

West Virginia BEAD Program: FAQ

Updated May 10, 2024

Disclaimer: The National Telecommunications and Information Administration (NTIA) has approved West Virginia’s Initial Proposal Volume 2. In the event of any discrepancy between this FAQ document and West Virginia’s Initial Proposal as approved by NTIA, the requirements of the Broadband Equity Access and Deployment (BEAD) program will prevail.

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Changes to Initial Proposal Volume 2

Question: On October 26, 2024, NTIA approved West Virginia's Initial Proposal Volume 2. What changes should applicants be aware of since the last publicly available version from October 2023?

WVDED will publish a new set of Deployment Program Procedures that have been updated to match the NTIA approved version of Initial Proposal Volume 2. Applicants should review the revised Procedures in full. That said, the following is a summary of the significant updates that have been made to Initial Proposal Volume 2 that may impact applicants at one or more stage of the application process:

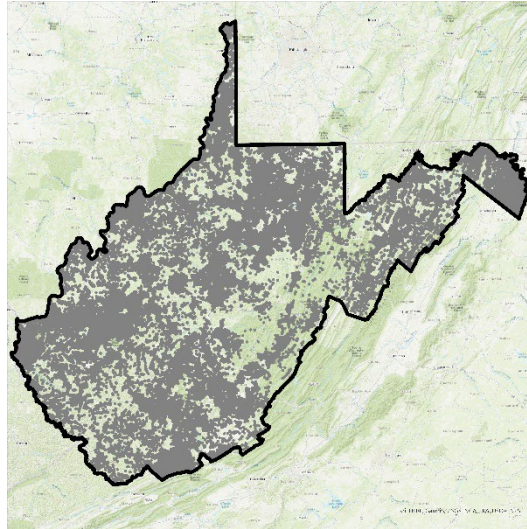
- Match from applicants is now required on a per-Proposed Project basis.
- The total number of points available (200) has stayed the same, but how the points are distributed among some of the criteria has changed.
- The Minimal BEAD Outlay criterion no longer includes Scalability and Resiliency credits. Scalability and Resiliency now form their own scoring criterion.
- The Minimal BEAD Outlay criterion language was updated, although the general points allocation method remains the same save for the Scalability and Resiliency credits.
- The low-cost and middle-class affordability tiers must be offered for at least ten years from service turn up instead of eight.
- As highlighted in the Pre-Application ZoomGrants portal, applicants must certify that they will comply with program requirements, including timelines.

Please see the revised Deployment Program Procedures and Initial Proposal Volume 2 for more details.

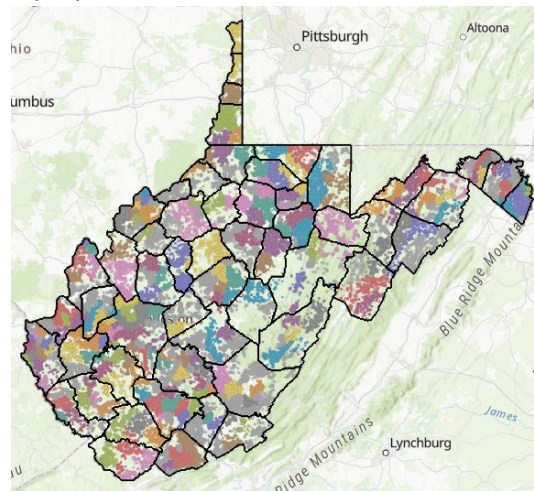
Target Locations, Areas, and Regions

Question: What are Target Locations, Areas, and Regions?

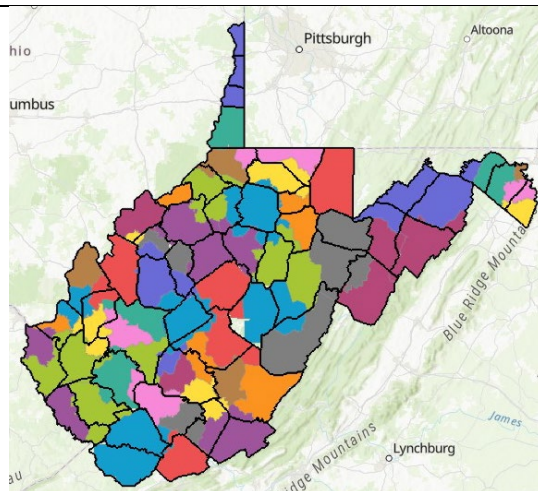
Target Locations are individual unserved or underserved homes, businesses, or eligible community anchor institutions (CAIs). NTIA refers to these as broadband serviceable locations (BSLs). The draft set of Target Locations are depicted as the gray points on the following map.



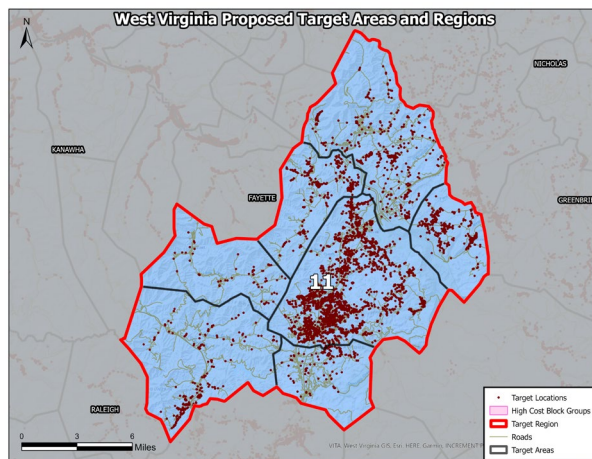
Target Areas are clusters, or groups, of Target Locations. These are depicted by each of the colored groupings of Target Locations in the following map. Note that the black borders represent county borders purely for orientation purposes.



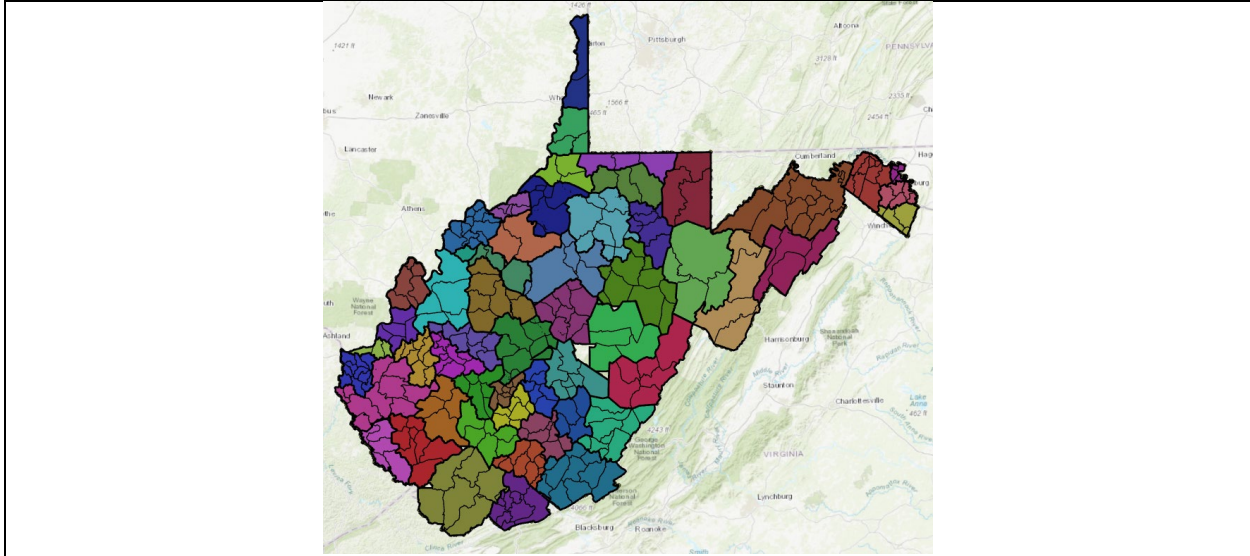
Target Regions are groups of Target Areas. These are depicted by each of the colored groupings in the following map. Again, the black borders represent county borders purely for orientation purposes.



Examined more closely, the following is a map of draft Target Region 11, the data of which can be accessed here <https://broadband.wv.gov/draft-target-areas-for-bead/>. The dark red dots represent Target Locations. While in practice the Target Areas only constitute the groupings of Target Locations, they are often depicted as shapes containing those Locations for simplicity: the blue-gray lines in this case. Similarly, the red border represents the Target Region as a general concept. Again, in practice only the points comprise the Areas and Regions.



Zooming out but still using these simplified shapes, the following is the abstracted full draft map of Target Areas and Regions in West Virginia—with the different colors symbolizing different Regions and the lines symbolizing the shapes of the Areas.



Question: Where can applicants download the data related to the Target Areas and Regions?

Information on the draft Target Areas and Regions is available here: <https://broadband.wv.gov/draft-target-areas-for-bead/>. WVDED is accepting comments on these materials until April 5, 2024. After this, and before the Full-Application period begins, WVDED will publish the final Target Areas and Regions for applicants to use when creating Proposed Projects.

Question: When will an updated set of Target Locations (broadband serviceable locations (BSLs)) be made available and will BSLs funded through ARPA and/or other existing programs be removed from that data set?

WVDED will make available a new set of Target Locations after the conclusion of the Challenge Process. As a part of the deduplication process, WVDED will mark locations with enforceable commitments as served, such as those with enforceable commitments through the ARPA program.

Question: As far as location types, are unserved, underserved, and community anchor institutions all eligible?

Yes, Target Locations include unserved, underserved, and eligible community anchor institutions.

Question: How will unserviceable Target Locations (broadband serviceable locations (BSLs)) be handled, such as water tanks, gas wells, barns, etc.?

The Federal Communications Commission addressed unserviceable locations during its challenge process. This is not a feature of West Virginia's Challenge Process. WVDED may consider any further guidance that NTIA provides on the matter.

Furthermore, as noted in West Virginia's Initial Proposal Volume 2, subgrantees must serve all Target Locations in their awarded Projects; however, in circumstances where they cannot provide service for reasons completely outside of their control, such as no electricity provided to the BSL or where a property owner refuses the provision of service, subgrantees will be required to compile a list of such BSLs and present it to WVDED.

Question: How do applicants obtain the December 31, 2022, June 13, 2023, update fabric data?

Applicants should request this from CostQuest during the license acquisition process.

Question: Where can applicants find information related to obtaining a CostQuest Tier D license?

Applicants can find information on obtaining a CostQuest Tier D license, which all applicants to the program need, here: <https://drive.google.com/file/d/1sJo85oUnefDC0e3GIAxShgDn3fDR1s-c/view>.

Applicants should specifically request the December 31, 2022, updated June 13, 2023, fabric data.

Question: What is the difference between the high-cost areas defined by NTIA and the Extremely High Cost Threshold?

These are different and they do not correlate.

High-cost areas describe areas in which there is an opportunity for reduced match. The high-cost areas are census blocks defined by NTIA. NTIA has already selected these blocks “in which at least 80% of the locations are unserved, and in which the cost of building out broadband service is higher than the average for all such unserved areas.” (See <https://www.internetforall.gov/program/broadband-equity-access-and-deployment-bead-program/bead-allocation-methodology>.) The match for Target Areas that contain Target Locations that fall in the high-cost areas will be reduced proportionately to the number of such Target Locations.

The Extremely High Cost Threshold describes a threshold above which proposed projects may be too expensive for the program to fund. It represents the point at which the proposed project’s grant cost per Target Location is so expensive that the program may fund a less expensive competing project using a less preferred technology. WVDED will establish this threshold after it has received Proposed Projects and it will utilize the threshold as detailed in its Initial Proposal Volume 2.

Projects exceeding the “Extremely High Cost Threshold” may or may not be in “high cost areas.” Similarly, projects in “high cost areas” may or may not exceed the “Extremely High Cost Threshold.”

Project Funding, Match, and Reimbursement

Question: Can an applicant submit a Pre-Application if match funds are contingently available, such as those that may be dependent on allocations from the West Virginia State Legislature?

Yes, Pre-Applications may be submitted if match funds are contingently available. Applicants should be sure to note that any such funds are contingently available in the description/details section of the Pre-Application Pro Forma Workbook, Funding and Match tab.

Question: Some entities have relied on the Broadband Loan Insurance Program (BLINS) to secure funding from banks for previous broadband deployment efforts. With that program in flux, how should applicants approach securing match funding?

At the Pre-Application Phase, applicants may indicate that proposed non-grant funding sources are contingent, including a contingency related to legislative extension of BLINS to cover projects applying for BEAD. Applicants may also provide a letter of commitment from an eligible bank or credit union to provide a Letter of Credit that is contingent on BLINS loan insurance.

Question: Is reimbursement based on actuals or the averages in the cost factor?

It is based on actuals.

Question: Can subawardees (i.e., those receiving awards from WVDED) request reimbursement during the entire BEAD period of performance regardless of the “completion” of the network build as long as they still have funds in their awarded grant leftover? For instance, if a subawardee completes its general fiber network build within two years, can it continue to submit requests for reimbursement for eligible costs up through the full four years or until the grant amount is depleted?

Yes, subawardees may request reimbursement during the entire BEAD period of performance so long as they are for the project as awarded, are eligible costs, are during the period of performance, and meet all other reimbursement requirements associated with the program, which are detailed in the Deployment Program Procedures. Please note, once a grant is closed out, no further grant funds will be available. For example, an awardee may continue to seek reimbursement for costs related to new subscriber connections at Target Locations within the scope of the awarded project after completion of a main fiber network build out through the period of performance, but not after the closeout of the grant.

Pre-Application Workbooks

Question: Where can applicants download the workbook files?

Applicants can download the Pre-Application workbook files in the Documents tab within the ZoomGrants Pre-Application portal.

Question: How should applicants approach completing the Universal and Cost Factor workbook knowing that the Target Areas and Regions map may change after they submit their Pre-Applications?

Please note that the Universal and Cost Factor workbook allows applicants to describe their cost factors applicable across various projects in West Virginia. It does not ask for the costs specific to a particular project. During the Application Phase, applicants will use their cost factors and the specific facts of each project to summarize that proposed project's costs. For example, an applicant will be able to describe the cost of aerial roadside construction for a proposed project using its cost per mile for that type of construction, submitted at the Pre-application Phase and the number of miles of that type of construction the applicant determines will be required for that particular project.

WVDED asks that applicants provide their best estimates of cost factors during the Pre-Application Phase. In the Application Phase, WVDED will allow differences in cost factors used by an applicant for a particular project to differ by up to 10% from the values presented in the Pre-Application Phase. Costs for pole licensing and make-ready may vary by a greater percentage. Applicants who use cost factors at the Application Phase that are within this range of variance will be able to use a simplified budget of their proposed costs when describing their proposed projects.

Should an applicant have a proposed project which has exceptional circumstances that would make use of the applicant's own cost factors inappropriate for its proposed project, applicants will have the opportunity to justify these costs differences based on these circumstances. Applicants seeking approval to use cost factors with a greater variance from those presented during the Pre-Application Phase may not use the simplified budget to describe the proposed project costs.

Question: The E.1 Project Specs tab in the Pro Forma Workbook asks "Do you have more than ___ customers across all states?" What is considered a "customer" and what is the purpose of this question?

For the purposes of this question alone, a "customer" is a unique internet service subscriber that receives such service from the applicant or any of its affiliates with common ownership. The applicant should count broadband customers on service tiers that equal or exceed 100/20 Mbps. Do not count phone or cable television customers that are not also subscribed to broadband service.

The number listed in the question within the pro forma is automatically calculated such that the number of Total Locations Covered is 10% of this figure. For instance, if an applicant has a pro forma with 5,000, the question will be "Do you have more than 50,000 customers across all states?" This question offers WVDED an indicator of whether a potential set of projects is large relative to existing operations. Note that this does not place a ceiling or cap on the number of locations that an applicant can be awarded.

An applicant may seek an award comprising, and may be awarded, new locations greater than 10% of its existing customers. For this to occur, however, applicants must be able to demonstrate they have the financial and operational ability to scale and that the potential projects are financially sustainable with grant funding.

Question: For the purposes of the E.2 Capital Cost Summary tab in the Pro Forma Workbook, who/what is considered a “customer?” Does this include broadband, phone, and cable television service?

For the purposes of the E.2 Capital Cost Summary tab, the term "customer" is used in relation to "customer installation[s]." These are locations receiving a connection capable of providing a broadband service that complies with the program’s minimum performance requirements.

Question: Under what circumstance(s) is a third, Region-sized, pro forma required?

Applicants must complete a Region-sized pro forma if both their Maximum and Medium pro formas are larger than 3,000 Total Locations Covered. Total Locations Covered are defined according to the Instructions tab in the pro forma workbook.

Question: Does each pro forma represent an individual project?

No. Each pro forma represents a *set* of projects together. For example, the Maximum pro forma represents the largest set of projects that the applicant would be able and willing to perform on if awarded.

Question: In the pro formas required during the Pre-Application stage, WVDED asks that applicants include costs associated with Non-Target Locations. Does this impact the Letter of Credit or Performance Bond requirement for the program?

No, this does not impact the Letter of Credit or Performance Bond requirement. The Letter of Credit or Performance Bond is based on the grant amount. Costs exclusively for the benefit of Non-Target Locations are not eligible for grant funding. Costs and revenue associated with incidental service to Non-Target Locations are allowed to be part of the pro forma for applicants to present a complete cash flow, but do not enlarge the scope of potential projects to include these locations.

Question: During the workshops, WVDED provided screenshots from a completed or partially completed pro forma workbook. Is this an accurate representation of what a pro forma should look like, including the resulting figures such as return on investment?

The numbers used in the example pro forma workbook were for illustrative purposes to demonstrate use of the workbook. While the overall process was indicative of what a single example of a pro forma may look like, it should not be considered complete and not give a specific expectation for results, including but not limited to costs or return on investment.

Low-Cost Plan and Affordability Criteria

Question: What is the maximum price of the middle-class affordability tier?

As listed in West Virginia’s Initial Proposal Volume 2, applicants can earn points for the Affordability criterion according to the following schedule, which depends on the type of project (priority or non-priority) that they are proposing to deploy:

- Priority Project: One point for every \$2 below \$115 per month for plans offering 1/1 Gbps or better (max 25 points)
- Non-Priority Project Scoring: One point for every \$2 below \$85 per month for plans offering 100/20 Mbps or better (max 25 points)

Question: To whom are awardees required to offer a low-cost service tier?

Awardees are required to offer and provide marketing for a low-cost service tier, as proposed to and approved by WVDED during the Pre-Application stage, to all individuals who:

1. reside in Target Locations that are a part of their awarded project(s); and
2. qualify for and/or are enrolled in the Federal Communications Commission’s (FCC) Affordable Connectivity Program (ACP).

The specific marketing requirement and service requirements are detailed in section 2.8.1 Low-Cost Plan of the Deployment Program Procedures.

Question: Have the requirements related to ACP changed given the sunseting of the program?

For the purposes of this program, the ACP-related requirements have not changed.

Disclosure of Other Projects

Question: WVDED requires that applicants disclose whether and which other broadband deployment projects they, their contractors, or subcontractors are undertaking or plan on undertaking. Is there a threshold for when such a project must be disclosed? As an example, if an applicant plans to submit a proposal for a BEAD program in another state but has not yet decided which, does this need to be reported on?

If an applicant has any expectation at all that it might pursue or simply apply for another program, it must disclose this information. Even if the only statement that the applicant can make is “We plan to apply for \$20 million in funding in at least one of the four following states...” it should disclose this.

If an applicant does not have any such expectation but later on does, it should reach out to WVDED and provide updated information as soon as it becomes available.

Statement of Existence

Question: Pre-application portal question #4 asks, “Which of the following describes the Applicant(s)?” The note immediately underneath the question states “Upload materials substantiating the Applicant’s existence as one of the below entity types to the Documents tab for all non-government entities.”

Is this the same as the document request for a “Statement of Existence for the Applicant as issued by the West Virginia Secretary of State?”

Yes.

Applicant Information

Question: Question #3 on the Applicant Information tab in the pre-application portal previously asked for the “State Employer Identification Number” and currently asks for the “Federal Employer Identification Number.” Which is correct?

Federal Employer Identification Number is correct. On April 23, 2024, it was changed from “State” to “Federal” to provide clarity.

Proposing Projects

Question: Do applicants need to apply for an entire Region or can they apply for a specific Target Area?

Yes, applicants must apply for an entire Region. Applicants may do so by proposing one or more projects using the Target Areas as minimum building blocks and must comply with the other rules established in Initial Proposal Volume 2.

Note that even though applicants must apply for entire Regions, they are not guaranteed to be awarded the entire Region. Awards depend on many factors including project rank and score and applicant capacity. Regarding the latter, applicants will not be awarded more than they have the financial and relative capacity to carry out.

Question: What if an applicant does not have the financial resources to perform on an award for an entire Region? Can the applicant still participate in the program?

Yes. Applicants should indicate the largest set of projects that they will be able and willing to perform in the Maximum pro forma at the Pre-Application Phase. Applicants may apply for a set of proposed projects that exceed this maximum, but they will only be awarded a set of projects that is at or under their demonstrated capacity. If an applicant’s capacity is less than that of a single Region, it may only be awarded projects that are less than a full Region. Applicants should take care in this case to divide a Region’s Target Areas into projects during the Application Phase such that at least one would be the same size or smaller than that Applicant’s Maximum pro forma at the Pre-Application Phase. A proposed project may be as small as a single Target Area.

Joint Applications, Vendors, and Contractors/Subcontractors

Question: Are joint/consortium applications from two or more entities permitted? As an example, consider a scenario where Entity A intends on applying to the program to deploy fiber-optic broadband service and it plans on working with Entity B, which will provide the mobile wireless service portion of the network to earn points toward the Scalability and Resiliency criterion. Should Entity A and B submit a joint application, individual application(s), etc.?

Only a single application is permitted for a given Proposed Project(s). Put differently, only one application may be associated with a Proposed Project. Thus, in the example provided, only one application should be submitted.

Applicants that intend on having a relationship with another entity have two options for submitting this singular application:

1. The application is associated with a single lead entity. With this option, a single entity submits the application and lists any partners or other entities with which it will have a relationship in the same manner it would any other vendor, contractor, or subcontractor. Using the scenario from the question, Entity A would submit the application and list Entity B as a vendor, contractor, or subcontractor for specific services within the relevant sections of the application. **WVDED strongly recommends that entities pursue this option first.**
2. The entities establish a separate entity that will have responsibility for the Proposed Project and that will submit a single application. Entities pursuing this option must establish this separate entity for the purpose of carrying out any and all activities related to this program. It is incumbent upon the entities establishing this entity that they address the following considerations in forming the entity: Corporate form, ownership and control, profits and losses, responsibility for liabilities, capitalization, conflicts of interest, and the potential lack of audited financial records for the period and in the form required by the program. The separate entity will be the sole applicant and will be responsible for the Proposed Project.

In all cases, applicants should consult with their legal counsel and must comply with WVDED's Anti-Collusion and Prohibited Communications Policy and Certification.

Question: Can an entity be included as a vendor, contractor, or subcontractor on one or more applications in which they are not the lead applicant?

Communications to third parties supporting development of a prospective subgrantee's proposal, including communications to contractors, service providers, professional advisors, legal counsel, financial advisers, lenders, and consultants are permissible, provided that the prospective subgrantee takes steps necessary to prevent the third party from becoming a conduit for communicating bid and application information or bid and application strategies to other prospective subgrantees. For example, BEAD-related communications to third-party contractors and consultants are permissible to the extent such third parties enter into agreements with the prospective subgrantee that include protections consistent with WVDED's Anti-Collusion and Prohibited Communications Policy, such as non-disclosure and firewall provisions that will protect the integrity of the competitive bidding and selection process.

Please refer to WVDED's Anti-Collusion and Prohibited Communications Policy for more detail.

Question: Can an entity both be included as a vendor, contractor, or subcontractor on one or more applications in which they are not the lead applicant and a lead applicant submitting an application?

Third parties supporting development of a prospective subgrantee's proposal, including communications to contractors, service providers, professional advisors, legal counsel, financial advisers, lenders, and consultants shall not themselves be prospective subgrantees. Parties approached by prospective subgrantees must disclose if they intend to apply or have applied to the BEAD Program as prospective subgrantees.

Routine business communications do not violate WVDED's Anti-Collusion and Prohibited Communications Policy if they do not convey BEAD bid and application information or BEAD bid and application strategies.

Please refer to WVDED's Anti-Collusion and Prohibited Communications Policy for more detail.

Question: Does an applicant need to list or provide information on all vendors, contractors, or subcontractors that it may use in its Pre-Application?

An applicant is required to list or provide information on vendors, contractors, or subcontractors in its Pre-Application only to the extent that information is required to aid WVDED's evaluation of the application, including its assessment of operational capability and/or capacity. For details on WVDED's assessment of applications, please see the Deployment Program Procedures and Initial Proposal Volume 2.

Letter of Credit or Performance Bond

Question: In the webinars, WVDED noted that the letter of credit or performance bond would need to be for at least 10% of the award amount. Given this, does the commitment letter for a letter of credit or performance bond that must be submitted during the Pre-Application phase need to be for at least 10% of the Maximum pro forma award amount?

For instance, if the Maximum pro forma has a Total Grant Request Amount (see the Summary Output tab) of \$40,000,000, then would the commitment letter for a letter of credit or performance bond need to be for at least \$4,000,000?

Yes, that is correct.

Question: Are vendors, contractors, or subcontractors required to obtain a letter of credit or performance bond?

No, WVDED only requires that applicants obtain a letter of credit or performance bond.

Question: If an applicant wants to make the decision of whether to use a letter of credit or performance bond after the Pre-Application phase, does it therefore need to submit a commitment letter for both?

No, applicants only need to submit one commitment letter during the Pre-Application phase. Afterward, the applicant may choose to either use a letter of credit or performance bond pursuant to the requirements detailed in the Deployment Program Procedures.

Question: Is there a template for the letter of credit commitment letter or performance bond commitment letter required during the Pre-Application? If not, what should it contain?

No, the letter of credit commitment letter or performance bond commitment letter is a non-binding opinion letter or comfort letter from an eligible institution indicating the applicant's capacity to obtain a letter of credit or performance bond up to a stated dollar amount. The applicant and issuing entity can use their own wording provided it meets the above criteria and those included in the Deployment Program Procedures.

Question: Can the letter of credit be governed by another state's laws other than those of West Virginia?

WVDED strongly prefers that the letter of credit be governed by the laws of the State of West Virginia as stated in the provided Model Letter of Credit. However, and on a case-by-case basis, WVDED may work with an applicant and the bank or credit union issuing its letter of credit to allow for application of another state's law, provided it does not restrict, among other things, WVDED's ability to draw on the letter of credit within the letter's six-year duration or require venue for disputes in a state other than West Virginia. As the administrator of the BEAD program and the beneficiary of the letter of credit, WVDED's rights and remedies as a beneficiary may not be diminished through the application of another state's law.

WVDED may reject, modify, or accept any proposed change to this requirement and will consider, at a minimum, the impact that the change has on itself and the program, as well as the creditworthiness of the issuing bank or credit union.

WVDED will not allow for modification to any other portion of the Model Letter of Credit. In all cases, the letter of credit must meet NTIA requirements as detailed in West Virginia's Deployment Program Procedures and Initial Proposal Volume 2.

Disclosure of Publicly Funded Broadband Projects

Question: Should mobile broadband projects be included in the Disclosure of Publicly Funded Projects Form?

Yes, both fixed and mobile broadband projects should be included in the Disclosure of Publicly Funded Projects Form.

Confidential or Proprietary Information

Question: Can applicants mark information contained in the application as confidential and/or proprietary?

During the Pre-Application, applicants can mark the material in their workbooks as confidential using the “Confidentiality” tab. During the Full Application, WVDED will provide a way for applicants to mark certain materials or information as confidential and/or proprietary.

Financial Statements

Question: If an applicant does not yet have the required audited financial statements for the prior year, what should it do?

If the applicant has not been audited during the ordinary course of business, in lieu of submitting audited financial statements, it must submit unaudited financial statements from the prior fiscal year and certify that it will provide financial statements from the prior fiscal year that are audited by an independent certified public accountant before WVDED announces provisional awards.