) Pay for software, online licensing fees and resources including online program; management, distance learning platforms, learning management systems, cybersecurity and/or other learning support services;
  - (4) Pay for technology support and IT services;
  - (5) Pay for installations and/or upgrades of campus computer systems and broadband facilities on a one-time capital basis;
  - (6) Provide digital skills, cybersecurity and IT-related professional development training for students, faculty, and staff; and
  - (7) Pay for staffing required to carry out these activities including internships, stipends, and apprenticeships.
- c. *Where the eligible recipient will focus on students to participate in educational instruction and learning, including through remote instruction and where the eligible recipient's priority is low-income students:*
- (1) Purchase laptops, Wi-Fi hotspots, or other broadband related equipment, excluding mobile phones;
  - (2) Pay for broadband internet access services (through bulk purchase agreements);
  - (3) Pay for educational software, online licensing fees and resources;
  - (4) Provide assistance to students to sign up for other available low-cost internet access programs and device subsidies;
  - (5) Provide technology support and training; and
  - (6) Manage and administer broadband equipment and subsidy programs.
- d. *Where the eligible recipient will hire and train information technology personnel:*
- (1) Provide advanced digital skills training including STEM/STEAM, coding, cybersecurity, technician, IT-related training programs within applicant designated anchor communities;

- (2) Provide apprenticeship and internship programs within applicant-designated anchor communities; and
  - (3) Provide IT-related professional development opportunities for faculty, students and staff, and to develop a diverse IT workforce within applicant-designated anchor communities.
- e. *Where the eligible recipient is a consortium (led by an eligible institution of higher education, and includes a MBE or Tax-Exempt 501(c)(3) Organization) and will focus on promoting access and adoption of broadband internet services and digital inclusion to eligible recipients in anchor communities:*
- (1) Provide tech support and IT services;
  - (2) Provide digital skills training and train information technology personnel within applicant-designated anchor communities;
  - (3) Promote broadband adoption and computer access within applicant-designate anchor communities;
  - (4) Provide technical assistance to residents within applicant-designated anchor communities to sign up for other available low-cost; internet access programs and device subsidies; and
  - (5) Pay for staffing required to carry out these activities including internships, stipends, and apprenticeships.
- f. *Where the eligible recipient is a consortium and the eligible MBE or Tax-Exempt 501(c)(3) Organization will focus on supporting their broadband and IT-related operations:*
- (1) Hire and train IT personnel;
  - (2) Purchase laptops, Wi-Fi hotspots, or other broadband related equipment, excluding mobile phones, to include distribution for community use (within applicant-designated anchor communities); and
  - (3) Pay for broadband internet access services within applicant-designated anchor communities.
- g. *Where the eligible recipient is a consortium and the eligible MBE or Tax-Exempt 501(c)(3) Organization will focus on promoting inclusive innovation, workforce and economic development, and entrepreneurship in anchor communities:*

- (1) Hire and train IT personnel;
- (2) Provide advanced training including STEM/STEAM, coding, cybersecurity, Smart technologies within applicant-designated anchor communities;
- (3) Provide IT related business support, workforce and economic development centers, business incubators within applicant-designated anchor communities; and
- (4) Provide IT apprenticeship and internship programs within applicant-designated anchor communities.

## **B. Allowable Costs/Cost Principles**

### **1. *Costs Allowed***

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 CMC Pilot Program. Allowable costs are determined in accordance with the cost principles identified in 2 CFR Part 200, including Subpart E of such regulations and in 48 CFR Part 31 for commercial organizations, as well as in the grant program's authorizing legislation. In addition, costs must be reasonable, necessary, allocable, and allowable for the proposed project, and conform to generally accepted accounting principles. Federal and non-federal funds committed to an award may only be used to cover eligible costs incurred during the period of performance and for allowable closeout costs incurred by the recipient during the grant closeout process.

a. Under the CMC Pilot Program regulations, grant recipients may only use federal award funds and any non-federal cost share committed to an award to pay for:

- (1) The purchase of broadband internet access service, including the installation or upgrade of broadband facilities on a one-time, capital improvement, basis to increase or expand broadband capacity and/or connectivity at the eligible institution;
- (2) The purchase or lease of eligible equipment and devices for student or patron use, subject to any restrictions and prohibited uses; and
- (3) To hire and train information technology personnel who are a part of the eligible anchor institution, MBE, or Tax-Exempt Organization.

### **2. *Costs Unallowed***

Ineligible costs include those costs that are unallowable under the applicable federal cost principles. Please note that costs ineligible for the CMC Pilot Program may not be paid for with non-federal cost share committed to an award (NOFO: Section

IV.J.2). In addition, the following costs are specifically identified as prohibited under the CMC Pilot Program. These cost prohibitions apply to all eligible recipients, including consortium members:

- a. **Prohibition on use of grant funds for certain telecommunications and video surveillance services or equipment.** A recipient may not use grant funds received under the Connecting Minority Communities Pilot Program, or voluntary cost share (if any) committed to a Connecting Minority Communities Pilot Program award, to procure, obtain or support certain telecommunications and video surveillance services or equipment identified in 2 CFR 200.216.(NOFO: Section IV.J.2.a);
- b. **Prohibition on profit and fees** – A profit, fee, or other incremental charge above actual cost is not an allowable cost under this program. (NOFO: Section IV.J.2.b);
- c. **Prohibited uses of equipment.** – The sale or transfer of any portion of the grant funded equipment for a thing (including a service) of value during the life of equipment is prohibited, per 47 CFR 302.7(d). Recipients are required to comply with the property standards, including the use and disposition requirements, contained in 2 CFR 200.311-316, and with the terms and conditions set forth in the grant award. NOFO: Section IV.J.2.c);
- d. **Construction activities** –Activities related to construction are not allowable under this program. (NOFO: Section IV.J.2.d);
- e. **Loan collateral** – An eligible recipient may not use grant amounts as collateral for a loan made by any public or private lender. (NOFO: Section IV.J.2.g);
- f. **Previously incurred costs** – An eligible recipient may not use grant funds to pay for previously incurred administrative costs (aside from certain pre-application expenses, as described above) or previously purchased equipment. (NOFO: Section IV.J.2.h);
- g. **Duplication of funding** – An eligible recipient may not use grant funds to pay for the costs of providing broadband service or eligible equipment to any locations or individuals that are already receiving funding for such services or equipment from other sources (including other Federal agencies). (NOFO: Section IV.J.2.i)

## F. Equipment and Real Property Management

1. Eligible equipment is defined as (NOFO: I.B.h.):
  - a. a Wi-fi hotspot;
  - b. a modem;



- c. a router;
  - d. a device that combines a modem and router;
  - e. a connected device; or
  - f. any other equipment used to provide access to broadband internet service.
2. In accordance with 2 CFR 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. 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. (NOFO: Section IV.D.5).

#### **G. Matching, Level of Effort, Earmarking**

**1. Matching**

Not Applicable

**2. Level of Effort**

Not Applicable

**3. Earmarking**

Reasonable pre-application expenses in an amount not to exceed \$50,000. Pre-application expenses, which include expenses related to preparing an CMC Pilot Program Notice of Funding Opportunity – 32 August 3, 2021 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. (NOFO: Section IV.J.1.a.x)

#### **H. Period of Performance**

The CAA, as amended, requires Eligible Entities to complete their projects within two years of their receipt of grant funds. If an applicant is awarded funding, neither NTIA nor the Grants office 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 Grants Officer.

## L. Reporting

The following reporting requirements as listed in 47 CFR 302.9 and 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:

### 1. Financial Reporting

- a. *SF-270, Request for Advance or Reimbursement* – Not Applicable
- b. *SF-271, Outlay Report and Request for Reimbursement for Construction Program* – Not Applicable
- c. *SF-425, Federal Financial Report* – Applicable

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.

### 2. Performance Reporting.

- a. **Report Title:** Connecting Minority Communities Pilot Program Performance (Technical) Report  
**PRA number:** OMB Control No. 0660-0048  
**Report Authority:** 2 CFR section 200.329 and Department of Commerce Financial Assistance Standard Terms and Conditions dated November 12, 2020, Section A.01  
**Reporting period/submission date/s:** Semi-annual/April 30 & October 30  
**Link to report and report instructions:**  
<https://broadbandusa.ntia.doc.gov/node/8119>  
<https://broadbandusa.ntia.doc.gov/node/8122>

**Keyline Items** – The following line items contain critical information:

1. Line 3a – Total Cost
2. Line 5a – Total Cost
3. Line 5d – Deployment Cost
4. Line 5d – Ongoing Cost
5. Line 8a. – Personnel
6. Line 8b. – Fringe Benefits

7. Line 8c. – Travel
8. Line 8d. – Equipment
9. Line 8e. – Supplies
10. Line 8f. – Contractual
11. Line 8g. – Construction
12. Line 8h. – Other
13. Line 8i. – Total Direct Charges (sum of 8a thru 8h)
14. Line 8j. – Indirect Charges
15. Line 8k. – Totals (sum of 8i+8j)

### 3. Special Reporting

- a. **Report Title:** Connecting Minority Communities Pilot Program Baseline Report  
**OMB PRA number:** OMB Control No. 0660-0048  
**Report Authority:** 2 CFR section 200.329 and Department of Commerce Financial Assistance Standard Terms and Conditions dated November 12, 2020, Section A.01  
**Reporting period/submission date/s:** Within 45 calendar days of award date  
**Link to report and report instructions:**  
<https://broadbandusa.ntia.doc.gov/node/8117>  
<https://broadbandusa.ntia.doc.gov/node/8122>

**Keyline Items** – The following line items contain critical information:

1. Line 3a – Total Cost
2. Line 5a – Total Cost
3. Line 5c – Average Cost to Recipient
4. Line 5d – Deployment Cost
5. Line 5d – Ongoing Cost

### 3. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

### M. Subrecipient Monitoring

See Part 3.M for audit guidance.

## U.S. DEPARTMENT OF COMMERCE

### ASSISTANCE LISTING 11.029 TRIBAL BROADBAND CONNECTIVITY PROGRAM

#### I. PROGRAM OBJECTIVES

Under the Tribal Broadband Connectivity Program (TBCP), the National Telecommunications and Information Administration (NTIA) awards grants to eligible entities—which include tribal governments, tribal colleges or universities, the Department of Hawaiian Home Lands on behalf of the Native Hawaiian Community (including the Native Hawaiian Education Programs), tribal organizations, or Alaskan Native Corporations—for the deployment and adoption of broadband service on Tribal Land.

The objective of the TBCP is to improve quality of life, spur economic development and commercial activity on Tribal Lands, create opportunities for remote employment and online entrepreneurship, remote learning, and telehealth by expanding broadband access and providing digital training and inclusion programs to Native American communities. The TBCP accomplishes this objective through activities that include: (1) Broadband infrastructure deployment projects support for the establishment of carrier-neutral submarine landing stations, middle mile projects, last mile projects, and network interconnection including proposals for planning, engineering, feasibility, and sustainability studies; and (2) projects that promote the adoption and use of broadband services through broadband and digital inclusion planning, training staff and Tribal community members, and providing technical support and capacity building for Tribal institutions.

For round one of funding NTIA will make up to \$980,000,000 available for federal assistance under the TBCP. To meet the equitable distribution requirement of the Act, NTIA allocated up to \$500,000 to each of the Federally Recognized Tribes delineated by the Department of the Interior's Bureau of Indian Affairs (including those listed parenthetically), in accordance with Section B.3 of the Notice of Funding Opportunity (NOFO). All eligible entities, including Federally Recognized Tribes, had to submit a single application by the application deadline to be eligible for TBCP funding.

In the second round of funding for TBCP, NTIA will make approximately \$980 million available on Native American, Alaska Native and Native Hawaiian lands for deployment of Internet infrastructure, affordability programs, telehealth and distance learning initiatives.

#### II. PROGRAM PROCEDURES

##### A. Broadband Infrastructure Deployment

Broadband Infrastructure Deployment grants are subject to, and administered in accordance with, the Department of Commerce Standard Financial Assistance Terms and Conditions (dated November 12, 2020, as may be periodically amended); Bureau specific administrative standard award conditions; any specific award conditions imposed by NTIA on a case-by-case basis; Line item budget requirements; 2 CFR Part 200, Uniform administrative requirements, cost principles, and audit requirements, as adopted pursuant to 2 CFR Section 1327.101; Department of Commerce pre-award notification requirements for grants and cooperative agreements (ref: 79 FR 78390); and the recipient's

approved plans (approved funding proposal/scope of work and multi-year budgets for the audit period). These documents are incorporated by reference into the nonfederal entity's Financial Assistance Form CD-450 (*US Department of Commerce Financial Assistance Award*), which functions as the grant agreement. If NTIA approves any amendments to the award, including any changes to these documents incorporated by reference, NTIA will document this amendment with a CD-451 form (*US Department of Commerce Amendment to Financial Assistance Award*) or an administrative change letter. There is no expectation that program income will be generated under these awards. However, if program income is generated, it is subject to all the provisions of 2 CFR Part 200 and must be used to further the purposes of the project from which it was generated. There is also no requirement to provide matching contributions. The period of performance is up to four years; however, the Assistant Secretary may extend the period of performance beyond four years if certain conditions are met. Any permissible subawards will be shown in the approved project budget. The terms and conditions of each grant agreement apply (i.e., flow down) to subawards as well, unless a particular section of 2 CFR Part 200 or the terms and conditions of the cooperative agreement specifically indicate otherwise.

## **B. Broadband Use and Adoption**

Broadband Use and Adoption grants are subject to, and administered in accordance with, the Department of Commerce Standard Financial Assistance Terms and Conditions (dated November 12, 2020, as may be periodically amended); Bureau specific administrative standard award conditions; ; any specific award conditions imposed by NTIA on a case-by-case basis; Line item budget requirements; 2 CFR Part 200, Uniform administrative requirements, cost principles, and audit requirements, as adopted pursuant to 2 CFR § 1327.101; Department of Commerce pre-award notification requirements for grants and cooperative agreements (ref: 79 FR 78390); and the recipient's approved plans (approved funding proposal/scope of work and multi-year budgets for the audit period). These documents are incorporated by reference into the nonfederal entity's Financial Assistance Form CD-450 (*US Department of Commerce Financial Assistance Award*), which functions as the grant agreement. If NTIA approves any amendments to the award, including any changes to these documents incorporated by reference, NTIA will document this amendment with a CD-451 form (*US Department of Commerce Amendment to Financial Assistance Award*) or an administrative change letter. There is no expectation that program income will be generated under these awards. However, if program income is generated, it is subject to all the provisions of 2 CFR Part 200 and must be used to further the purposes of the project from which it was generated. There is also no requirement to provide matching contributions. The period of performance is up to four years; however, the Assistant Secretary may extend the period of performance beyond four years if certain conditions are met. Any permissible subawards will be shown in the approved project budget. The terms and conditions of each grant agreement apply (i.e., flow down) to subawards as well, unless a particular section of 2 CFR Part 200 or the terms and conditions of the cooperative agreement specifically indicate otherwise.

## **Source of Governing Requirements**

The Tribal Broadband Connectivity Program is authorized by the Consolidated Appropriations Act, 2021, Division N, Title IX, Section 905(c), Public Law 116-260, 134 Stat. 1182 (Dec. 27, 2020) (Act), as amended by the Infrastructure Investment and Jobs Act, also known as the Bipartisan

Infrastructure Law, Division F, Title II, Section 60201, Public Law 117-58, 135 Stat. 429 (Nov. 15, 2021) (IIJA).

**Availability of Other Program Information**

Other program information is available at:

- [Tribal Broadband Connectivity Program](#)
- [Tribal Broadband Connectivity Program NOFO - Round 1](#)
- [Tribal Broadband Connectivity Program NOFO - Round 2](#)
- [DOC Financial Assistance Standard Terms and Conditions](#)
- [BroadbandUSA Technical Assistance Hub](#)

**III. COMPLIANCE REQUIREMENTS**

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	Y	Y	N	N	Y	Y	N

**A. Activities Allowed or Unallowed**

1. *Activities Allowed*

Section 905(c)(5) of the Act states that an eligible entity may use grant funds made

available under the Tribal Broadband Connectivity Program for:

- (1) Broadband infrastructure deployment, including support for the establishment of carrier-neutral submarine cable landing stations (NOFO: Section D.7.a.A);
- (2) Affordable broadband programs, including— (i) providing free or reduced-cost broadband service; and (ii) preventing disconnection of existing broadband service (NOFO: Section D.7.a.B);
- (3) Distance learning (NOFO: Section D.7.a.C);
- (4) Telehealth (NOFO: Section D.7.a.D);
- (5) Digital inclusion efforts (NOFO: Section D.7.a.E); and
- (6) Broadband adoption activities (NOFO: Section D.7.a.F);

2. *Activities Unallowed*

Proposing to conduct planning activities or prepare feasibility or sustainability studies that are not part of a project proposal to deploy broadband infrastructure or construct broadband networks (NOFO: Section D.7.e).

**B. Allowable Costs/Cost Principles**

1. *Costs Allowed*

Grant recipients may only use federal award funds to pay for allowable costs under the Tribal Broadband Connectivity Program. Allowable costs are determined in accordance with the cost principles identified in 2 CFR Part 200, including Subpart E of such regulations and in the grant program's authorizing legislation. In addition, costs must be reasonable, necessary, allocable, and allowable for the proposed project, and conform to generally accepted accounting principles. Grant funds may be used to cover only eligible costs incurred by the recipient during the period of performance, and for allowable costs incurred by the recipient during the grant closeout process.

**a. Based on the broad parameters of eligible uses of the Tribal Broadband Connectivity Grant Program**, eligible costs will generally include the following categories of expenses:

- (1) Personnel costs, including salaries and fringe benefits for staff and consultants providing services directly connected to the implementation of the Tribal Broadband Connectivity Program grants (such as project managers, program directors, and subject matter experts) (NOFO: Section D.7.a).

- (2) Subawards and contractual costs associated with carrying out programmatic activities of the Tribal Broadband Connectivity Grants, including for program implementation and consulting services. Recipients are responsible for monitoring the activities and expenditures of subrecipients (sometimes referred to as “subawards” or as “subgrants”) and vendors, and are responsible for ensuring that all solicitation documents reflect activities within the scope of the Tribal Broadband Connectivity Grant Program (NOFO: Section D.7.a).
- (3) Fund other allowable costs necessary to carrying out programmatic activities of an award (NOFO: Section D.7.a).
- (4) Reimbursement of reasonable costs associated with preparing the grant application. Allowable 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.
- (5) Fund other allowable costs necessary to carrying out programmatic activities of an award, not to include ineligible costs described below.

**b. Eligible Costs Specific to Broadband Infrastructure Deployment Activities**

This category is for projects that expand the availability of broadband services by deploying new or upgraded broadband infrastructure on Tribal Lands. Section 905(c)(8) of the Act requires that, in using grant funds received under the Tribal Broadband Connectivity Program for new construction of broadband infrastructure, an eligible entity must prioritize projects that deploy broadband infrastructure to unserved households. Recipients may generally use grant funds to:

- (1) Fund the costs of construction, improvement, replacement, extension or acquisition of facilities and telecommunications equipment required to provide qualifying broadband service, including infrastructure for backhaul, middle and last mile networks, as well as for submarine cable landing stations (NOFO: Section D.7.b.i);
- (2) Fund the cost of long-term leases (for terms greater than one year) of facilities required to provide qualifying broadband service, including indefeasible right-of-use (IRU) agreements (NOFO: Section D.7.b.ii);
- (3) Fund the costs of planning, feasibility, and sustainability studies;



- (4) Fund the costs of engineering and network design, including route mapping for broadband infrastructure, permitting and work related to environmental, historical, and cultural reviews (NOFO: Section D.7.b.iv);
- (5) Fund the costs of performance bonds or irrevocable Letters of Credit or other surety (NOFO: Section D.7.b.v);
- (6) Workforce training (NOFO: Section D.7.b.vi); and
- (7) Fund other allowable costs necessary to carrying out programmatic activities of an award (NOFO: Section D.7.b.vii).

**c. Eligible Costs Specific to Broadband Adoption and Use Activities**

This category is for projects that expand the adoption of broadband services by Native American/Alaska Native/Native Hawaiian communities; enable Tribal anchor institutions to provide affordable broadband programs, remote learning, telework, or telehealth services; and build the capacity of Native American/Alaska Native/Native Hawaiian communities to access and fully benefit from these online services. Recipients may generally use grant funds to:

- (1) Acquire broadband-related equipment, instrumentation, networking capability, hardware, software, and other digital technology for broadband services, telehealth and remote education (NOFO: Section D.7.c.i);
- (2) Provide affordable broadband programs, including providing free or reduced-cost broadband service and preventing disconnection of existing broadband service (NOFO: Section D.7.c.ii);
- (3) Provide digital training, education, technology support, outreach and awareness programs including curricula and web-based resources (NOFO: Section D.7.c.iii);
- (4) Facilitate access to broadband services including public computer centers; public WiFi networks; broadband in public housing; improvement of broadband services and equipment in schools, libraries, health centers, workforce development centers and other Tribal anchor institutions (NOFO: Section D.7.c.iv);
- (5) Implement affordable broadband programs that facilitate greater access to broadband services, devices, and equipment; and prevent disconnection of existing broadband services (NOFO: Section D.7.c.v);

- (6) Conduct needs assessment and develop plans for increasing broadband adoption, digital inclusion, online education, telehealth, and digital workforce (NOFO: Section D.7.c.vi);
- (7) Gather data and conduct evaluation of the digital inclusion and broadband adoption programs funded by the grant to determine their effectiveness and develop best practices to facilitate digital inclusion and broadband adoption on Tribal Lands (NOFO: Section D.7.c.vii); and
- (8) Fund other allowable costs necessary to carrying out programmatic activities of an award (NOFO: Section D.7.c.viii).
- (9) The following non-exclusive list includes some examples of generally allowable costs for broadband use and adoption projects:
  1. Personnel salaries, wages, and fringe benefits for persons working directly on the grant;
  2. Travel expenses for key project staff and consultants;
  3. Equipment related directly to project activities;
  4. Subaward and third-party contractor costs;
  5. Equipment and devices to support connectivity for telehealth and remote education such as laptops, tablets, and hotspots;
  6. Design and printing for training and outreach materials;
  7. Staff and volunteer training;
  8. Stipends, internships and/or fellowships.

## 2. *Unallowable Costs*

Ineligible costs include those costs that are unallowable pursuant to 2 C.F.R. part 200, including under Subpart E. Ineligible costs specific to funds awarded under the Tribal Broadband Connectivity Program also include:

- a. Funding for infrastructure that was completed prior to the grant award period. (Projects that were started but not completed or that deploy upgraded broadband infrastructure may be funded under this program, not to include costs associated with activities that occurred prior to the grant award period.)
- b. A profit, fee, or other incremental charge above actual cost is not an allowable cost under this program (NOFO: Section D.7.e).

- c. Costs attributable to any other activities not authorized by the eligible use categories specified in the Act (NOFO: Section D.7.e).
- d. Project costs that are otherwise covered by other federal or state funding. (NOFO: Section D.7.e)
- e. Project costs that are duplicative of or otherwise covered by other federal or state funding. This includes, but is not limited to, deploying broadband infrastructure to locations that are already subject to an Enforceable Buildout Commitment to deploy Qualifying Broadband Service through funding from federal or state programs (NOFO: Section D.7.e).
- f. Prohibition On Use for Covered Communications Equipment or Services – Pursuant to section 905(e)(4) of the Act, an eligible entity may not use grant funds received under the Tribal Broadband Connectivity 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)).

## **F. Equipment and Real Property Management**

In accordance with 2 CFR 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.

## **G. Matching, Level of Effort, Earmarking**

### **1. Matching**

Not Applicable

### **2. Level of Effort**

Not Applicable

### **3. Earmarking**

- a. Two percent cap on administrative expenses: Section 905(c)(6)(A) of the Act, as amended, prohibits an Eligible Entity from using more than 2 percent

of grant funds received under the TBCP for administrative purposes, except that an Eligible Entity that proposes to use grant funds for the construction of broadband infrastructure may use an amount of the grant funds equal to not more than 2.5 percent of the total project cost for planning, feasibility, and sustainability studies related to the project. For this purpose, the 2 percent limitation on administrative expenses includes the combined total of indirect costs and direct administrative costs charged to an award. (NOFO: Section D.7.e).

- b. Reimbursement of reasonable costs associated with preparing the grant application not to exceed five (5) percent of the award. Allowable 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. (NOFO: Section D.7.a).
- c. The costs of planning, feasibility, and sustainability studies are not to exceed one percent of the total project cost (NOFO: Section D.7.b.iii).

## **H. Period of Performance**

Section 60201(1)(B)(i) of Pub. L. 117-58, 135 Stat. 1208, November 15, 2021, requires Eligible Entities to complete their projects within four years of their receipt of grant funds. The Assistant Secretary, however, may extend the award period for broadband infrastructure construction projects if the Eligible Entity 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.

## **I. Reporting**

The following reporting requirements described in Section A.01 Reporting Requirements of the Department of Commerce Financial Assistance Standard Terms and Conditions, apply to awards in this program.

### **1. Financial Reporting**

- a. *SF-270, Request for Advance or Reimbursement* – Not Applicable
- b. *SF-271, Outlay Report and Request for Reimbursement for Construction Program* – Not Applicable
- c. *SF-425, Federal Financial Report* – Applicable

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.

## **2. Performance Reporting**

Report Title: Tribal Broadband Connectivity Program Performance (Technical) Report

OMB PRA number: OMB Control No. 0660-0047

Report Authority: 2 C.F.R. section 200.329 and Department of Commerce Financial Assistance Standard Terms and Conditions dated November 12, 2020, Section A.01

Reporting period/submission date/s: Semi-annual/April 30 & October 30

Link to report and report instructions:

[https://broadbandusa.ntia.doc.gov/search?search\\_api\\_fulltext=annual+report](https://broadbandusa.ntia.doc.gov/search?search_api_fulltext=annual+report)

Keyline Items – The following line items contain critical information

1. Line 12a. – Administrative and legal expenses
2. Line 12b. – Land, structures, rights-of way, appraisals, etc.
3. Line 12c. – Relocation expenses and payments
4. Line 12d. – Architectural and engineering fees
5. Line 12e. – Other architectural and engineering fees
6. Line 12f. – Project inspection fees
7. Line 12g. – Site work
8. Line 12h. – Demolition and removal
9. Line 12i. – Construction
10. Line 12j. – Equipment
11. Line 12k. – Miscellaneous
12. Line 12l. – Contingencies
13. Line 13a. – Personnel
14. Line 13b. – Fringe Benefits
15. Line 13c. – Travel

16. Line 13d. – Equipment
17. Line 13e. – Supplies
18. Line 13f. – Contractual
19. Line 13g. – Construction
20. Line 13h. – Other
21. Line 13i. – Total Direct Charges (sum of 13a thru 13h)
22. Line 13j. – Indirect Charges

**3. Special Reporting**

Not Applicable.

**4. Special Reporting for Federal Funding Accountability and Transparency Act**

See Part 3.L for audit guidance.

**M. Subrecipient Monitoring**

See Part 3.M for audit guidance.

## U.S. DEPARTMENT OF COMMERCE

### ASSISTANCE LISTING 11.032 STATE DIGITAL EQUITY PLANNING AND CAPACITY GRANT PROGRAM

#### I. PROGRAM OBJECTIVES

The Digital Equity Act (DEA), passed as part of the Infrastructure Investment and Jobs Act (IIJA), aims to promote the achievement of digital equity and support digital inclusion activities. The DEA provides \$2.75 billion to the National Telecommunications and Information Administration (NTIA) to establish three grant programs, two of which are covered by this section, to ensure that all people and communities have the skills, technology, and capacity needed to reap the full benefits of the digital economy. The DEA creates a carefully structured process to address the core concerns of digital equity and digital inclusion.

The two programs that comprise the State Digital Equity Planning and Capacity Grant Program and are covered by this compliance supplement section are the State Digital Equity Planning Grant Program and the State Digital Equity Capacity Grant Program. NTIA will seek a new Assistance Listing number for the third program, the Digital Equity Competitive Grant Program; thus, this program is not covered by this compliance supplement section.

The first part of NTIA's execution of the DEA is to fund digital equity planning efforts through the State Digital Equity Planning Grant Program, which makes up to \$60 million available to States (including the District of Columbia and Puerto Rico) to develop State Digital Equity plans. The second part is the State Digital Equity Capacity Grant Program, under which NTIA will award \$1.44 billion over 5 fiscal years to States, possessions/territories, and Tribal entities for the purpose of implementing their State Digital Equity Plans.

Under the DEA, states and territories interested in participating in the State Digital Equity Capacity Grant Program must first apply for a State Digital Equity Planning Grant and complete their State Digital Equity Plans. The State Digital Equity Capacity Grant Program must begin no later than two years after the date NTIA begins awarding the State Digital Equity Planning Grants. Upon receipt of the planning funds, states have one year to complete their Digital Equity Plans. Once completed, states will be eligible to apply for funds to implement the plans through the State Digital Equity Capacity Grant Program. Because of the interconnectedness between these two grant programs, with participation in the State Digital Equity Planning Grant a condition of participating in the State Digital Equity Capacity Grant Program, NTIA is using the same Assistance Listing number. Currently, NTIA has not awarded any funding under the State Digital Equity Capacity Grant Program.

#### II. PROGRAM PROCEDURES

NTIA launched the State Digital Equity Planning Grant Program on May 13, 2022, with the release of the Notice of Funding Opportunity (NOFO). After allocating a percentage of the funds for administrative purposes, NTIA awarded \$53.7 million to 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and four U.S. Territories, to develop Digital Equity Plans which identify the barriers to digital adoption for each of the eight Covered Populations identified in the statute. With this funding, all fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa and the Commonwealth of the

Northern Mariana Islands will have for the first time developed Digital Equity Plans designed to identify the barriers to digital equity faced by the Covered Populations, as defined in Section I.C of the NOFO, establish measurable objectives for documenting and promoting the availability of, and affordability of, access to fixed and wireless broadband services, online accessibility and inclusivity of public resources and services, digital literacy and skills, awareness of cybersecurity and protection of online privacy, and the availability of affordable consumer devices.

NTIA will launch the State Digital Equity Capacity Grant Program with the release of a NOFO in spring 2024 and anticipates making awards on a rolling basis by August 2024. NTIA expects to address the State Digital Equity Capacity Grant Program in the FY2025 Compliance Supplement.

State Digital Equity Planning Grant Program grants are subject to, and administered in accordance with, the Department of Commerce Standard Financial Assistance Terms and Conditions (dated November 12, 2020, as may be periodically amended); Bureau specific administrative standard award conditions; any specific award conditions imposed by NTIA on a case-by-case basis; Line item budget requirements; 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements, as adopted pursuant to 2 CFR § 1327.101; U.S. Department of Commerce pre-award notification requirements for grants and cooperative agreements (ref: 79 FR 78390); and the recipient's approved plans (approved funding proposal/scope of work and budgets for the audit period). These documents are incorporated by reference into the nonfederal entity's Financial Assistance Form CD-450 (*US Department of Commerce Financial Assistance Award*), which functions as the grant or cooperative agreement. If NTIA approves any amendments to the award, including any changes to these documents incorporated by reference, NTIA will document this amendment with a CD-451 form (*US Department of Commerce Amendment to Financial Assistance Award*) or an administrative change letter.

### **Source of Governing Requirements**

The Digital Equity Act of 2021, which establishes the State Digital Equity Planning Grant Program and the State Digital Equity Capacity Grant Program, is authorized by Division F, Title III of the Infrastructure Investment and Jobs Act of 2021, Public Law 117-58, 135 Stat. 429 (November 15, 2021) (IIJA or Act), also commonly known as the Bipartisan Infrastructure Law and codified at 47 USC 1721 *et seq.* 47 USC 1723 establishes the State Digital Equity Capacity Grant Program, and 47 USC 1723(c) establishes the State Digital Equity Planning Grant Program.

### **Availability of Other Program Information**

Information about the Digital Equity Act programs is available at:

- [State Digital Equity Planning Grant Program NOFO](#)
- [BroadbandUSA](#)
- [BroadbandUSA Technical Assistance Hub](#)
- [DOC Financial Assistance Standard Terms and Conditions](#)

## **III. COMPLIANCE REQUIREMENTS**

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been



identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	Y	N	N	Y	Y	N

**A. Activities Allowed or Unallowed**

1. *Activities Allowed*

a. As set forth in Section 60304(c)(3)(E) of the Infrastructure Act, an eligible State to which a State Digital Equity Planning Grant is awarded must, through its designated Administering Entity, use the grant funds only for the following purposes:

- (1) To develop the State Digital Equity Plan of the State (NOFO: Section IV.C.1.b); and
- (2) To make subgrants to any of the following entities to assist in the development of the State Digital Equity Plan of the State (NOFO: Section IV.C.1.a.2):
  - a. Community anchor institutions;
  - b. County and municipal governments;
  - c. Local educational agencies;
  - d. Indian Tribes, Alaska Native entities, or Native Hawaiian organizations;
  - e. Nonprofit organizations;
  - f. Organizations that represent—
    - i. Individuals with disabilities, including organizations

- that represent children with disabilities;
- ii. Aging Individuals;
- iii. Individuals with language barriers, including—
  1. Individuals who are English learners; and
  2. Individuals who have low levels of literacy;
- iv. Veterans; and
- v. Individuals in the State who are incarcerated in facilities other than Federal correctional facilities;
- g. Civil rights organizations;
- h. Entities that carry out workforce development programs;
- i. Agencies of the State that are responsible for administering or supervising adult education and literacy activities in the State;
- j. Public housing authorities in the State; and
- k. A partnership between any of the entities described above.

- b. If the Administering Entity for a State makes a subgrant described above, the Administering Entity shall, with respect to the subgrant, provide to the State the assurances required under Section 60304(e) of the Infrastructure Act. (NOFO Appendix B)

## 2. *Activities Unallowed*

- a. A profit, fee, or other incremental charge above actual cost is not an allowable cost under this program. (NOFO: Section IV.C.2.b)
- b. Grant funds awarded pursuant to this program may not be used, whether directly or indirectly as an offset for other funds, to support or oppose collective bargaining. (NOFO: Section IV.C.2.c)

## **B. Allowable Costs/Cost Principles**

See Part 3.B for audit guidance.

## **G. Matching, Level of Effort, Earmarking**

### **1. Matching**

Not applicable.

### **2. Level of Effort**

Not applicable.

### **3. Earmarking**

Pursuant to Section 60304(h) of the Infrastructure Act, a grant or subgrant awarded pursuant to the State Digital Equity Planning Grant Program shall supplement, not supplant, other federal or State funds that have been made available to carry out activities described in Section 60304. (NOFO: Section IV.C.2.a)

## H. Period of Performance

As established in Section 60304(c)(3)(D)(ii) of the Infrastructure Act, the award period for the State Digital Equity Planning Grant Program is one year, beginning on the date on which the grantee is awarded the grant funds; provided, however, that the award period may be extended by NTIA, in consultation with the National Institute of Science and Technology (NIST) Grants Officer, for up to 180 days based on a written request from a recipient if certain conditions are met and subject to the limitations contained in Section 60304(c)(3)(D)(ii)(II) of the Infrastructure Act, the terms and conditions of an award, and the NOFO. An applicant may submit a request for an extension of the one-year award period not later than ninety (90) calendar days before the end of the award period. (NOFO: Section II.B)

## L. Reporting

Grantees will be required to comply with reporting requirements. In addition to the reporting requirements found in 2 CFR Part 200, NTIA will provide additional reporting instructions in connection with the requirements set forth in the NOFO, including details on the manner and format in which recipients will be required to report information in support of federal agency obligations under the Access Broadband Act, 47 USC § 1307, and Section 60105 of the Infrastructure Act.

### 1. Financial Reporting

- a. *SF-270, Request for Advance or Reimbursement* – Not Applicable
- b. *SF-271, Outlay Report and Request for Reimbursement for Construction Program* – Not Applicable
- c. *SF-425, Federal Financial Report* – Applicable

Each award recipient will be required to submit an SF-425, Federal Financial Report on a semiannual basis for the periods ending March 31 and September 30 of each year. Reports will be due within thirty (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. If awarded, further instructions on where and how to submit reports will be provided via a specific award condition. A final financial report is due within 120 days after the end of the project period.

### 2. Performance Reporting

Not Applicable

### 3. Special Reporting

Not Applicable

**4. Special Reporting for Federal Funding Accountability and Transparency Act**

See Part 3.L for audit guidance.

**M. Subrecipient Monitoring**

See Part 3.M for audit guidance.

## U.S. DEPARTMENT OF COMMERCE

### ASSISTANCE LISTING 11.033 MIDDLE MILE (BROADBAND) GRANT PROGRAM

#### I. PROGRAM OBJECTIVES

The Middle Mile Broadband Infrastructure Grant (MMG) Program provides funding for the construction, improvement, or acquisition of middle mile infrastructure. The objective of the grant program is to expand and extend middle mile infrastructure to reduce the cost of connecting areas that are unserved or underserved to the internet backbone. The National Telecommunications and Information Administration (NTIA) will make up to \$980 million available for federal assistance under the MMG Program. NTIA retains 2% of the appropriated funds to support the administration of the grant program, from pre-award, through application review, and post award. NTIA expects to make awards under this program within \$5 million to \$100 million per grant. This range is not a required minimum or maximum, but eligible entities requesting amounts for projects outside of this range must provide a reasonable explanation for the variance in their project size.

Middle Mile infrastructure does not reach the end user's location, but typically aggregates large quantities of traffic for carriage between networks. The variety of middle mile arrangements is broad. Middle Mile infrastructure might carry traffic via undersea cable to remote locations such as Hawaii or American territories and possessions elsewhere in the Pacific, may "backhaul" wireless traffic via a fiber-optic link from an antenna mounted on a tower to the provider's wired network, may bring the internet to previously unserved Tribal or Native lands, or may simply connect neighboring towns. Middle Mile service, moreover, might be offered by a wide range of entities, from traditional retail Internet Service Providers (ISPs), large technology companies that do not offer retail broadband at all, or electric utilities that increasingly recognize their capability to transform the communications market. Regardless of who deploys and operates them, middle mile connections are crucial to connectivity and competition.

To apply for the MMG Program an entity must be a State, political subdivision of a State, Tribal government, technology company, electric utility, utility cooperative, public utility district, telecommunications company, telecommunications cooperative, nonprofit foundation, nonprofit corporation, nonprofit institution, nonprofit association, regional planning council, Native entity, economic development authority, or any partnership of two (2) or more of these entities.

#### II. PROGRAM PROCEDURES

##### Source of Governing Requirements

The MMG Program is authorized by the Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Law, Division F, Title II, Section 60401, Public Law 117-58, 135 Stat. 429 (Nov. 15, 2021) (IIJA).

##### Availability of Other Program Information

Additional program information is available at:

- [Middle Mile Grant Program Notice of Funding Opportunity \(NOFO\)](#)

- [BroadbandUSA](#)
- [BroadbandUSA Technical Assistance Hub](#)
- [DOC Financial Assistance Standard Terms and Conditions](#)

**III. COMPLIANCE REQUIREMENTS**

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	Y	N	N	N	Y	Y	N

**A. Activities Allowed or Unallowed**

1. *Activities Allowed*

Based on the scope of the MMG Program, below are non-exclusive examples of eligible uses of MMG Program funds:

- a. Construction, improvement, and/or acquisition of facilities and telecommunications equipment required to deploy middle mile broadband facilities (NOFO: Section IV.I.1.a);
- b. Engineering design, permitting and work related to environmental, historical and cultural reviews (NOFO: Section IV.I.1.b);
- c. Personnel costs, including salaries and fringe benefits for staff and consultants required for the implementation of the MMG Program (such as

project managers, program directors, subject matter experts, grant administrators, financial analysts, accountants, and attorneys) (NOFO: Section IV.I.1.c);

- d. 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. These costs should be clearly identified in the proposed project budget and must be approved by NTIA and the Grants Officer in writing to be considered allowable. (NOFO: Section IV.I.1.d); and
- e. Other costs necessary to carrying out programmatic activities for an award, not to include ineligible costs as described below (NOFO: Section IV.I.1.e).

## 2. *Activities Unallowed*

- a. Please note that costs ineligible for the MMG Program may not be paid for with the non-federal cost share committed to an award (NOFO: Section IV.I.2). In addition, the following costs are specifically identified as prohibited under the MMG Program:
  - (1) An award recipient or subrecipient (including contractors and subcontractors) may not use grant funds received under the MMG 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 USC Section 1608)) (NOFO: Section IV.I.2.a).
  - (2) An award recipient or subrecipient may not use grant funds received under the MMG Program for broadband infrastructure costs that are not necessary to complete the project that was proposed by the recipient and approved by NTIA (NOFO: Section IV.I.2.d).

## **B. Allowable Costs/Cost Principles**

### 1. *Allowable Costs*

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 MMG Program. Allowable costs are determined in accordance with the cost principles identified in 2 CFR Part 200, including Subpart E of such regulations for States and non-profit organizations, as well as in the grant program's authorizing legislation. In addition, costs must be reasonable, necessary, allocable, and allowable for the proposed project, and conform to generally accepted accounting principles. Except as set out in paragraph 4 below (addressing allowable pre-application expenses), federal and non-federal funds committed to an award may only be used to cover allowable costs incurred and for allowable closeout costs incurred during the grant closeout process.

## 2. *Unallowable Costs*

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

- a. **Prohibition On Use of Grant Funds For Covered Communications Equipment Or Services under the Secure and Trusted Communications Networks Act** – An award recipient or subrecipient (including contractors and subcontractors) may not use grant funds received under the MMG 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)) (NOFO: Section IV.I.2.a).
- b. **Prohibition on Profit and Fees** – A profit, fee, or other incremental charge above actual cost incurred by an award recipient or subrecipient is not an allowable cost under this Program. (NOFO: Section IV.I.2.b).
- c. **Prohibition on Use of Grant Funds to Support or Oppose Union Organizing** – An award recipient or any subrecipient may not use grant funds, whether directly or indirectly, to support or oppose union organizing. (NOFO: Section IV.I.2.c).
- d. **Prohibition on Use of Grants Funds for Non-Middle Mile Infrastructure** – An award recipient or subrecipient may not use grant funds received under the MMG Program for broadband infrastructure costs that are not necessary to complete the project that was proposed by the recipient and approved by NTIA. (NOFO: Section IV.I.2.d).
- e. **Other** – As a condition of receiving a grant under the MMG Program, a provider of broadband service that is receiving the grant is prohibited from using grant amounts:
  - (1) As collateral for a loan made by any public or private lender (NOFO: Section IV.I.3.a);
  - (2) For pre-application expenses, including previously incurred administrative costs or previously purchased equipment or construction activities, except as allowed in Section IV.I.1.d of this NOFO (NOFO: Section IV.I.3.b).

## F. **Equipment and Real Property Management**

In accordance with 2 CFR Section 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 subrecipients 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 under the MMG Program 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 (NOFO: Section VI.D.5).

## **G. Matching, Level of Effort, Earmarking**

### **1. Matching**

- a. The amount of a MMG awarded to an eligible entity may not exceed 70 percent of the total project cost with the remainder being the match requirement of the recipient. Except for grants made to Tribal Governments and Native entities, the Infrastructure Act does not contemplate waiver of this requirement, and the Assistant Secretary will not entertain requests for such waivers (Infrastructure Investment and Jobs Act of 2021, Division F, Title IV, § 60401(f), Public Law 117-58, 135 Stat. 429, November 15, 2021).
- b. 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 CFR Part 200. 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. In-kind contributions must be allowable and allocable project expenses. The rules governing allowable in-kind contributions are detailed and encompass a wide range of properties and services within 2 CFR, Section 200.316.
- c. NTIA encourages applicants to thoroughly consider potential sources of in-kind contributions, which, 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. In the broadband context, in-kind contributions could include, consistent with federal cost principles, access to rights of way, pole attachments, conduits, easements, or access to other types of infrastructure. It is important to note that federal funds may not be used as non-federal match, except as expressly provided by federal statute (NOFO: Section III.C).

### **2. Level of Effort**

Not Applicable

### 3. Earmarking

- a. Reasonable, post-NOFO, pre-application expenses in an amount not to exceed \$50,000. These costs should be clearly identified in the proposed project budget and must be approved by NTIA and the Grants Officer in writing to be considered allowable. (NOFO: Section IV.I.1.d).

## L. Reporting

The following reporting requirements described in Section A.01 Reporting Requirements of the U.S. Department of Commerce Financial Assistance Standard Terms and Conditions apply to awards in this program.

### 1. Financial Reporting

- a. *SF-270, Request for Advance or Reimbursement* – Not Applicable
- b. *SF-271, Outlay Report and Request for Reimbursement for Construction Program* – Not Applicable
- c. *SF-425, Federal Financial Report* – Applicable

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.

### 2. Performance Reporting

- a. Report Title: Middle Mile Bi-Annual and Final Performance Report  
OMB PRA number: OMB Control No. 0660-0052/Expires 2/28/2027  
Report Authority: 2 C.F.R. section 200.329 and Department of Commerce Financial Assistance Standard Terms and Conditions dated November 12, 2020, Section A.01  
Reporting period/submission date/s: Semi-annual/April 30 & October 30  
[https://broadbandusa.ntia.doc.gov/sites/default/files/2024-03/Middle\\_Mile\\_Biannual\\_and\\_Final\\_Performance\\_Report\\_Template.pdf](https://broadbandusa.ntia.doc.gov/sites/default/files/2024-03/Middle_Mile_Biannual_and_Final_Performance_Report_Template.pdf)

Keyline Items – The following line items contain critical information:

1. Line 5g – Awarded Funds
2. Line 5h – Expenditures to Date
3. Line 5i. – Remaining Grant Balance

4. Line 5j. – Percent of Work Complete
5. Line 6b. – Federal Funds
6. Line 6c. – Non-Federal Funds
7. Line 6d. – Total Project Budget
8. Line 6e. – Total Federal Funds Expended to Date
9. Line 6f. – Total Non-Federal Funds Expended to Date
10. Line 6g. – Total Funds Expended
11. Line 6h. – Percent of Federal Funding Expended to Date  
(Cumulative)

**3. Special Reporting**

Not Applicable.

**4. Special Reporting for Federal Funding Accountability and Transparency Act**

See Part 3.L for audit guidance.

## U.S. DEPARTMENT OF COMMERCE

### ASSISTANCE LISTING 11.035 BROADBAND EQUITY, ACCESS, AND DEPLOYMENT PROGRAM

#### I. PROGRAM OBJECTIVES

The Broadband Equity, Access, and Deployment (BEAD) Program provides \$42.45 billion in new federal funding for the National Telecommunications and Information Administration (NTIA) to grant to all States of the United States, the District of Columbia, Puerto Rico (States), American Samoa, Guam, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands (Territories) (referred to herein as “Eligible Entities”), for broadband planning, deployment, mapping, equity, and adoption activities.

The BEAD program’s principal focus is on deploying broadband service to unserved locations (*i.e.*, broadband-serviceable locations that lack access to Reliable Broadband Service at speeds of at least 25 Mbps downstream and 3 Mbps upstream and latency levels low enough to support real-time, interactive applications) or underserved locations (those without broadband service offering speeds of 100 Mbps downstream/20 Mbps upstream). Eligible Entities demonstrating the ability to ensure service to all unserved and underserved locations may then direct funding to deploy gigabit connections to community anchor institutions, such as libraries and community centers. Eligible Entities may apply remaining funding to other eligible uses. With respect to the deployment of last-mile broadband infrastructure, the BEAD program prioritizes projects designed to provide fiber connectivity directly to the end user. It also requires all projects to provide a low-cost option to eligible subscribers, requires all states to have plans to address middle-class affordability, and further prioritizes proposals that improve affordability to ensure that networks built using BEAD funding are accessible to all Americans.

NTIA issued *Policy Notice: Tailoring the Application of the Uniform Guidance to the BEAD Program* ([Policy Notice: BEAD](#)) which applies to BEAD subawards for which the major purpose of the subaward is a broadband infrastructure “project,” as the term project is defined in the Section I.C.(t) of the BEAD Notice of Funding Opportunity (NOFO). This Policy Notice does not apply to subawards for which the major purpose of the subaward is a non-deployment use, as that term is used in Section IV.B.7.a.iii. of the BEAD NOFO. NTIA, as the agency responsible for administering the BEAD program, provides guidance on the implementation of exceptions, adjustments, and clarifications to certain provisions of the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance), codified at 2 CFR Part 200, and the application of related provisions of the Uniform Guidance to the BEAD Program. This Policy Notice is not a substitute for the terms and conditions of specific awards. Should this Policy Notice and the BEAD award terms differ, the terms and conditions of a specific BEAD award govern. This Policy Notice covers the following:

- Program income;
- Fixed amount subawards and cost principles;
- Procurement standards for fixed amount subawards;
- Property standards for fixed amount awards;
- Federal interest period; and
- Audit requirements.

## II. PROGRAM PROCEDURES

NTIA will make up to \$41,601,000,000 (This amount reflects the \$42,450,000,000 appropriated for the BEAD program minus the two percent of that sum allocated for administrative purposes. *See* Section 60102(d) of the Infrastructure Act.) available for federal financial assistance under BEAD. Funding is distributed primarily based on the relative number of unserved locations in each State and Territory. Each State is eligible to receive a minimum initial allocation of \$100,000,000 and each Territory is eligible to receive a minimum initial allocation of \$25,000,000.

States may request up to \$5,000,000 of their initial minimum allocation in Initial Planning Funds. Territories may request up to \$1,250,000 of their initial minimum allocation in Initial Planning Funds. Each Eligible Entity's Total Allocation is the sum of the Eligible Entity's (i) Minimum Initial Allocation; (ii) High-Cost Allocation; and (iii) Remaining Funds Allocation. The High-Cost Allocation for each Eligible Entity is calculated by (i) dividing the number of unserved locations in high-cost areas in the Eligible Entity by the total number of unserved locations in high-cost areas in the United States and (ii) multiplying the quotient obtained by \$4.245 billion. The funds remaining after subtracting each of (i) the total Minimum Initial Allocations; and (ii) the total High-Cost Allocation from \$41,601,000,000 are the "Remaining Funds. Each Eligible Entity's Remaining Funds Allocation is computed by dividing the number of unserved locations in the Eligible Entity by the total number of unserved locations in the United States and multiplying the result by the Remaining Funds.

The BEAD program establishes a multi-step, multi-year process as reflected in the table below.

STAGE	TIMELINE
<b>Letter of Intent</b>	<b>Deadline:</b> July 18, 2022
<b>Request for Initial Planning Funds</b>	<b>Deadline:</b> Upon submission of the Letter of Intent and by August 15, 2022. NTIA awarded 56 planning awards to each State and Territory.
<b>Five-Year Action Plan:</b> establishes the Eligible Entities' broadband goals and priorities and serves as a comprehensive needs assessment to inform the Initial Proposal	<b>Deadline:</b> Due within 270 days of Eligible Entities' receipt of Initial Planning Funds.
<b>Program Fund Allocation and Notice of Available Amounts</b>	<b>Deadline:</b> NTIA announced how it allocated the BEAD funding on June 26, 2023. Eligible Entities received formal notification of their allocation amounts on June 30, 2023.
<b>Initial Proposal</b>	<b>Deadline:</b> Due no later than December 27, 2023 (180 days from receipt of the Notice of Available Amounts)
<b>Challenge Process</b>	<b>Deadline:</b> After submission of its Initial Proposal and before allocating BEAD funds received for the deployment of broadband networks
<b>Subgrantee Selection Process</b>	<b>Deadline:</b> Upon approval of the Initial Proposal and up to one year

<b>20% Funding Release</b>	<b>Deadline:</b> Once NTIA’s Assistant Secretary approves the Eligible Entity’s Initial Proposal, NTIA will make available not less than 20% of the total grant funds allocated to the Eligible Entity
<b>Final Proposal</b>	<b>Deadline:</b> 365 days after the approval of the Initial Proposal

**Source of Governing Requirements**

BEAD Program, authorized by the Infrastructure Investment and Jobs Act of 2021, Division F, Title I, Section 60102, Public Law 117-58, 135 Stat. 429 (November 15, 2021) (Infrastructure Act or Act) also known as the Bipartisan Infrastructure Law.

**Availability of Other Program Information**

Additional program information is available at:

- [BEAD NOFO](#)
- [Broadband Equity Access and Deployment Program | BroadbandUSA](#)
- [BroadbandUSA Technical Assistance Hub](#)
- [DOC Financial Assistance Standard Terms and Conditions](#)

**III. COMPLIANCE REQUIREMENTS**

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	Y	N	Y	N	Y	Y	N

## A. Activities Allowed or Unallowed

### 1. Activities Allowed

#### a. Activities Allowed – Initial Planning Funds

Eligible Entities that receive Initial Planning Funds may use those funds for the following planning and pre-deployment activities:

- 1) Research and data collection, including initial identification of unserved locations and underserved locations consistent with the rules, regulations, and processes the Federal Communications Commission (FCC) has established for making these determinations in the Broadband DATA Maps (NOFO: Section IV.B.2.1);
- 2) The development of a preliminary budget for pre-planning activities (NOFO: Section IV.B.2.2);
- 3) Publication, outreach, and communications support related to broadband planning, deployment, mapping, equity and adoption (NOFO: Section IV.B.2.3);
- 4) Providing technical assistance to potential subgrantees, including through workshops and events (NOFO: Section IV.B.2.4);
- 5) Training for employees of the broadband program or office of the Eligible Entity or employees of political subdivisions of the Eligible Entity, and related staffing capacity or consulting or contracted support to effectuate the goals of the BEAD program (NOFO: Section IV.B.2.5);
- 6) Establishing, operating, or increasing capacity of a broadband office that oversees broadband programs and broadband deployment in an Eligible Entity (NOFO: Section IV.B.2.6);
- 7) Asset mapping across the Eligible Entity to catalogue broadband adoption, affordability, equity, access, and deployment activities occurring within the Eligible Entity (NOFO: Section IV.B.2.7);
- 8) Conducting surveys of unserved, underserved, and underrepresented communities to better understand barriers to adoption (NOFO: Section IV.B.2.8);
- 9) Costs associated with meeting local coordination requirements set forth in Section IV.C.1.c of the BEAD NOFO, including capacity building at the local and regional levels of contracted support (NOFO: Section IV.B.2.9);

- 10) Reasonable post-NOFO, pre-Initial Planning Funds expenses in an amount not to exceed \$100,000 relating to the preparation of program submissions to NTIA (such as the Letter of Intent) or adding additional capacity to State or Territorial broadband offices in preparation for the BEAD program may be reimbursed if they are incurred after the publication date of the BEAD NOFO and prior to the date of issuance of the grant award from NTIA (NOFO: Section IV.B.2.10); and
- 11) Other uses approved in advance writing by the Assistant Secretary (including in response to an Eligible Entity's request) that support the goals of the Program (NOFO: Section IV.B.2.11).

***b. Activities Allowed – Initial Proposal Preparation***

In drafting an Initial Proposal, an Eligible Entity may allocate grant funds for the following:

- 1) Deploying and/or upgrading broadband network facilities in connection with an Unserved Service Project or an Underserved Service Project (NOFO: Section IV.B.5.b. Para. 4.1);
- 2) Deploying and/or upgrading broadband network facilities to provide or improve service to an eligible community anchor institution (NOFO: Section IV.B.5.b. Para. 4.2);
- 3) Data collection, broadband mapping, and planning to the extent necessary beyond the planning fund allocation to facilitate the goals and deliverables of the BEAD program (NOFO: Section IV.B.5.b. Para. 4.3);
- 4) Installing internet and Wi-Fi infrastructure or providing reduced-cost broadband within a multi-family residential building, with priority given to a residential building that has substantial share of unserved households or in a location in which the percentage of individuals with a household income that is at or below 150 percent of the poverty line applicable to a family of the size involved is higher than the national percentage of such individuals (NOFO: Section IV.B.5.b. Para. 4.4);
- 5) Broadband adoption, including programs to provide affordable internet-capable devices (NOFO: Section IV.B.5.b. Para. 4.5);
- 6) Training and workforce development (NOFO: Section IV.B.5.b. Para. 4.6); and
- 7) Other uses, including other Digital Equity programs not already included above, proposed by the Eligible Entities and approved in



advance in writing by the Assistant Secretary that supports the goals of the BEAD program (NOFO: Section IV.B.5.b. Para. 4.7).

**c. *Activities Allowed – Broadband Deployment projects***

Eligible uses of funding in connection with last-mile broadband deployment projects include the following:

- 1) 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, and multi-tenant buildings (NOFO: Section IV.B.7.a.ii. Para.2.1);
- 2) Long-term leases (for terms greater than one year) of facilities required to provide qualifying broadband service, including indefeasible right-of use (IRU) agreements (NOFO: Section IV.B.7.a.ii. Para..2.2). A long-term lease is an eligible cost for projects whether it is treated as a purchase of assets or as a lease arrangement under Generally Accepted Accounting Principles (GAAP – Financial Accounting Standards Board (FASB) or Governmental Accounting Standards Board (GASB), as applicable), but its classification as either a purchase or a lease may have implications as to how much of the cost may be funded during the up to four-year BEAD period of performance;
- 3) Deployment of internet and Wi-Fi infrastructure within an eligible multi-family residential building (NOFO: Section IV.B.7.a.ii. Para..2.3);
- 4) Engineering design, permitting, and work related to environmental, historical and cultural reviews (NOFO: Section IV.B.7.a.ii. Para..2.4);
- 5) Personnel costs, including salaries and fringe benefits for staff and consultants providing services directly connected to the implementation of the BEAD program (such as project managers, program directors, and subject matter experts) (NOFO: Section IV.B.7.a.ii. Para..2.5);
- 6) Network software upgrades, including but not limited to cybersecurity solutions (NOFO: Section IV.B.7.a.ii. Para..2.6);
- 7) Training for cybersecurity professionals who will be working on BEAD-funded networks (NOFO: Section IV.B.7.a.ii. Para..2.7); and
- 8) Workforce development, including Registered Apprenticeships and

pre-apprenticeships, and community college and/or vocational training for broadband-related occupations to support deployment, maintenance, and upgrades (NOFO: Section IV.B.7.a.ii. Para.2.8).

***d. Activities Allowed – Non-Deployment Uses***

An Eligible Entity that can demonstrate it has a plan for bringing affordable, high-speed broadband service to all unserved and underserved locations within its jurisdiction may also allocate funding to non-deployment activities. Such eligible non-deployment uses include, but are not limited to, the following:

- 1) User training with respect to cybersecurity, privacy, and other digital safety matters (NOFO: Section IV.B.7.a.iii.1);
- 2) Remote learning or telehealth services/facilities (NOFO: Section IV.B.7.a.iii.2);
- 3) Digital literacy/upskilling (from beginner-level to advanced) (NOFO: Section IV.B.7.a.iii.3);
- 4) Computer science, coding and cybersecurity education programs (NOFO: Section IV.B.7.a.iii.4);
- 5) Implementation of Eligible Entity digital equity plans (to supplement, but not to duplicate or supplant, Planning Grant Funds received by the Eligible Entity in connection with the Digital Equity Act of 2021 (NOFO: Section IV.B.7.a.iii.5).
- 6) Broadband sign-up assistance and programs that provide technology support (NOFO: Section IV.B.7.a.iii.6);
- 7) Multi-lingual outreach to support adoption and digital literacy (NOFO: Section IV.B.7.a.iii.7);
- 8) Prisoner education to promote pre-release digital literacy, job skills, online job-acquisition skills, etc. (NOFO: Section IV.B.7.a.iii.8);
- 9) Digital navigators (NOFO: Section IV.B.7.a.iii.9);
- 10) Direct subsidies for use toward broadband subscription, where the Eligible Entity shows the subsidies will improve affordability for the end user population (and to supplement, but not to duplicate or supplant, the subsidies provided by the Affordable Connectivity Program (NOFO: Section IV.B.7.a.iii.10);
- 11) Costs associated with stakeholder engagement, including travel, capacity-building, or contract support (NOFO: Section

IV.B.7.a.iii.11); and

- 12) Other allowable costs necessary to carrying out programmatic activities of an award, not to include ineligible costs described in Section V.K.2 of the BEAD NOFO (NOFO: Section IV.B.7.a.iii.12).

## **B. Allowable Costs/Cost Principles**

1. The following costs are specifically identified as prohibited under the BEAD Program:

Prohibition On Use of Grant Funds for Covered Communications Equipment or Services under the Secure and Trusted Communications Networks Act – An Eligible Entity or subgrantee (including contractors and subcontractors of subgrantees) may not use grant funds received under the BEAD 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 USC 1608)) (NOFO: Section V.H.2.a).

Prohibition on Profit and Fees – A profit, fee, or other incremental charge above actual cost incurred by an Eligible Entity or subgrantee is not an allowable cost under this Program (NOFO: Section V.H.2.b). (A profit, fee, or other incremental charge cannot be added to the actual allowable cost of the service or asset being constructed, purchased, or leased under this Program. This prohibition does not apply to user or subscriber fees (which include a profit margin) charged for subsequent broadband service delivery.)

- a. Prohibition on Use of Grant Funds to Support or Oppose Collective Bargaining – An Eligible Entity or a subgrantee may not use grant funds, whether directly or indirectly, to support or oppose collective bargaining (NOFO: Section V.H.2.c).
- b. Ineligible costs – Include those costs that are unallowable under the applicable federal cost principles. Costs ineligible for the BEAD Program may not be paid for with matching funds committed to an award. If an Eligible Entity is found to have used grant or matching funds on a prohibited cost, the Assistant Secretary may take remedial action, including but not limited to deobligation or clawback of funding (NOFO: Section V.H.2).

## **F. Equipment and Real Property Management**

1. In accordance with 31 USC 503; 2 CFR section 200.316, any real property, equipment, or intangible property acquired or improved with a federal award must be held in trust by the Eligible Entity or subgrantee as trustee for the beneficiaries of the project, other eligible activity, or program under which the property was acquired or improved. This trust relationship exists throughout the duration of the property's estimated useful life, as determined by the Grants Officer in

consultation with the Program Office, during which time the federal government retains an undivided, equitable reversionary interest in the property (Federal Interest). 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 subgrantee file certain public notices (e.g., UCC-1, Covenant of Purpose, Use and Ownership, etc.) with respect to grant-acquired property. NTIA will provide information regarding the useful life schedules associated with assets acquired with grant funds. (NOFO: Section VII.D.5)

Depreciation of real property, equipment, and intangible property shall be in accordance with 2 CFR 200.436.

## **G. Matching, Level of Effort, Earmarking**

### **1. Matching**

- a. **Matching Generally** – Except in certain specific circumstances described in the BEAD NOFO (including projects in designated “high-cost areas” and other cases in which NTIA has waived the matching requirement), in the context of subgrants used to fund broadband network infrastructure deployment, each Eligible Entity shall provide, require its subgrantee to provide, or provide in concert with its subgrantee, matching funds of not less than 25 percent of project costs. Funds from other Federal programs (including funds from the Commission’s Universal Service Fund programs) generally may not be used as matching funds; however, the Infrastructure Act expressly provides that matching funds for the BEAD Program may come from a federal regional commission or authority and from funds that were provided to an Eligible Entity or a subgrantee for the purpose of deploying broadband service under the Families First Coronavirus Response Act (Public Law 116-127; 134 Stat. 178 26 USC 7805; 26 CFR section 31.3221-5); the CARES Act (Public Law 116-136; 134 Stat. 281 26 USC 7805; 26 CFR section 31.3111-6), the Consolidated Appropriations Act, 2021 (Public Law 116-260; 134 Stat. 1182); or the American Rescue Plan Act of 2021 (Public Law 117-2; 135 Stat. 4), to the extent permitted by those laws (NOFO: Section III.B.1, para. 1).

In some cases, a match requirement could deter participation in the BEAD Program by small and non-traditional providers, in marginalized or low-income communities, or could threaten affordability (*i.e.*, if an applicant seeks to offset the cost of a substantial match through higher end user prices). In those cases, an Eligible Entity should consider ways to cover part or all of the provider’s match through Eligible Entity or other funds or seek a match waiver through the process explained below (NOFO: Section III.B.1, para. 2).

A matching contribution may be provided by the subgrantee, an Eligible Entity, a unit of local government, a utility company, a cooperative, a nonprofit or philanthropic organization, a for-profit company, regional planning or governmental organization, a federal regional commission or authority, or any combination thereof (NOFO: Section III.B.1, para. 3). An Eligible Entity may seek, and the Assistant Secretary may grant, a partial or full waiver of the non-federal match requirement where warranted (NOFO: Section III.B.5).

**1) Preference for Maximum Subgrantee Contribution and Minimal BEAD Subsidy**

While the match may be provided by multiple sources, Eligible Entities are encouraged to require a match from the subgrantee rather than utilizing other sources where it deems the subgrantee capable of providing matching funds. This approach will maximize the impact of Eligible Entity funds and funds provided via other federal programs. Eligible Entities are also required to incentivize matches of greater than 25 percent from subgrantees wherever feasible (especially where expected operational costs and revenues are likely to justify greater investment by the subgrantee) by focusing on minimizing the BEAD funding outlay on a particular project, to the extent consistent with other programmatic goals described in the BEAD NOFO (NOFO: Section III.B.2).

**2) Matches from Other Federal Programs and Entities**

Except as expressly provided for in the Infrastructure Act, funds from other Federal programs (including funds from the Commission's Universal Service Fund programs) may not be used as matching funds. The Infrastructure Act expressly provides that matching funds for the BEAD Program may come from a federal regional commission or authority and from funds that were provided to an Eligible Entity or a subgrantee for the purpose of deploying broadband service under the Families First Coronavirus Response Act (Public Law 116-127; 134 Stat. 178); the CARES Act (Public Law 116-136; 134 Stat. 281), the Consolidated Appropriations Act, 2021 (Public Law 116-260; 134 Stat. 1182); or the American Rescue Plan Act of 2021 (Public Law 117-2; 135 Stat. 4), to the extent permitted by those laws. Eligible Entities are encouraged to consider terms and conditions that may be associated with potential sources of match funds and how those may impact the project overall. Loan funding issued through a federal agency, such as through the USDA ReConnect Program, may also be used as match (NOFO: Section III.B.3).

**3) In-Kind Matches**

Matching funds may be provided in the form of either cash or in-

kind contributions, so long as such contributions are made consistent with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards set forth at 2 C.F.R. Part 200. In-kind contributions, which may 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. In-kind contributions must be allowable and allocable project expenses. Potential sources of in-kind contributions, 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. In the broadband context this could include, consistent with federal cost principles, waiver of fees associated with access to rights of way, pole attachments, conduits, easements, or access to other types of infrastructure (NOFO: Section III.B.4).

#### 4) **Match Waivers**

It is NTIA's policy to ensure that BEAD funds are used to bring affordable broadband to all Americans. Thus, the Assistant Secretary will generally seek to minimize the BEAD funding outlay on a particular project to extend the Program's reach, and expects to grant waivers only in special circumstances, when waiver is necessary to advance objectives that are critical to the Program's success. To be considered for a waiver, an Eligible Entity must submit a request that describes the special circumstances underlying the request and explains how a waiver would serve the public interest and effectuate the purposes of the BEAD Program. The Assistant Secretary retains the discretion to waive any amount of the match, including up to the full 25 percent requirement (NOFO: Section III.B.5).

## 2. **Level of Effort**

### 2.1 **Level of Effort-Maintenance of Effort**

Not Applicable

### 2.2 **Level of Effort-Supplement not supplant**

Grant funds awarded to an Eligible Entity under this program shall be used to supplement, and not supplant, the amounts that the Eligible Entity would otherwise make available for the purposes for which the grant funds may be used (NOFO: Section V.H.2).

### 3. Earmarking

#### a. Administrative Expenses

An Eligible Entity may not use more than two percent (2% Cap) of the grant amounts received under the BEAD Program for expenses relating (directly or indirectly) to administration of the grant under Section 60102(d)(2)(B) of the Infrastructure Act. NTIA will release further guidance on what expenses qualify as “expenses relating (directly or indirectly) to administration of the grant” subject to the statutory two percent limitation on these expenses (NOFO: Section V.H.3).

The following is a nonexclusive listing of guidelines for classifying programmatic versus administrative costs related to the (2% Cap):

- 1) Programmatic costs and administrative costs that are not for the administration of the Eligible Entity’s grants do not count towards the 2% Cap.
- 2) The 2% Cap includes any subcontracts or subawards made to assist in the administration of the Eligible Entity’s grant.
- 3) The 2% Cap on costs related to the administration of the Eligible Entity’s grant administrative costs does not apply to funds allocated during the Initial Planning Funds phase of the BEAD Program.
- 4) The 2% Cap may include expenses that are both indirect and direct administrative costs so long as those expenses are related to the administration of the Eligible Entity’s grant.
- 5) Costs related to the subgrantee selection process are not subject to the 2% cap. Subgrantee selection process is a key programmatic component and therefore not an expense related to the administration of an Eligible Entity’s grant.
- 6) Costs associated with the actual subgranting process (contracting, monitoring, disbursement of funds, etc.) are administrative costs but are not expenses related to the administration of the Eligible Entity’s grant subject to the 2% Cap.

Additional information relating to the application of the 2% Cap can be found at:

- [2% Grant Admin Guidance Primer](#)
- [BEAD FAQs](#)

#### I. Procurement and Suspension and Debarment

1. All funds made available through the BEAD Program for broadband infrastructure must comply with the Build America, Buy America Act. The Build America, Buy America Act requires that all the iron, steel, manufactured products (including but not limited to fiber-optic communications facilities), and construction materials used in the project or other eligible activities are produced

in the United States unless a waiver is granted. Under the Build America, Buy America Act and the Buy America Guidance issued by the Office of Management and Budget on April 18, 2022, the Secretary of Commerce (Secretary) may waive the application of this preference when (1) applying the domestic content procurement preference would be inconsistent with the public interest; (2) types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or (3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project or other eligible activities by more than 25 percent.

2. Consistent with the waiver principles detailed in Section 70921(b)(1) of the Build America, Buy America Act and the Buy America Guidance, the Secretary has approved a waiver for the BEAD Program that is limited in duration and scope. For those BEAD awards obligated on or after the effective date of this waiver, February 22, 2024, through February 22, 2029 (i.e., five years from the effective date), the waiver will apply to funds expended by award recipients and subrecipients during the entire period of performance of the award. For awards obligated prior to the effective date of this waiver, the waiver only applies to funds expended by award recipients and subrecipients after the effective date and for the remainder of the period of performance of the award (BABA Waiver Signed.pdf). Further information regarding the BEAD BABA waiver is available on the DOC Build America Buy America website, <https://www.commerce.gov/oam/build-america-buy-america>.

## **L. Reporting**

The following reporting requirements described in Section A.01 Reporting Requirements of the Department of Commerce Financial Assistance Standard Terms and Conditions, apply to awards in this program.

### **1. Financial Reporting**

- a. *SF-270, Request for Advance or Reimbursement* – Not Applicable
- b. *SF-271, Outlay Report and Request for Reimbursement for Construction Program* – Not Applicable
- c. *SF-425, Federal Financial Report* – Applicable

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.



## 2. Performance Reporting

- a. *Report Title: BEAD Initial Report*  
OMB PRA number: Section 60102(o) of the Infrastructure Investment and Jobs Act (IIJA) specifically exempts the BEAD Program from the requirements of the Paperwork Reduction Act (44 USC 3506).  
Report Authority: 2 C.F.R. section 200.329 and Department of Commerce Financial Assistance Standard Terms and Conditions dated November 12, 2020, Section A.01  
Reporting period/submission date/s: 90 calendar days following the award date listed on the CD-450  
Link to report and report instructions:  
<https://broadbandusa.ntia.doc.gov/node/8176>  
<https://broadbandusa.ntia.doc.gov/node/8175>
- Keyline Items – The following line items contain critical information:
1. Initial Planning Funds – Line 1 through 11
  2. Other BEAD Program Funding – Line 1 through 20

## 3. Special Reporting

- a. *Report Title: BEAD Semi-Annual Report (Technical) Report*  
OMB PRA number: Section 60102(o) of the Infrastructure Investment and Jobs Act (IIJA) specifically exempts the BEAD Program from the requirements of the Paperwork Reduction Act (44 USC 3506).  
Report Authority: 2 C.F.R. section 200.329 and Department of Commerce Financial Assistance Standard Terms and Conditions dated November 12, 2020, Section A.01  
Reporting period/submission date/s: Semi-Annual/April 30 & October 30  
Link to report and report instructions:  
[BEAD Semi-Annual Report Attachment Template](#)
- Keyline Items – The following line items contain critical information:
1. Tab – Staffing – FTE %
  2. Tab – Subgrantees – Awarded Funds
  3. Tab – Subgrantees – Expenditures to Date
  4. Tab – Subgrantees – Balance
  5. Tab – Contracts – Contract Amount (Federal Funds)

#### **4. Special Reporting for Federal Funding Accountability and Transparency Act**

See Part 3.L for audit guidance.

#### **M. Subrecipient Monitoring**

- 1.** In addition to demonstrating how it expects to satisfy the subrecipient monitoring and management requirements identified in 2 C.F.R. Part 200 Subpart D, each Eligible Entity must include sufficient accountability procedures within its program to ensure subgrantee compliance with all applicable Program requirements. Each Eligible Entity must, at a minimum, include in any subgrant agreement reasonable provisions allowing for recovery of funds in the event of a subgrantee's noncompliance with the BEAD Program's requirements, including but not limited to failure to deploy network infrastructure in accordance with mandated deadlines.
- 2.** Each Eligible Entity must, at a minimum, employ the following practices:
  - a.** Distribution of funding to subgrantees for, at a minimum, all deployment projects on a reimbursable basis (which would allow the Eligible Entity to withhold funds if the subgrantee fails to take the actions the funds are meant to subsidize);
  - b.** The inclusion of clawback provisions (*i.e.*, provisions allowing recoupment of funds previously disbursed) in agreements between the Eligible Entity and any subgrantee;
  - c.** Timely subgrantee reporting mandates; and
  - d.** Robust subgrantee monitoring practices.

## **DEPARTMENT OF COMMERCE**

### **ASSISTANCE LISTING 11.300 INVESTMENTS FOR PUBLIC WORKS AND ECONOMIC DEVELOPMENT FACILITIES**

### **ASSISTANCE LISTING 11.307 ECONOMIC ADJUSTMENT ASSISTANCE**

#### **I. PROGRAM OBJECTIVES**

The programs covered by this section of the Compliance Supplement in the two assistance listings provided above, 11.300 (Investments for Public Works and Economic Development Facilities (Public Works)) and 11.307 (Economic Adjustment Assistance) have parallel program objectives. The Public Works program assists communities to revitalize and expand their physical and economic infrastructure and also supports the creation and retention of jobs for area residents by helping eligible recipients with their efforts to promote the economic development of their local economies. The Economic Adjustment Assistance program assists communities experiencing actual or threatened severe unemployment or adverse economic changes that may occur suddenly or over time, including but not limited to those caused by military base closures or realignments, depletion of natural resources, presidentially declared disasters or emergencies, or international trade.

Supplementary funds appropriated to the Economic Development Administration (EDA) pursuant to the Coronavirus Aid, Relief, and Economic Security (CARES) Act and the American Rescue Plan (ARP) Act are administered under the Economic Adjustment Assistance program (Assistance Listing 11.307). To award CARES Act funds, EDA published the Addendum to the FY 2020 Public Works and Economic Adjustment Assistance Notice of Funding Opportunity (NOFO) for EDA's CARES Act Recovery Assistance, and EDA separately invited some existing recipients to apply for non-competitive awards. To award ARP Act funds, EDA published six NOFOs: Build Back Better Regional Challenge; Good Jobs Challenge; Economic Adjustment Assistance; Indigenous Communities; Travel, Tourism and Outdoor Recreation; and Statewide Planning, Research and Networks. All awards made under the six ARP Act NOFOs fall under the Economic Adjustment Assistance program (Assistance Listing 11.307).

#### **II. PROGRAM PROCEDURES**

Public Works grants may fund construction and related activities, such as design, engineering, and acquisition of related property, machinery, and equipment. Economic Adjustment Assistance grants may be used to develop a Comprehensive Economic Development Strategy (CEDS) or other strategy to alleviate long-term economic deterioration or a sudden and severe economic dislocation. Economic Adjustment Assistance grants may also fund a project implementing a CEDS or other strategy, including grants for construction and Revolving Loan Funds (RLFs). Like Public Works grants, Economic Adjustment Assistance grants for construction may include related activities, such as design, engineering, and acquisition of related property, machinery, and equipment.

Section 302 of the Public Works and Economic Development Act of 1965 (PWEDA) (42 USC section 3162) requires that Public Works and Economic Adjustment Assistance grants be

consistent with a CEDS or equivalent EDA-accepted regional economic development strategy, except for planning projects (i.e., strategy grants) under the Economic Adjustment Assistance program. Pursuant to section 214 of PWEDA (42 USC section 3154), EDA may waive the CEDS requirements for Public Works and Economic Adjustment Assistance projects located in regions designated as “Special Impact Areas.” If a project is located in a designated “Special Impact Area,” such designation will be specified in the grant award documents.

Economic Adjustment Assistance grants to capitalize or recapitalize RLFs are most commonly made for the purpose of business lending but may also fund public infrastructure or other authorized lending purposes if specifically allowed for in the terms of the award. RLF recipients must administer RLFs in accordance with an RLF plan approved by EDA. RLF recipients must update the RLF plan as necessary in accordance with changing economic conditions in the region; at a minimum, RLF recipients must update their RLF plans at least once every five years. RLF recipients are responsible for ensuring that borrowers are aware of and comply with applicable federal statutory and regulatory requirements.

### **Source of Governing Requirements**

The Public Works and Economic Adjustment Assistance programs are authorized by PWEDA (42 USC sections 3121–3234).

EDA’s regulations are codified at 13 CFR chapter III, including program regulations for Public Works (Assistance Listing 11.300) at 13 CFR Part 305 and Economic Adjustment Assistance (Assistance Listing 11.307) at 13 CFR Part 307.

### **Availability of Other Program Information**

Other program information on PW is available at <https://www.eda.gov/funding/programs/public-works>. Other program information on Economic Adjustment Assistance is available at <https://www.eda.gov/funding/programs/economic-adjustment-assistance>. EDA’s CARES and ARP Act programs under the Economic Adjustment Assistance program are available at <https://www.eda.gov/funding/programs/cares> and <https://www.eda.gov/funding/programs/american-rescue-plan>, respectively.

## **III. COMPLIANCE REQUIREMENTS**

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted

with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	N	N	Y	Y	Y	Y

**A. Activities Allowed or Unallowed**

1. *Activities Allowed*

The grant award documents, which include the grant budget, specify the purpose, and use of funds, which include the following:

- a. Construction: Construction grants made under the Public Works (Assistance Listing 11.300) or Economic Adjustment Assistance (Assistance Listing 11.307) programs can be made for the acquisition or development of land and improvements for use for a public works, public service, or development facility. Construction grants can also be made for the acquisition, design and engineering, construction, rehabilitation, alteration, expansion, or improvement of such a facility, including related machinery and equipment (42 USC section 3141(a); 42 USC section 3149(a); and 13 CFR sections 305.2(a) and 307.3).
- b. Non-Construction, RLF: Economic Adjustment Assistance grants (Assistance Listing 11.307) to capitalize or recapitalize RLFs most commonly fund business lending but may also fund public infrastructure or other authorized lending activities if specifically allowed for in the terms of an award (42 USC section 3149(a) and 13 CFR section 307.6).
- c. Non-Construction, Other: Other activities that can be funded under the Economic Adjustment Assistance program (Assistance Listing 11.307) (in addition to grants for construction and RLFs) are grants for CEDS (or other strategy) development and grants for CEDS (or other strategy) implementation, which may include, among other things, market or industry research and analysis, technical assistance, public services, training, and other activities as justified by the strategy which meet applicable statutory and regulatory requirements (42 USC section 3149(a) and 13 CFR section 307.3).

- d. Subaward, Economic Adjustment Assistance: A recipient of an Economic Adjustment Assistance grant (Assistance Listing 11.307) may directly expend the grant funds or, with prior EDA approval, may redistribute such grant assistance in the form of a loan or other appropriate assistance to nonprofit and private for-profit entities under an RLF (42 USC section 3154c and 13 CFR section 309.2).

## 2. *Activities Unallowed*

- a. For awards made under the Economic Adjustment Assistance program for RLFs, there are special restrictions on the use of RLF Cash Available for Lending. RLF Cash Available for Lending (as defined at 13 CFR section 307.8) **may not** be used to:
  - (1) Acquire an equity position in a private business (13 CFR section 307.17(c)(1)).
  - (2) Subsidize interest payments on an existing RLF loan (13 CFR section 307.17(c)(2)).
  - (3) Provide a loan to a borrower for the purpose of meeting the requirements of equity contributions under another federal agency's loan programs (13 CFR section 307.17(c)(3)).
  - (4) Enable borrowers to acquire an interest in a business either through the purchase of stock or through the acquisition of assets unless sufficient justification is provided in the loan documentation. Sufficient justification may include acquiring a business to save it from imminent closure or to acquire a business to facilitate a significant expansion or increase in investment with a significant increase in jobs. The potential economic benefits must be clearly consistent with the strategic objectives of the RLF (13 CFR section 307.17(c)(4)).
  - (5) Provide RLF loans to a borrower for the purpose of investing in interest-bearing accounts, certificates of deposit, or any investment unrelated to the RLF (13 CFR section 307.17(c)(5)).
  - (6) Refinance existing debt, unless (1) the RLF recipient sufficiently demonstrates in the loan documentation a sound economic justification for the refinancing (e.g., the refinancing will support additional capital investment intended to increase business activities; for this purpose, reducing the risk of loss to an existing lender(s) or lowering the cost of financing to a borrower shall not, without other indicia, constitute a sound economic justification); or

- (2) RLF cash available for lending will finance the purchase of the rights of a prior lien holder during a foreclosure action, which is necessary to preclude a significant loss on an RLF loan. RLF funds may be used for this purpose, only if there is a high probability of receiving compensation from the sale of assets sufficient to cover an RLF's costs plus a reasonable portion of the outstanding RLF loan within a reasonable time frame approved by EDA following the date of refinancing (13 CFR section 307.17(c)(6)).
- (7) Serve as collateral to obtain credit or any other type of financing without EDAs prior written approval (13 CFR section 307.17(c)(7)).
- (8) Support operations or administration of the RLF recipient (13 CFR section 307.17(c)(8)).
- (9) Undertake any activity that would violate the requirements found at 13 CFR Part 314, including sections 314.3 ("Authorized Use of Property") and 314.4 ("Unauthorized Use of Property") (13 CFR section 307.17(c)(9)).
- (10) Finance gambling activity, performances or products of a prurient sexual nature, or any illegal activity, including the cultivation, distribution, or sale of marijuana that is illegal under federal law (RLF Standard Terms and Conditions, Part II, section D) 4) a) (x)).
- b. Subaward, Ineligible Entities: A recipient of a Public Works grant (Assistance Listing 11.300), or Economic Adjustment Assistance grant (Assistance Listing 11.307) may not redistribute award funds (e.g., subaward) to entities ineligible for award under the applicable Notice of Funding Opportunity (NOFO) (e.g., for-profit organizations) except in accordance with the procurement standards at 2 CFR sections 200.317 through 200.327.

## **B. Allowable Costs/Cost Principles**

**Unallowable Costs, RLF Awards:** For RLF awards, costs incurred for ineligible loans, including loans made for one of the unallowed activities described in Section A.2. or made outside of the RLF lending area as discussed in Section N.2., are unallowable. The RLF capital base is always maintained in two forms: as RLF cash available for lending **or** as outstanding loan principal. It is unallowable for recipients of an RLF grant to use RLF funds for administrative costs in excess of the RLF income generated during the same recipient fiscal year without prior written approval from EDA. Any use in excess is unallowable.

**Participant Support Costs:** Awards made under the Public Works (Assistance Listing

11.300) and Economic Adjustment Assistance (Assistance Listing 11.307) typically do not allow funds to be used for participant support costs as provided at 2 CFR section 200.456. However, some awards made with ARP Act funds, in particular awards under the Good Jobs Challenge, may allow participant support costs.

## **G. Matching, Level of Effort, Earmarking**

### **1. Matching**

The amount of required matching share varies on a grant-by-grant basis and is set forth in the grant award. In nearly all cases, a recipient of a Public Works or Economic Adjustment Assistance grant is required to provide a matching share. In some instances, including grants to Indian tribes and to respond to natural disasters, EDA may award grants at investment rates up to and including one hundred percent (100 percent) (13 CFR section 301.4(b)). Prior to EDA approving the matching share at time of application, the recipient must demonstrate to EDA's satisfaction that the matching share is committed to the project, available as needed, and not conditioned or encumbered in any way that would preclude its use consistent with the requirements of the grant award (13 CFR section 301.5). The source of a recipient's matching share may change during the term of the grant award if EDA is notified and approves of the change in source.

Matching share may take a variety of forms. It may be in the form of allowable costs incurred by the recipient, but not charged to the federal award, third party cash contributions, or third party in-kind (non-cash) contributions. Additionally, with prior EDA approval, unrecovered indirect costs or program income may be used to meet the required matching share.

Matching funds must comply with the provisions of 2 CFR section 200.306, 13 CFR section 301.5, and the applicable NOFO, which provides detailed criteria for acceptable costs and contributions. Funds are acceptable for matching if they:

- a. Are verifiable from the nonfederal entity's records.
- b. Are not included as contributions for any other federal award.
- c. Are necessary, allocable, and reasonable for accomplishment of project objectives.
- d. Are allowed under the applicable cost principles.
- e. Are not paid by the federal government under another federal award, except where the federal statute authorizing a program specifically provides for such use, which may sometimes include a letter from the federal agency authorizing the funds as match in the subject project, and



EDA approves the use of the federal funds as match.

- f. Are provided for in the approved budget when required by the EDA.
- g. Conform to other applicable provisions of 2 CFR section 200.306 and any applicable laws, regulations, and provisions of grant or cooperative agreements.

Note that Part 3 for the audit objectives and suggested audit procedures for matching relating to internal control and compliance only applies to the disbursement phase of the RLF award, but not RLF awards in the revolving phase (as defined at 13 CFR section 307.8) where all funds have been previously disbursed by EDA.

**2. Level of Effort**

Not Applicable

**3. Earmarking**

Not Applicable

**J. Program Income**

Program income may be earned pursuant to some Public Works (Assistance Listing 11.300) and Economic Adjustment Assistance (Assistance Listing 11.307) awards, but it is most prevalent in RLF awards.

Program income is a key feature of RLF awards. Known as “RLF income,” it is used to increase the RLF capital base and to pay eligible administrative costs that stem from operating the RLF. RLF income (as defined at 13 CFR section 307.8) includes interest earned on loan principal and accounts holding RLF funds, all fees received by the RLF, and other income generated from RLF operations. RLF income excludes repayments of loan principal. An RLF recipient is allowed to use RLF income to pay for allowable administrative costs, provided such RLF income is earned and the administrative costs are accrued in the same fiscal year of the RLF recipient.

During the revolving phase (as defined at 13 CFR section 307.8), RLF income must either be used to pay allowable administrative costs or added to the RLF capital base. RLF income may be used to pay administrative costs only if the RLF income is accrued and the administrative costs are incurred in the same fiscal year of recipient. If the RLF income is not used for such costs, it must be added to the RLF capital base (13 CFR section 307.12(a)). A recipient may not withdraw funds from the RLF capital base in a subsequent fiscal year to pay administrative costs without the prior written consent of EDA (13 CFR section 307.12(a)(3)). RLF recipients must keep administrative costs to a minimum to maintain the RLF capital base (13 CFR section 307.12(a)(4)). When

charging costs against RLF income, RLF recipients must comply with the cost principles at 2 CFR Part 200, Subpart E.

RLF income received before disbursement phase (as defined at 13 CFR section 307.8) closeout is retained by the RLF recipient, added to the RLF capital base, continues to be reported in the RLF Financial Report (Form ED-209). The RLF recipient may use program income only as an “addition” to the federal award pursuant to 2 CFR section 307(e)(2); the recipient may not use program income as a “deduction” to the federal award.

## **L. Reporting**

### **1. Financial Reporting**

- a. *Form SF-270, Request for Advance or Reimbursement for Non-Construction Programs* – Applicable (required for non-construction awards until the award is fully disbursed)
- b. *Form SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Applicable (required for construction awards until the award is fully disbursed)
- c. *Form SF-425, Federal Financial Report* – Applicable
- d. *Form ED-209, RLF Financial Report* – Applicable only for RLF awards (required to be submitted in a format and at a frequency determined by EDA for the duration of the RLF’s operation, generally on a semiannual or annual basis). The following explains the Form ED-209 reporting requirements.

*Form ED-209, Revolving Loan Fund Financial Report (OMB No. 0610-0095)* – All EDA RLF recipients must submit Form ED-209 at a frequency as directed by EDA (13 CFR section 307.14(a)). The frequency is based on the results of the rating each RLF receives under the Risk Analysis System. Generally, Form ED-209 must be submitted corresponding to the RLF recipient’s fiscal year on an annual basis for RLF awards that are highly rated under the Risk Analysis System, while it must be submitted on a semi-annual basis for RLF awards that are not highly rated under the Risk Analysis System.

*Key Line Items* – The following line items contain critical information, which should reconcile with the RLF recipient’s financial documents and account balances:

1. *Current RLF capital base (Line II.C.6.)*

2. *RLF Cash Available for Lending, Net of Committed RLF \$ (Line II.D.4.)*
3. *Total Active Loans (Line III.A.4., Number, RLF \$ Loaned, and RLF Principal Outstanding)*
4. *Written Off Loans (Line III.A.5., Number, RLF \$ Loaned, and Loan Losses)*
5. *Total Loans (Line III.A.7., Number, RLF \$ Loaned, RLF Principal Outstanding, and Loan Losses)*
6. *RLF income used for Admin. Expenses, Fiscal Year (Line IV.C.2.)*
7. *RLF income earned during Fiscal Year (Line IV.C.3.)*
8. *Administrative Expenses % of Income, Fiscal Year (Line IV.C.2.)*
9. *Total \$ Leveraged (Line IV.E.1., Active Loans and Total Loans)*
10. *Loan Leverage Ratio (Line IV.E.2., Active Loans and Total Loans)*

## **2. Performance Reporting**

- a. Report Title: *ED-915: Economic Development Administration GPRA Data Collection Form, Public Works, Economic Adjustment Infrastructure and Revolving Loan Fund Instruments.* (The ED-915 is used for Public Works or Economic Adjustment Assistance projects that involve construction and legacy RLFs as directed in their grant award conditions.)

OMB PRA Number: OMB No. 0610-0098

Report Authority: Government Performance and Results Act of 1993, as amended by the GPRA Modernization Act of 2010

Reporting period/submission date/s: 3, 6, or 9 years after award

Link to report and report instructions:

[https://www.eda.gov/sites/default/files/filebase/files/tools/grantee-forms/ED-915\\_2021\\_fillable.pdf](https://www.eda.gov/sites/default/files/filebase/files/tools/grantee-forms/ED-915_2021_fillable.pdf)

Key Line Items: The following line items contain critical information:

1. Jobs Retained line – for RLF reporting, the number of private sector jobs retained as a result of the EDA funding are to be reported for periods 3 years after the award, 6 years after the

award, and 9 years after the award. Auditors are not asked to confirm the accuracy of the jobs retained numbers, but only that grantee has documentation supporting that without the RLF assistance, the jobs would have been lost.

2. Private Investment Generated, Jobs Created, and Jobs Retained lines – there are special procedures for RLFs that were recapitalized. Auditors are not asked to confirm the accuracy of the data entered as private investment generated, jobs created, or jobs retained. Rather, to confirm that the grantee is reporting the data from the right date, the date of the recapitalization. For GPRA purposes, private investment and jobs reported in years 3, 6 and 9 following award of an RLF recapitalization should be reported from the date of the recap, not from the date of the initial RLF award. For example, if the RLF was initially awarded in 1995 and received a recapitalization award in 1999, only those jobs and private sector investments dollars generated from 1999 to the end of the appropriate reporting period should be reported.

EDA non-construction awards with periods of performance beginning prior to June 1, 2020 must continue to [submit GPRA data collection Form ED-915](#). Awards after that date instead now report on the forms ED-916, 917 and 918.

### 3. Special Reporting

Not Applicable

### 4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

## N. Special Tests and Provisions

### 1. RLF Awards: Priority of Payments on Defaulted and Written Off RLF Loans

**Compliance Requirements** When an RLF recipient receives proceeds on a defaulted RLF loan or written off RLF loan, such proceeds must be applied in the following order of priority: (1) towards any costs of collection; (2) towards outstanding penalties and fees; (3) towards any accrued interest to the extent due and payable; and (4) towards any outstanding principal balance (13 CFR section 307.12(c)).

**Audit Objectives** Determine whether proceeds from defaulted RLF loans were

correctly applied in the order of priority.

### **Suggested Audit Procedures**

Test a sample of defaulted **and** written off RLF loan files to ascertain whether:

- a. Documentation is available that supports that proceeds from defaulted and written off RLF loan files were correctly applied in the order of priority.
- b. Any variance from this procedure would specifically be documented with an approval by the EDA Assistant Secretary and would be recorded in the file.

## **2. RLF Awards: Loan Requirements**

**Compliance Requirements** The following requirements apply to RLF loans:

- a. The standard loan documentation must include, at a minimum, the: (1) loan application, (2) loan agreement, (3) board of directors' meeting minutes approving the RLF loan or appropriate substitute documentation if board approval is not required, (4) promissory note, (5) security agreement(s) (if applicable), (6) deed of trust or mortgage (if applicable), (7) agreement of prior lien holder (if applicable), and (8) evidence demonstrating that credit is not otherwise available on terms and conditions that permit the completion or successful operation of the activity to be financed (13 CFR section 307.11(a)(1)(ii)). (Note, however, that EDA temporarily waived the requirement to collect evidence demonstrating that credit is not otherwise available; for more information, see <https://www.eda.gov/funding/programs/cares/faq/rlf>.)
- b. An RLF recipient must make loans to implement and assist economic activity only within its EDA-approved lending area, as defined in the terms and conditions of the award (as amended) and the EDA-approved RLF Plan (13 CFR section 307.18(a)(1)).
- c. RLFs shall operate in accordance with generally accepted accounting principles ("GAAP") in effect in the United States and the provisions outlined in the audit requirements set out as Subpart F to 2 CFR Part 200 and this Compliance Supplement, which is Appendix XI to 2 CFR Part 200, as applicable.
- d. In accordance with GAAP, a loan loss reserve may be recorded in the RLF recipient's financial statements to show the adjusted current value of an RLF's loan portfolio, provided this loan loss reserve is non-funded and is represented by a noncash entry. However, loan loss reserves may not be used to reduce the value of the RLF in the Schedule of Expenditures of Federal Awards ("SEFA") required as part of the RLF recipient's audit

requirements under 2 CFR Part 200 (13 CFR section 307.15(a)(2)).

**Audit Objectives** Determine whether: (1) the required documentation is complete for all RLF loans, including evidence that credit was not otherwise available to the borrower; (2) the RLF recipient's financed activity is located in the EDA-approved lending area; and (3) properly recording a loan loss reserve in accordance with GAAP and with section 307.15(a)(2).

### **Suggested Audit Procedures**

- a. Test a sample of RLF loan files to ascertain if:
  - 1) All required standard loan documents are complete for each loan, including documentation that credit was not otherwise available to the borrower. This can take the form of a market analysis of local credit conditions; the documentation does not have to be unique to the borrower.
  - 2) The financed activity is located in the EDA-approved lending area.

### **3. RLF Awards: Loan Portfolio Sales and Securitizations**

**Compliance Requirements** With prior written approval from EDA, an RLF recipient may enter into a sale or a securitization of all or a portion of its RLF loan portfolio, provided it: (1) uses all the proceeds of any sale or a securitization to make additional RLF loans, and (2) requests that EDA subordinate its interest in all or a portion of any RLF loan portfolio sold or securitized (13 CFR section 307.19).

**Audit Objectives** In the event an RLF recipient has sold or securitized RLF loans, verify whether the RLF recipient: (1) received EDA's prior approval, and (2) used all the proceeds from the sale or securitization to make additional RLF loans.

### **Suggested Audit Procedures**

- a. Determine whether RLF recipient has entered into sale or securitization of all or a portion of its RLF loan portfolio.
- b. Verify that the RLF recipient has evidence of EDA's prior written approval to sell or securitize all or a portion of its RLF loan portfolio.
- c. Ascertain that all the proceeds from the sale or securitization (net of reasonable transactions costs) were used to make additional RLF loans.

#### 4. Wage Rate Requirements

See Part 4, 20.001 Wage Rate Requirements of the Department of Transportation Cross-Cutting Section of this Compliance Supplement.

### IV. OTHER INFORMATION

#### *Financial Statement and Account Balance*

The recipients must have written procedures for preparing the audit report and evaluate for completeness and accuracy to reconcile with financial statements and account balances. In addition, the RLF income used for administrative expenses must be in accordance to terms of the award and cost principles.

#### *RLF Awards: Schedule of Expenditures of Federal Awards*

For purposes of completing the SEFA, each EDA RLF award (Assistance Listing 11.307) must be shown as a separate line item, separate from any other Economic Adjustment Assistance award received by the RLF recipient. Each RLF award must be identified as a loan program. (RLF awards are unique among Public Works and Economic Adjustment Assistance awards in this respect; all other Public Works and Economic Adjustment Assistance awards are not loan programs.) The SEFA for RLF awards must be calculated as follows:

1. Balance of RLF principal outstanding on loans at the end of the recipient's fiscal year, *plus*
2. Cash and investment balance in the RLF at the end of the recipient's fiscal year, *plus*
3. Administrative expenses paid using RLF income during the recipient's fiscal year, *plus*
4. Administrative expenses paid using award funds designated for administrative expenses during the recipient's fiscal year, *plus*
5. The unpaid principal of all loans written off during the recipient's fiscal year.
6. *Multiply* this sum (1+2+3+4+5) by the federal share of the RLF award. The federal share is defined as the federal participation rate (or the federal grant rate) as specified in the grant award (or as may be amended by EDA).

Note: Consolidated or merged RLF awards must be shown as a single line item on the SEFA (see III.N.3, "Special Tests and Provisions - Addition of Lending Areas and Consolidation and Merger of RLFs"). In this case, the federal share will be specified in the amendment consolidating the RLF awards.

The federal grant rates for each EDA RLF can be found in the grant award documents; specifically, Form CD-450 or Form CD-451.

For the purposes of calculating federal expenditures, RLF recipients are not permitted to factor in an allowance for bad debt.

A note showing the figures used in this calculation must accompany the SEFA.

*RLF Awards: Continuing Compliance Requirements for RLFs*

EDA retains a federal interest in RLF award funds until the RLF award is terminated or EDA releases its federal interest in the RLF award funds. As such, required reporting and EDA oversight of the RLF also continue until the award is terminated or EDA releases its federal interest in the RLF award funds.

In the event EDA releases its federal interest in the RLF award funds, the RLF award must appear in the SEFA in the fiscal year of release, and audited as appropriate, but the RLF must not be included in the SEFA in the fiscal years following release. In the fiscal year of release the SEFA must be calculated as the date of release, not as of the end of the recipient's fiscal year.



## U.S. DEPARTMENT OF COMMERCE

### ASSISTANCE LISTING 11.611 HOLLINGS MANUFACTURING EXTENSION PARTNERSHIP

#### I. PROGRAM OBJECTIVES

Under the Hollings Manufacturing Extension Partnership (MEP) program, the National Institute of Standards and Technology (NIST) awards cooperative agreements to eligible entities—which include U.S. states and territories, local/tribal governments, institutions of higher education, and nonprofit organizations or consortia of nonprofit organizations—for the purpose of creating and supporting manufacturing extension centers for the transfer of manufacturing technology and best business practices (hereafter referred to as “Centers”). The objective of the MEP program is to enhance competitiveness, productivity, and technological performance in US manufacturing. See 15 USC 278k(c). Centers accomplish this objective through activities that include: (1) the establishment of automated manufacturing systems and other advanced production technologies, based on institute-supported research, for the purpose of demonstrations and technology transfer; (2) the active transfer and dissemination of research findings and center expertise to a wide range of companies and enterprises, particularly small- and medium-sized manufacturers; and (3) the facilitation of collaborations and partnerships between small- and medium-sized manufacturing companies, community colleges, and area career and technical education schools, to help those entities better understand the specific needs of manufacturers and to help manufacturers better understand the skill sets that students learn in the programs offered by such colleges and schools (15 USC 278k(b)).

While the majority of program funds are used to create and support these centers (referenced hereafter as “base cooperative agreements”), NIST also disburses additional program funds to existing Centers, or consortia of centers, in the form of cooperative agreements for projects to solve new or emerging manufacturing problems (referred to in the authorizing statute as “competitive awards”). The problems to be addressed under competitive awards will be determined by the NIST director, in consultation with the director of the MEP program (hereafter “Director”), the MEP Advisory Board, other federal agencies, and small- and medium-sized manufacturers, and specified in the applicable Notice of Funding Opportunity (NOFO) for the Competitive Awards Program (CAP) established under 15 USC 278k-1. In addition, the CHIPS and Science Act of 2022 authorized the Expansion Awards Pilot Program pursuant to 15 USC 278k-2. In FY23, NIST utilized the Expansion Awards Pilot Program to fund cooperative agreements with MEP Centers to implement projects to expand existing MEP capabilities to provide National Supply Chain Optimization and to establish a supply chain Intelligence Network.

#### II. PROGRAM PROCEDURES

##### A. Cooperative Agreements to Create and Support Centers

Base cooperative agreements to create and support Centers are subject to, and administered in accordance with, 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; the U.S. Department of

Commerce Standard Financial Assistance Terms and Conditions (dated November 12, 2020, as may be periodically amended); the Hollings Manufacturing Extension Partnership General Terms and Conditions (dated August 2017 as may be periodically amended) (“MEP General Terms and Conditions”) ([https://www.nist.gov/system/files/documents/2018/05/08/fy17-18\\_nist\\_mep\\_general\\_terms\\_conditions\\_final\\_july2017.pdf](https://www.nist.gov/system/files/documents/2018/05/08/fy17-18_nist_mep_general_terms_conditions_final_july2017.pdf)) any specific award conditions imposed by NIST on a case-by-case basis; and the center’s approved plans (approved funding proposal/scope of work and multi-year budgets for the audit period). These documents are incorporated by reference into the non-federal entity’s Financial Assistance Form CD-450 (*U.S. Department of Commerce Financial Assistance Award*), which documents the cooperative agreement. If NIST approves any amendments to the award, including any changes to these documents incorporated by reference, NIST will document this amendment with a CD-451 form (*U.S. Department of Commerce Amendment to Financial Assistance Award*) or an administrative change letter. It is important to note that a non-federal entity may be involved in manufacturing extension services beyond the scope of its cooperative agreement with NIST. These base cooperative agreements are typically for a five-year period, with the possibility of a noncompetitive renewal for another five-year award. However, these multi-year awards are funded in yearly allotments, with annual funding contingent upon the continued availability of funds, satisfactory performance, and the continued relevance of the base cooperative agreement to program objectives and is at the sole discretion of the U.S. Department of Commerce. At the time that NIST approves a non-federal entity for a noncompetitive annual renewal of funding, NIST will approve any revisions to the non-federal entity’s plans, and budget for the upcoming annual funding period. This approved budget, subject to any budget modifications approved by NIST, is binding on the non-federal entity and should be used in conjunction with this compliance supplement to determine the allowability of costs, as documented in the center’s Single Year Budget Workbook and Five-Year Budget Summary Table for the audit period.

Except as otherwise provided in the applicable award documentation, base cooperative agreements to create and support Centers require non-federal matching funds. See 15 USC 278k(e)(2). The center’s approved Single Year Budget Workbook and Five-Year Budget Summary Table indicate the total amount of non-federal cost share required for the funding period, as well as the source, amount, and nature of each contribution. Typically, non-federal cost share contributions comprise a mix of cash and in-kind contributions from the non-federal entity, subawardees, and third parties such as State agencies and municipalities, as well as program income. Program income is primarily generated from fees collected from manufacturers to partially offset the cost of providing manufacturing extension services under the program. Program income may also include revenue, such as but not limited to, registration fees for training programs offered by the center, fees for equipment rentals, and licensing fees or royalties on patents.

These base cooperative agreements permit the non-federal entity to make subawards to accomplish all or part of the approved plans. Any permissible subawards will be shown in the Center’s approved Single Year Budget Workbook. The terms and conditions of each base cooperative agreement flow down to subawards as well unless a particular section of 2 CFR Part 200 or the terms and conditions of the base cooperative agreement

specifically indicate otherwise. Each Center that issues subawards must ensure that every subaward is clearly identified to the subrecipient as a subaward and includes all the required information at the time of the subaward per 2 CFR 200.332(a). In addition, each Center that issues subawards must comply with the subrecipient monitoring and management standards for pass-through entities as described in 2 CFR 200.331–200.333 (see also MEP General Terms and Conditions, #11).

## **B. Cooperative Agreements to Solve New or Emerging Manufacturing Problems**

In addition to base cooperative agreements to create and support Centers, NIST disburses additional program funds or funding from the Competitive Awards Program (CAP), per 15 USC 278k-1, to existing Centers, or consortia of Centers, in the form of cooperative agreements for projects to solve new or emerging manufacturing problems as determined by the NIST director, in consultation with the Director, the MEP Advisory Board, other federal agencies, and small- and medium-sized manufacturers (“competitive awards”) and specified in the applicable NOFO. These cooperative agreements are subject to, and administered in accordance with, 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, the U.S. Department of Commerce Financial Assistance Terms and Conditions, any specific award conditions imposed by NIST on a case-by-case basis, and all requirements listed in the NOFO that governs the project for which the Center or consortium of Centers was selected. These cooperative agreements are *not* subject to the MEP General Terms and Conditions; there is no expectation that program income will be generated under these awards. However, if program income is generated, it is subject to all the provisions of 2 CFR Part 200 and must be used to further the purposes of the project from which it was generated. There is also no requirement to provide matching contributions. The period of performance varies for each award but may not exceed three years. Any permissible subawards will be shown in the approved project budget, which shall be attached to, or incorporated by reference in, the CD-450 (*U.S. Department of Commerce Financial Assistance Award*), which functions as the cooperative agreement. The terms and conditions of each cooperative agreement apply (i.e., flow down) to subawards as well, unless a particular section of 2 CFR Part 200 or the terms and conditions of the cooperative agreement specifically indicate otherwise.

## **C. Cooperative Agreements for Disaster Assessment**

In response to Major or Emergency Disaster Declarations by the Federal Emergency Management Agency (FEMA Disaster Declaration), the NIST MEP Program awards cooperative agreements to existing NIST MEP Centers’ pursuant to the authorities provided by 15 USC 278k-1 and the MEP Disaster Assessment Program (MDAP). These cooperative agreements are subject to and administered in accordance with 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, the U.S. Department of Commerce Financial Assistance Terms and Conditions, any specific award conditions imposed by NIST on a case-by-case basis, and all requirements listed in the NOFO that governs the project for which the Center or consortium of Centers was selected. These cooperative agreements are *not* subject to the

MEP General Terms and Conditions; there is no expectation that program income will be generated under these awards. However, if program income is generated, it is subject to all the provisions of 2 CFR Part 200 and must be used to further the purposes of the project from which it was generated. There is also no requirement to provide matching contributions. The period of performance varies for each award but may not exceed 18 months, unless otherwise extended in writing by the NIST Grants Officer during the term of a project. Any permissible subawards will be shown in the approved project budget, which shall be attached to, or incorporated by reference in, the CD-450 (*U.S. Department of Commerce Financial Assistance Award*), which documents the cooperative agreement. The terms and conditions of each cooperative agreement apply (i.e., flow down) to subawards as well, unless a particular section of 2 CFR Part 200 or the terms and conditions of the cooperative agreement specifically indicate otherwise.

**D. Cooperative Agreements for MEP Expansion Awards Pilot Program (MEAPP)**

The MEP Expansion Awards Pilot Program is authorized pursuant to 15 USC 278k-2. NIST MEP piloted a National Supply Chain Optimization and Intelligence Network program to support nationwide coordination of comprehensive supplier scouting, optimize supply network service offerings, and capture marketplace supplier data for public use. Awards were made to provide services that will improve the resiliency for domestic supply chains and to build capabilities in the MEP National Network™ for domestic supply chain resiliency and optimization. MEP Centers and their subrecipients may not charge clients for services provided under MEAPP awards as the funding under this program is an investment in building national ecosystem to improve supply chain resiliency and capacity. These cooperative agreements are subject to, and administered in accordance with, 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, the U.S. Department of Commerce Financial Assistance Terms and Conditions, any specific award conditions imposed by NIST on a case-by-case basis, and all requirements listed in the Request for Application (RFA) that governs the project for which the Center or consortium of Centers was selected. These cooperative agreements are *not* subject to the MEP General Terms and Conditions; MEP Expansion Awards Pilot Program cooperative agreements are not allowed to generate program income to an MEP Center or to its subrecipients. Should program income be generated, it must be promptly reported to NIST and handled in accordance with the deduction method as outlined in 2 CFR 200.307(e)(1). The period of performance is 24 months, unless otherwise extended in writing by the NIST Grants Officer during the term of a project. Any permissible subawards will be shown in the approved project budget, which shall be attached to, or incorporated by reference in, the CD-450 (*U.S. Department of Commerce Financial Assistance Award*), which functions as the cooperative agreement. The terms and conditions of each cooperative agreement apply (i.e., flow down) to subawards as well, unless a particular section of 2 CFR Part 200 or the terms and conditions of the cooperative agreement specifically indicate otherwise.

**Source of Governing Requirements**

- MEP Authorizing Statute - 15 USC 278k (<https://uscode.house.gov/view.xhtml?hl=false&edition=prelim&req=granuleid%3AUSC-2015-title15-section278k&num=0>).
- NIST MEP Regulations - 15 CFR Part 290 (<https://www.ecfr.gov/current/title-15/subtitle-B/chapter-II/subchapter-K/part-290>).
- Competitive Award Program (MEP CAP) and MEP Disaster Assessment Program (MDAP) - 15 USC 278k-1 ([https://uscode.house.gov/view.xhtml?req=\(title:15%20section:278k-1%20edition:prelim\)](https://uscode.house.gov/view.xhtml?req=(title:15%20section:278k-1%20edition:prelim))).
- Expansion Awards Pilot Program (MEAPP) - 15 USC 278k-2, (<https://uscode.house.gov/view.xhtml?req=15+usc+278k-2&f=treesort&fq=true&num=2&hl=true&edition=prelim&granuleId=USC-prelim-title15-section278k-2>).

**III. COMPLIANCE REQUIREMENTS**

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	Y	N	N	Y	Y	Y	N

**A. Activities Allowed or Unallowed**1. *Activities Allowed*

a. For base cooperative agreements to create and support Centers, the Center's approved plans will specify the type of activities permitted under the award. Each subaward will specify the types of activities permitted under the subaward, which must be consistent with the Center's approved plans but may be only a subset of those activities outlined in the Center's approved plans. In any case, all activities will fit broadly into the following types of activities:

- (1) The establishment of automated manufacturing systems and other advanced production technologies, based on NIST-supported research, for the purpose of demonstrations and technology transfer (15 USC 278k(d)(1));
- (2) The active transfer and dissemination of research findings and Center expertise to a wide range of companies and enterprises (15 USC 278k(d)(2)), particularly small- and medium-sized manufacturers; and
- (3) The facilitation of collaborations and partnerships between small- and medium-sized manufacturing companies, community colleges, and area career and technical education schools, to help those entities better understand the specific needs of manufacturers and to help manufacturers better understand the skill sets that students learn in the programs offered by such colleges and schools (15 USC 278k(d)(3)).

b. Cooperative Agreements to Solve New or Emerging Manufacturing Problems.

The types of activities permitted under the award will be specified in the applicable NOFO and in the terms and conditions of each cooperative agreement.

c. Cooperative Agreements for Disaster Assessment.

The types of activities permitted under the award will be specified in the applicable NOFO and in the terms and conditions of each cooperative agreement.

d. Cooperative Agreements for MEP Expansion Awards Pilot Program

The types of activities permitted under the award will be specified in the applicable RFA and in the terms and conditions of each cooperative agreement.

## **B. Allowable Costs/Cost Principles**

1. For base and cooperative agreements to create and support Centers, allowable costs, including prior approval requirements for certain costs, are determined in accordance with 2 CFR Part 200, the U.S. Department of Commerce Standard Financial Assistance Terms and Conditions; the MEP General Terms and Conditions; and any specific award conditions imposed by NIST on a case-by-case basis and must be consistent with the approved project budget.
2. For cooperative agreements to solve new or emerging manufacturing problems, allowable costs, including prior approval requirements for certain costs, are determined in accordance with 2 CFR Part 200, the U.S. Department of Commerce Standard Financial Assistance Terms and Conditions; any specific award conditions imposed by NIST on a case-by-case basis and must be consistent with the approved project budget.
3. For cooperative agreements to identify and assess the impacts to small- and medium manufacturers affected by natural or other disasters, allowable costs, including prior approval requirements for certain costs, are determined in accordance with 2 CFR Part 200, the U.S. Department of Commerce Standard Financial Assistance Terms and Conditions; any specific award conditions imposed by NIST on a case-by-case basis and must be consistent with the approved project budget.
4. For cooperative agreements to provide services that will improve the resiliency for domestic supply chains and to build capabilities in the MEP National Network™ for domestic supply chain resiliency and optimization, allowable costs, including prior approval requirements for certain costs, are determined in accordance with 2 CFR Part 200, the U.S. Department of Commerce Standard Financial Assistance Terms and Conditions; any specific award conditions imposed by NIST on a case-by-case basis and must be consistent with the approved project budget.

## **C. Cash Management**

1. *Grants and Cooperative Agreements to States*  
Applicable
2. *Grants and Cooperative Agreements to non-Federal Entities Other Than States*  
Applicable

3. *Cost-reimbursement Contracts under the Federal Acquisition Regulation*  
Applicable
4. *Loans, Loans Guarantees, Interest Subsidies, and Insurance*  
Not applicable
5. *All Pass-Through Entities*  
Applicable

**G. Matching, Level of Effort, Earmarking**

**1. Matching**

a. Base Cooperative Agreements to Create and Support Centers

Amounts provided by the Consolidated Appropriations Act, 2023 (Pub. L. No. 117-328) for the Hollings Manufacturing Extension Partnership under the heading “National Institute of Standards and Technology--Industrial Technology Services” shall not be subject to cost share requirements under 15 USC 278k(e)(2): Provided, that the authority made available pursuant to this section shall be elective for any Manufacturing Extension Partnership Center that also receives funding from a state that is conditioned upon the application of a federal cost sharing requirement. However, any non-federal matching share pledged as voluntary cost share that is shown in the Center’s approved budget for the audit period supersedes the cost share relief provided by Consolidated Appropriations Act, 2023 and is binding on the non-federal entity (see MEP General Terms and Conditions, #10).

Contractors and MEP Center clients may not provide any form of the Center’s cost share without the prior written approval of the NIST Grants Officer (see MEP General Terms and Conditions, #10A).

The time spent by the Center’s manufacturing clients on technical assistance projects may not be considered in-kind cost share without the prior written approval of the NIST Grants Officer (see MEP General Terms and Conditions, #10A).

Non-federal cost share contributions by subrecipients must comply with the allowability and documentation requirements set forth in 2 CFR 200.306 and with the record access and record retention requirements set forth in 2 CFR 200.337(a) and 200.334. At a minimum, the following documents should be maintained by the Center and made available in the event of an audit: Subaward Agreement with detailed budget;



documentation to support valuation of non-federal cost share being contributed by the subrecipient; and Subrecipient Financial Reporting to the Non-Federal Entity (see MEP General Terms and Conditions, #10D).

b. **Cooperative Agreements to Solve New or Emerging Manufacturing Problems**

Not applicable to this program, unless the recipient pledged “voluntary committed cost sharing” (as defined in 2 CFR 200.1) for its project, which is reflected in the approved budget for the subject award.

c. **Cooperative Agreements for Disaster Assessment**

Not applicable to this program, unless the recipient pledged “voluntary committed cost sharing” (as defined in 2 CFR 200.1) for its project, which is reflected in the approved budget for the subject award.

d. **Cooperative Agreements for MEP Expansion Awards Pilot Program**

Not applicable to this program, unless the recipient pledged “voluntary committed cost sharing” (as defined in 2 CFR 200.1) for its project, which is reflected in the approved budget for the subject award. Note, there is no generation of program income allowed on these awards.

**2. Level of Effort**

Not Applicable

**3. Earmarking**

Not Applicable

**J. Program Income**

1. *Base Cooperative Agreements to Create and Support Centers*

a. In accordance with 2 CFR 200.307 and the below referenced MEP general terms and conditions, program income earned by the non-federal entity during the project period shall be retained by the non-federal entity and shall be used by the non-federal entity in the following order of priority during the funding period:

(1) First, to finance the non-federal share of the project (MEP General Terms and Conditions, #12.B.1). This amount is not included on the Schedule of Expenditures for Federal Awards (SEFA);

(2) Second, all program income earned in excess of that required to meet the minimum non-federal share shall be added to the funds

committed to the project by MEP and the non-federal entity and must be used for the purposes and under the conditions of the MEP award (commonly referred to as the “additive approach”). Program income to be expended under the additive approach must be explained in detail in the Center’s approved plans or in a separate written communication to the NIST Grants Officer and is subject to the prior written approval of the NIST Grants Officer (MEP General Terms and Conditions, #12.B.2). This amount is included on the SEFA; and

- (3) Third, any remaining unexpended program income shall be deducted from the total allowable project costs to determine the net allowable program costs upon which the federal share of project costs is based, in accordance with written instructions from the NIST Grants Officer (commonly referred to as the “deductive approach”) (MEP General Terms and Conditions, #12.B.3). This amount is not included on the SEFA.
- b. Program income earned by a subrecipient during the project period shall be retained by the subrecipient and shall be used by the subrecipient in the following order of priority during the funding period:
- (1) First, to finance the non-federal share of the subaward (MEP General Terms and Conditions, #12.C.1). This amount is not included on the SEFA;
  - (2) Second, all program income earned in excess of that required to meet the minimum non-federal share shall be added to the federal and non-federal funds committed to the subaward and must be used for the purposes and under the conditions of the MEP award as set forth in the terms of the subaward (commonly referred to as the “additive approach”). Program income to be expended under the additive approach must be explained in detail in the Center’s approved plans or in a separate written communication to the NIST Grants Officer and is subject to the prior written approval of the NIST Grants Officer (MEP General Terms and Conditions, #12.C.2). This amount is included on the SEFA; and
  - (3) Third, any remaining program income generated by a subrecipient must be remitted to the non-federal entity by the subrecipient and shall be deducted from the total allowable project costs to determine the net allowable program costs upon which the federal share of project costs is based, in accordance with written instructions from the NIST Grants Officer (commonly referred to as the “deductive approach”) (see MEP General Terms and Conditions, #12.C.3). This amount is not included on the SEFA.

- c. Program income in excess of what is required annually to meet the non-federal portion of the annual operating budget, and that cannot be expended during the operating period using either the additive and/or deductive approaches during the operating period, may be carried over by the Center to the subsequent funding period if approved in writing by the NIST Grants Officer. Upon close-out of a MEP award, the NIST Grants Officer will provide the non-federal entity with closeout instructions, including instructions regarding the disposition of program income (*see* MEP General Terms and Conditions, #12.H).
- d. Costs incidental to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the award (MEP General Terms and Conditions, #12.E).

2. *Cooperative Agreements to Solve New or Emerging Manufacturing Problems*

There is no expectation that program income will be generated under this program. If program income is generated, in accordance with 2 CFR 200.307, it must be expended for the purposes and under the conditions of the subject award (commonly referred to as the “additive approach”), with any remaining unexpended program income being deducted from the total allowable project costs to determine the net allowable program costs upon which the federal share of project costs is based (commonly referred to as the “deductive method”).

3. *Cooperative Agreements for Disaster Assessment*

There is no expectation that program income will be generated under this program. If program income is generated, in accordance with 2 CFR 200.307, it must be expended for the purposes and under conditions of the subject award (commonly referred to as the “additive approach”), with any excess program income to be disposed of pursuant to the “deductive method” (see 2 CFR 200.307).

4. *Cooperative Agreements for MEP Expansion Awards Pilot Program*

MEP Expansion Awards Pilot Program cooperative agreements are not allowed to generate program income to an MEP Center or to its subrecipients.

## **L. Reporting**

The following reporting requirements described in Section A.01 Reporting Requirements of the U.S. Department of Commerce Financial Assistance Standard Terms and Conditions, apply to awards in this program.

## 1. Financial Reporting

- a. *SF-270, Request for Advance or Reimbursement* – Not Applicable.
- b. *SF-271, Outlay Report and Request for Reimbursement for Construction Program* -Not Applicable.
- c. *SF-425, Federal Financial Report* – Applicable
  1. ***Base Cooperative Agreements to Create and Support Centers-***  
The recipient shall submit an SF-425, Federal Financial Report, into the MEP’s Enterprise Information System (MEIS) on a semi-annual basis after the sixth and twelfth month of each operating year, unless other reporting intervals and/or due dates are identified by the NIST Grants Officer pursuant to a specific award condition. Reports will be due within 30 days after the end of each semi-annual reporting period. The recipient shall submit a final SF-425 within 120 days after the expiration date of the award.
  2. ***Cooperative Agreements to Solve New or Emerging Manufacturing Problems-*** The recipient shall submit an SF-425, Federal Financial Report, into the MEIS on a semi-annual basis after the sixth and twelfth month of each operating year, unless other reporting intervals and/or due dates are identified by the NIST Grants Officer pursuant to a specific award condition. Reports will be due within 30 days after the end of each semi-annual reporting period. The recipient shall submit a final SF-425 within 90 days after the expiration date of the award. Recipients of new awards and funded award amendments issued by NIST after November 12, 2020, shall submit a final SF-425 within 120 days after the expiration date of the award.
  3. ***Cooperative Agreements for Disaster Assessment-*** The recipient shall submit an SF-425, Federal Financial Report, into the MEIS on a quarterly basis, unless other reporting intervals and/or due dates are identified by the NIST Grants Officer pursuant to a specific award condition. Reports will be due within 30 days after the end of each reporting period. The recipient shall submit a final SF-425 within 90 days after the expiration date of the award. Recipients of new awards and funded award amendments issued by NIST after November 12, 2020, shall submit a final SF-425 within 120 days after the expiration date of the award.
  4. ***Cooperative Agreements for MEP Expansion Awards Pilot Program-*** The recipient shall submit an SF-425, Federal Financial Report, into the MEIS on a semi-annual basis, unless other reporting intervals and/or due dates are identified by the NIST

Grants Officer pursuant to a specific award condition. Reports will be due within 30 days after the end of each reporting period. The recipient shall submit a final SF-425 within 90 days after the expiration date of the award. Recipients shall submit a final SF-425 within 120 days after the expiration date of the award.

2. **Performance Reporting**

Not Applicable.

3. **Special Reporting**

Not applicable.

4. **Special Reporting for Federal Funding Accountability and Transparency Act**

See Part 3.L for audit guidance.