
INTERNET FOR ALL

Frequently Asked Questions and Answers: Low Cost Broadband Service Option

Broadband Equity, Access, and
Deployment (BEAD) Program



U.S. Department of Commerce
National Telecommunications and Information Administration

Note

The Broadband, Equity, Access & Deployment Program (BEAD)¹ provides federal funding to make grants to Eligible Entities for broadband planning, deployment, mapping, equity, and adoption projects and activities. The following Frequently Asked Questions (FAQs) are intended to clarify and provide guidance on information set forth in the Notice of Funding Opportunity (NOFO) on May 13, 2022. NTIA will update this document on a periodic basis as further questions arise. Newly added questions in this FAQ are indicated with an asterisk (*). Questions may be submitted to BEAD@ntia.gov.

The below FAQs are for informational purposes only and are intended solely to assist potential applicants in better understanding the NTIA BEAD Program and the application requirements set forth in the Notice of Funding Opportunity (NOFO) for this program. The FAQs do not and are not intended to supersede, modify, or otherwise alter applicable statutory or regulatory requirements, or the specific application requirements set forth in the NOFO. In all cases, statutory and regulatory mandates, and the requirements set forth in the NOFO, shall prevail over any inconsistencies contained in the below FAQs.

Please note that all new questions are disbursed throughout the document as well in their appropriate sections. All new questions and answers are italicized.

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¹ 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), also known as the Bipartisan Infrastructure Law.

1. Low-Cost Broadband Service Options FAQs

1.1 Is setting a cost to the consumer (or using a formula) for low-cost service offerings allowed?

Yes. The Bipartisan Infrastructure Law requires Eligible Entities to propose a definition of “low-cost broadband service option” that will apply to covered subgrantees. Acceptable approaches to satisfy this requirement include, but are not limited to, offering a definition that establishes a specific dollar figure, a formula that would yield a firm dollar figure, a range of figures, a mechanism that would tie cost to an objective benchmark, or a set ceiling below which variation is permissible. These figures can be statewide or cover subdivisions of the state.

In all cases, the definition must allow the Assistant Secretary to determine the expected cost to an Eligible Subscriber. Initial Proposals that do not comply with this requirement will not be approved.

1.2 But isn't that rate regulation?

No. The Bipartisan Infrastructure Law (BIL) states that NTIA is not authorized to regulate broadband rates. NTIA has not, and will not, engage in rate regulation.

The BIL also directs each Eligible Entity to develop a “low-cost broadband service option,” subject to the review and approval of the Assistant Secretary, that BEAD program subgrantees must offer to eligible subscribers. This is a separate requirement of the law, and compatible with the prohibition on regulating broadband rates.

1.3 What options exist for states to implement this requirement?

Under the BEAD NOFO, Eligible Entities have discretion in how they propose to define “low-cost broadband service option,” and the Assistant Secretary will consider multiple factors in approving a proposed definition, including the expected cost to an Eligible Subscriber. The BEAD NOFO offers a proposed definition that the Assistant Secretary has already indicated would be met with his approval. Consistent with that definition, Eligible Entities could propose a specific dollar-value rate for the low-cost service option.

Alternative approaches include, but are not limited to, proposing a formula that would yield a firm dollar figure, a range of figures, a mechanism that would tie cost to an objective benchmark, or a set ceiling below which variation is permissible.

At the end of the day, NTIA will consider any proposal by a state that allows the Assistant Secretary to objectively evaluate whether the low-cost service option is, in fact, “low-cost” for eligible subscribers. This requires that the Assistant Secretary be able to determine what the maximum cost could be for an eligible subscriber at a given location at a given time.

1.4 Can low-cost plans be indexed or otherwise allowed to increase over time?

Regardless of approach, Eligible Entities are permitted to allow for reasonable cost adjustments over time. This could be tied to any number of reasonable metrics including CPI, the Urban Rate Survey, or others as Eligible Entities may prefer.

1.5 So the BIL says every ISP in my state or territory can be required to offer this plan?

No. Offering a low-cost service offering is a condition for receipt of BEAD subgrants. Governments routinely require specific actions as a condition for grant receipt that they otherwise might not as general lawmaking or regulatory activity. The BIL does not otherwise alter the regulatory authority of Eligible Entities.