
West Virginia Department of Economic Development Office of Broadband IIJA NTIA Middle Mile Program Request for Information (“RFI”)

**Reissued August 1, 2022
For**

**Middle Mile Service Providers and Internet Service Providers and Others
Considering Participating in the IIJA NTIA Middle Mile Program**

**Proposal Submission Deadline:
August 1, 2022**

Email RFI Documents to Primary Contact:

Kelly Collins Workman
Director, West Virginia Office of Broadband
Kelly.a.workman@wv.gov
304-352-4155

Note: This **is not** a request for proposals.

REQUEST FOR INFORMATION

SUBJECT: Required coordination with applicants to the IIJA NTIA Middle Mile Program.

INQUIRIES: All inquiries or questions must be directed to:

Kelly Collins Workman
Director, West Virginia Office of Broadband
Kelly.a.workman@wv.gov
304-352-4155

Questions must be received no later than **August 31, 2022**. If a determination is made that a clarification or change to the RFI document is required, a written addendum will be posted on the appropriate sections of the websites of the Issuers. Respondents are responsible for obtaining all RFI updates.

Responses must be delivered to the following email address no later than 5 p.m. **August 31, 2022**.

Attn: Kelly Collins Workman
Director, West Virginia Office of Broadband
Kelly.a.workman@wv.gov

Submit one (1) electronic copy (via email to kelly.a.workman@wv.gov) of your response.

Submittals must be labeled in the subject line of the email:

"RFI for IIJA NTIA Middle Mile Program"

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1. EXECUTIVE SUMMARY

Through the passage of the Infrastructure Investment and Jobs Act (IIJA), effective November 15, 2021, \$1 Billion will be dedicated to the development of middle mile infrastructure throughout the United States. The funding will be administered by the National Telecommunications and Information Administration (NTIA) under the NTIA Middle Mile Program: <https://broadbandusa.ntia.doc.gov/resources/grant-programs/enabling-middle-mile-broadband-infrastructure-program>.

The Program's Notice of Funding Opportunity states that applicants must coordinate with the Office of Broadband prior to submitting an application *"to ensure that the proposal is consistent with the State's broadband plan and priorities."*¹

The West Virginia Department of Economic Development, Office of Broadband, issues this Request for Information ("RFI") to initiate the required coordination and gather ideas and interest from providers of broadband Internet services, particularly middle mile services, regarding participating in the upcoming NTIA Middle Mile Program.

The NTIA Middle Mile Program application window will open on June 21, 2022 and the Program will accept applications until September 30, 2022. Eligible Program applicants are defined in the Notice of Funding Opportunity as:

*"(A) 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, or economic development authority; or (B) a partnership of two (2) or more entities described in (A)."*²

The intent of the Middle Mile Program is to complement other programs focused on internet connectivity and digital equity. Eligible projects funded by this program must be middle mile networks capable of providing backhaul connectivity to facilities such as last mile network networks, community anchor institutions, towers and other facilities.³

This RFI is intended to outline the opportunity and invite interested respondents to submit their ideas. This process is one of many steps that West Virginia Office of Broadband is taking to help unserved and underserved areas throughout the state.

Note: The West Virginia Office of Broadband welcomes responses to this RFI from ALL interested or potentially interested parties. Since this is only to solicit preliminary interest and ideas, this RFI should not be interpreted as an invitation for bids or request for proposals. For the purposes of this RFI, the terms "respondents" and "providers" refer to entities submitting written responses to this RFI.

¹ <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/MIDDLE%20MILE%20NOFO.pdf>, page 22-23

² page 5

³ Ibid, page 4

2. GENERAL PROGRAM REQUIREMENTS

The West Virginia Office of Broadband seeks responses to this RFI from interested parties able to meet the Program's general requirements as laid out in the Program's Notice of Funding Opportunity. The requirements summarized below are not comprehensive of all Program requirements and potential Program applicants are strongly encouraged to carefully read the entire NTIA Middle Mile Grant Program Notice of Funding Opportunity and all referenced documents and requirements. In responding to this RFI, briefly specify how a potential application will satisfy the general Program requirements referenced below.

Matching Funds

The NTIA Middle Mile Program will require a minimum of 30% matching funds. Additional matching funds can be contributed, and the application may receive additional points in the scoring process as a result.⁴

Matching funds may be in the form of either cash or acceptable in-kind contributions, including third-party in-kind contributions. In-kind contributions must be allowable and allocable project expenses. In-kind contributions 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 access to rights of way, pole attachments, conduits, easements, or access to other types of infrastructure.⁵

Financial Certifications

Applicant must certify that it is financially qualified to meet the obligations associated with a project, that they will have available funds for all project costs that exceed the amount of the grant, and that they will comply with all Program requirements, including service milestones. To the extent the Grants Officer disburses funding only upon completion of the associated tasks, each applicant must also certify that it has and will continue to have sufficient financial resources to cover its eligible costs for the project until such time as the Grants Officer authorizes additional disbursements.⁶

Letter of Credit

Applicants must submit a letter from a bank meeting eligibility requirements consistent with those set forth in 47 C.F.R. § 54.804(c)(2) committing to issue an irrevocable standby letter of credit, in the required form, to the applicant. The letter shall at a minimum provide the dollar amount of credit offered and the issuing bank's agreement to follow the terms and conditions of NTIA's model letter of credit. NTIA shall establish a model letter of credit substantially similar to the model letter of credit established by the Federal Communications Commission in connection with the Rural Digital Opportunity Fund (RDOF). NTIA will ensure, prior to issuing a middle mile grant award, that each

⁴ Ibid, page 38

⁵ Ibid, page 12-13

⁶ Ibid, page 9

eligible entity obtains an acceptable, irrevocable standby letter of credit with a value of no less than 25 percent of the award amount.

Each eligible entity shall provide with its letter of credit an opinion letter from its legal counsel clearly stating, subject only to customary assumptions, limitations, and qualifications, that in a proceeding under Title 11 of the United States Code, 11 U.S.C. § 101 et seq. (the “Bankruptcy Code”), the bankruptcy court would not treat the letter of credit or proceeds of the letter of credit as property of the winning bidder’s bankruptcy estate under Section 541 of the Bankruptcy Code.⁷

Audited Financial Statements

Each applicant shall submit financial statements from the three prior fiscal years that are audited by an independent certified public accountant. If the applicant is not audited in the ordinary course of business, in lieu of submitting audited financial statements it must submit unaudited financial statements from the three prior fiscal years and certify that it will provide financial statements from the three prior fiscal years that are audited by an independent certified public accountant by an NTIA specified deadline.⁸

Managerial Capability

Applicants shall submit one-page resumes for all key management personnel and all key personnel of subcontractors or other entities that will play substantial roles in building, managing, or operating the middle mile network built using Program funding. In addition, each applicant shall submit any necessary organizational charts detailing all of its parent companies, subsidiaries, and affiliates. Each applicant must also provide a narrative describing the applicant’s readiness to manage a middle mile broadband network. This narrative should describe the experience and qualifications of key management set to undertake this project, the applicant’s experience undertaking projects of similar size and scope, recent and upcoming organizational changes including mergers and acquisitions, and relevant organizational policies.⁹

Technical Capability

Each applicant must certify that it is technically qualified to complete and operate the proposed project and that it is capable of carrying out the funded activities in a competent manner, including that it will use an appropriately skilled and credentialed workforce. Each applicant must submit a network design diagram, project costs, build-out timeline and milestones for project implementation, and a capital investment schedule evidencing that the applicant will complete build-out and the initiation of service within five years from the date on which the grant funds are made available to the eligible entity and will meet interim buildout requirements and in any other binding document.¹⁰

⁷ Ibid, page 9

⁸ Ibid, page 10

⁹ Ibid, page 11

¹⁰ Ibid, page 11

Operational Capability

Each applicant must certify that it is qualified to complete and operate the proposed project. If applicable, the applicant must submit a certification from an officer-level employee (or individual of comparable rank) that it has operated a middle mile broadband network for at least two years or that it is a wholly owned subsidiary of such an entity and must specify the number of years the applicant or its parent company has been operating.

If the applicant has provided a voice and/or broadband service, it must certify that it has timely filed FCC Form 477s and the Broadband DATA Act submission, if applicable, as required during this time period, and otherwise has complied with the FCC's rules and regulations.

If the applicant has operated only an electric transmission or distribution service, it must submit qualified operating or financial reports that it has filed with the relevant financial institution for the relevant time period along with a certification that the submission is a true and accurate copy of the reports that were provided to the relevant financial institution.¹¹

3. RFI TIMELINE

A. Important Dates

Publish RFI	August 1, 2022
Deadline for Questions	August 15, 2022
RFI Responses Due by 5 p.m.	August 31, 2022
Review of responses completed	September 22, 2022

B. Contact for questions and information requests

All general communications regarding the RFI or requests for additional information should be directed to:

Attn: Kelly Collins Workman
Director, West Virginia Office of Broadband
Kelly.a.workman@wv.gov
304-352-4155

C. Further Process

West Virginia Office of Broadband will evaluate the information gathered through this RFI process and determine how to proceed.

¹¹ Ibid, page 11-12

Any amendment or addendum to this RFI is valid only if issued in writing by West Virginia Office of Broadband.

Any changes in the process or updates to the schedule above will be posted on the West Virginia Office of Broadband website.

4. OBJECTIVE OF RFI

The objective of this RFI is to coordinate with potential Program applicants as required by the Program's Notice of Funding Opportunity, and gather information from middle mile providers and broadband Internet service intending to participate in the IIJA NTIA Middle Mile Program.

5. REQUESTED INFORMATION

- Cover Sheet (Attachment A) - To be completed by all respondents
 - Provide the full legal name of the Provider or entity and the type of entity.
 - The cover sheet must be signed by an owner, corporate officer, or agent authorized by the Provider or entity.
 - The names of all principals of the Provider or entity must be disclosed on the cover sheet; specifically, all persons who have an equity interest in the Provider organization and/or hold a senior leadership position in the Provider organization.
- ISP Response Specifications (Attachment B) - To be completed by middle mile providers and ISP respondents only.
 - Provide responses to all questions and queries contained in Attachment B, ISP Response Specifications.
 - Provide all information requested in Attachment B, ISP Response Specifications as attachments to the response submission.
 - Respondents are welcome to provide additional information not specified in this RFI as attachments to the response submission.
- Community Response Specifications (Attachment C) - To be completed by community respondents only.
 - Provide responses to all questions and queries contained in Attachment C, Community Response Specifications.
 - Provide all information requested in Attachment C, Community Response Specifications, as attachments to the response submission.
 - Respondents are welcome to provide additional information not specified in this RFI as attachments to the response submission.

6. CONFIDENTIALITY OF RESPONDENT INFORMATION

Respondents are hereby notified that the West Virginia Department of Economic Development and the West Virginia Office of Broadband (Office of Broadband) are subject to the West Virginia Freedom of Information Act, W. Va. Code §29B-1-1 *et seq.* (the “FOIA Act”), and that the Office of Broadband's obligations hereunder are subject in all respect to applicable West Virginia law that requires “public bodies” to disclose “public records,” as those terms are defined in the FOIA Act, subject to W. Va. Code §31G-1A-1 *et seq.*, which provides specific exceptions to the FOIA Act for broadband deployment information provided to the Office of Broadband; including trade secrets and proprietary business information provided to or made available to the Office of Broadband to facilitate broadband development activities in West Virginia. Subject to the foregoing, Confidential Information of Respondents shall be held in strict confidence by the Office of Broadband and shall not be disclosed without prior written consent of Respondent, except to those employees and agents of the Office of Broadband with a “need to know” the Confidential Information for purposes of discussing the Project with the Respondent. The Office of Broadband shall not use the Confidential Information for any purpose other than in connection with discussing the Project with the Respondent.

Responses to this RFI become the exclusive property of West Virginia Office of Broadband. This RFI is issued solely for information and planning purposes and does not constitute a solicitation. No material submitted in response to this RFI will be returned. Respondents are solely responsible for all expenses associated with responding to this RFI.

ATTACHMENT A: COVER SHEET

Complete Attachment A if you are either a middle mile provider, an ISP or community respondent.

Name of Person, Business or Organization:	
Type of Entity: (e.g. Sole-Proprietorship, Partnership, Corp., Non-Profit, Public Agency, Municipality)	
Federal Tax ID Number:	
Contact Person – Name	
Contact Person – Address	
Contact Person – Phone Number (s)	
Contact Person – e-mail address	

By signing this ***Cover Sheet***, I hereby attest: that I have read and understood all the terms listed in the RFI and I have read and understood all terms listed in this request.

Signature of Authorized Representative
Representative

Printed Name of Authorized

Date

Printed Title of Authorized Representative

ATTACHMENT B: MIDDLE MILE PROVIDER and ISP RESPONSE SPECIFICATIONS

Complete this section if you are a middle mile provider or ISP responding to this RFI.

Responses should be written in-line below each enumerated item.

- 1. Describe how you satisfy the IIJA NTIA Middle Mile Grant General Program Requirements summarized in this RFI.**
- 2. Describe any proposed middle mile routes you think are eligible for the Program.**
 - a. Provide maps or diagrams of service areas or routes you think meet the eligibility criteria of the IIJA NTIA Middle Mile Program that you are interested in serving.
 - b. Describe the community anchor institutions for which the middle mile network would enable connectivity (within 1,000 feet of the proposed route).
 - c. Describe the unserved communities and potential last mile networks the proposed middle mile network will help enable connectivity.
 - d. Describe your level of willingness to serve other areas defined by the West Virginia Office of Broadband that may score well for this particular funding opportunity.
- 3. Describe the matching funds available for the project.**
 - a. What is the maximum amount of matching funds available for this project?
 - b. Describe in detail any in-kind contributions that you would claim as matching funds.
- 4. Other information, advice, or counsel you would offer to the West Virginia Office of Broadband with respect to this project**

ATTACHMENT C: COMMUNITY RESPONSE SPECIFICATIONS

Complete this section if you are a community providing a response to this RFI.

Responses should be written in-line below each enumerated item.

- 1. Describe how you satisfy the IIJA NTIA Middle Mile Grant General Program Requirements summarized in this RFI.**
- 2. Describe your community and the area or route that would be eligible for the IIJA NTIA Middle Mile Program.**
 - a. How many unserved locations in your community can be addressed with this Program?
 - b. Does the community have a relationship with an existing Internet service provider that could provide service to the community over infrastructure funded by the IIJA NTIA Middle Mile Program?
- 3. Does the community have matching funds to contribute to the project?**
 - a. What is the maximum amount of matching funds available for this project?
 - b. Describe any in-kind contributions that may be claimed by the community as matching funds.
- 4. Does the community plan to utilize a public private partnership to participate in the Program?**
 - a. What private party or parties is the community working with?
 - b. What are the roles and responsibilities of the various parties, including the community?