
West Virginia BEAD Program Procedures Application Extension

Updated as of September 13, 2024

State of West Virginia

West Virginia Department of Economic Development



INTERNET FOR ALL **West Virginia**

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Introduction

The West Virginia Department of Economic Development, Office of Broadband (collectively, “WVDED”) is tasked with launching the West Virginia BEAD Program (the Program) as a means of deploying highspeed broadband access across the State of West Virginia (the State) by providing grants to qualified broadband internet service providers. Applicants will complete the pre-application and the full application phases of the Program based on its Program Procedures, previously published. WVDED is accepting applications to the Program for projects in Target Areas across the State.

These Application Extension Program Procedures describe the process through which WVDED may extend the pre-application and full application window for the Program (the Extension). This Extension will apply to only a subset of the Target Areas established for the Program. This subset of Target Areas will be announced after the initial deadline for the full application period has passed. The Extension will provide applicants with an opportunity to propose additional projects to the Program, but only within the Target Areas announced for the Extension. Potential applicants who have not previously completed a pre-application will have the opportunity to complete a pre-application during the Extension but will be limited to proposing projects within the Target Areas announced for the Extension.

During this Extension, WVDED will permit applicants to seek additional funding available to support broadband deployment in West Virginia. Table 1 below details approximate funding available during the Extension. WVDED reserves the right to reallocate funding.

Table 1: Approximate Deployment Project Funding Available During Extension

Source	Program Name	Approximate Amount	Limited Use
Appalachian Regional Commission (ARC)	BEAD Matching Funds	\$32 million	Non-construction matching funds in 18 ARC distressed counties
U.S. Department of Treasury American Rescue Plan Act	Capital Projects Fund (CPF)	\$19 million	Projects to be completed by December 2026
	State and Local Fiscal Recovery Fund (SLFRF)	\$20 million	

This Application Extension Program Procedures document follows the organization of the BEAD Deployment Program Procedures and outlines adjustments to the Program in the Extension period and relevant changes for applicants who seek ARC/CPF/SLFRF funding in addition to BEAD.¹ All applicants participating in this Extension must also comply with the requirements outlined in the complete BEAD Deployment Program Procedures, except where specifically modified by these procedures.² Please visit broadband.wv.gov for application materials, FAQs, and updates, including the lists of remaining Target Areas when available.

¹ WVDED, West Virginia BEAD Program Procedures, August 21, 2024, <https://broadband.wv.gov/wp-content/uploads/2024/08/WVDED-BEAD-Deployment-Program-Procedures-21Aug2024.pdf>.

² Ibid.

This program is consistent with the guidelines of the National Telecommunication and Information Administration (NTIA) and is in line with material presented in West Virginia's Initial Proposal Volumes 1 and 2. These Application Extension Program Procedures will be updated as needed based upon any additional guidance provided from NTIA, ARC, or U.S. Treasury.

1. Extension Overview

1.1 Source of Funds and Allocation

In addition to BEAD program funds authorized by the Infrastructure Investment and Jobs Act (IIJA), WVDED will support this Extension using funds allocated to the State of West Virginia through the Appalachian Regional Commission (ARC) and the American Rescue Plan Act (ARPA) authorized by the U.S. Department of the Treasury.

ARC has provided WVDED \$32 million to be used as matching funds for non-construction costs in projects located in the State’s 18 economically distressed counties. In addition, the State of West Virginia has remaining U.S. Department of the Treasury funds, in the approximate amounts of \$19 million and \$20 million, respectively, to award American Rescue Plan Act (ARPA) Capital Projects Fund (CPF) and State and Local Fiscal Recovery Fund (SLFRF) projects through the BEAD Deployment application process and Target Areas map. CPF and/or SLFRF will also be denoted as CPF/SLFRF.

To seek these funds, applicants will propose projects in eligible remaining Target Areas. These will take the form of distinct projects for which WVDED will award BEAD and/or ARC funds—the latter to meet BEAD minimum required match—or CPF/SLFRF funds for their entirety. As a part of this, applicants will have the opportunity to create “paired” projects that allow for the division of Target Areas into separate CPF/SLFRF and BEAD projects (see Section 4.1).

WVDED will make awards for compatible funding sources. All projects funded by CPF/SLFRF must be completed before December 31, 2026. WVDED reserves the right to reallocate funds as described in the complete BEAD Deployment Program Procedures.

1.2 Eligible Entities

Applicants that propose Projects during the Extension must comply with the eligibility criteria outlined in Section 1.2 of the complete BEAD Deployment Program Procedures. Applicants must successfully submit pre-application materials to submit Proposed Projects during the Extension. Eligible entities that submit their pre-application materials during the Extension will be limited to proposing projects within the Target Areas announced for the Extension.

1.3 Eligible Networks

Applicants awarded projects for BEAD and ARC funding must deliver broadband speeds and connections as described in Section 1.3 of the complete BEAD Deployment Program Procedures.

Applicants awarded CPF/SLFRF projects must be capable of offering services of at least 100 Mbps download and 20 Mbps upload and less than 100 ms latency and must propose to offer at least one service tier to mass-market consumers with performance meeting or exceeding this threshold. Applicants for CPF/SLFRF funds must propose projects offering 100 Mbps symmetrical speeds when practicable. Applicants proposing projects that cannot reliably provide upload speeds of 100 Mbps as proposed must

describe how their proposed project will be scalable to a minimum of 100 Mbps symmetrical speeds in the future. Such applicants must also describe the reasons why it would not be practicable at the present time to deliver 100 Mbps symmetrical through the proposed project. Where practicable, applicants are encouraged to offer higher speed service tiers, including Gigabit service (1000 Mbps download / 500 Mbps upload).

1.4 Target Areas

Target Areas available for funding through this Extension will include those that remain without viable projects following the initial Full Application deadline, or at risk of remaining without a viable project. WVDED will create and publish two sets of Target Areas for the Extension:

- a) A list of remaining Target Areas eligible for ARC non-construction matching funds in the state's 18 economically distressed counties, and
- b) A list of Target Areas eligible for CPF/SLFRF projects.

These lists may overlap. Applicants will use the Target Areas to form their Proposed Projects according to the procedures discussed in Section 4.1.

Depending on the applications the program receives prior to the Extension, WVDED may limit applications during the Extension to projects that use end-to-end fiber or reliable broadband service technologies. This limitation may apply to all or only some of the Target Areas that are the subject of the Extension.

In the event that WVDED receives viable project applications in all Target Areas, WVDED may request applicants accept CPF, SLFRF, or ARC funding, where possible, in lieu of BEAD funds.

1.5 Program Phases

Extension applications must proceed through the same three main phases described in Section 1.5 of the complete BEAD Deployment Program Procedures.

1.6 Application Deadlines

WVDED will provide Extension deadline updates and FAQs at broadband.wv.gov.

2. Primary Extension Requirements

2.1 Construction Timeline

Applicants awarded projects for BEAD and ARC funding must meet the construction timeline described in Section 2.1 of the complete BEAD Deployment Program Procedures.

Applicants awarded CPF/SLFRF projects must complete construction and begin providing service to each customer that desires broadband service within the project area by December 31, 2026.

2.2 Grants Reimbursement Program

As noted in the complete BEAD Deployment Program Procedures, this is a reimbursement program and projects receiving funding may be reimbursed for eligible expenses up to a maximum project cost identified in the award.

2.3 Match Requirement

Applicants are encouraged to meet the minimum required match for all BEAD projects.³

During the Extension, WVDED may award applicants ARC non-construction matching funds in eligible remaining Target Areas to meet the minimum match for BEAD projects.⁴ Eligible expenditures for ARC matching funds include:

- a) Reasonable make-ready and one-time pole licensing costs, excluding recurring pole attachment payments;
- b) Site preparation and site restoration costs;
- c) Professional services, including engineering and project management costs for designing and constructing the Proposed Project; and
- d) Other upfront costs, such as permits or required licenses.

In special circumstances, NTIA may recommend a partial or full match waiver where it serves the public interest and the purposes of the BEAD program. As such, to award BEAD projects, WVDED may review applications that do not meet the match requirement. However, potential applicants should be aware that NTIA, at its sole discretion, may choose to deny a full or partial waiver of the match requirement

³ The minimum required match is at least 25% of the total cost for each Proposed Project. WVDED may reduce a portion of the match that is proportionate to the number of Target Locations that fall within High-Cost areas, as defined in Section 60102(a)(2)(G) of the Infrastructure Investment and Jobs Act of 2021. WVDED will determine if High-Cost areas remain in the lists of Extension Target Areas following the initial Full Application deadline. The specifics of this requirement are detailed in Section 4.2.2.

⁴ If not all available ARC funds are required as match to BEAD-funded projects, WVDED may elect to offer ARC match assistance to CPF/SLFRF projects.

during submission of the Final Proposal, in which case the application must be revised or another project must be selected for the project area.

Applicants awarded CPF/SLFRF projects must commit to provide at least \$500 of matching funds per address passed by fiber or cable lines funded by the program or covered by use of other technologies funded by the project to meet the CPF/SLFRF project requirements.

Additional conditions for match funds described in Section 2.3 of the complete BEAD Deployment Program Procedures remain the same during the Extension.

2.4 Eligible Expenses

Eligible and ineligible costs described in Section 2.4 of the complete BEAD Deployment Program Procedures remain the same during the Extension.

2.5 Technical and Operational Capability

Applicants must demonstrate their qualifications as described in Section 2.5 of the complete BEAD Deployment Program Procedures.

2.6 Financial Capacity and Sustainability

Applicants must demonstrate their qualifications as described in Section 2.6 of the complete BEAD Deployment Program Procedures.

2.7 Letter of Credit or Performance Bond

Applicants awarded projects that will include BEAD funding must obtain either a letter of credit or performance bond as described in Section 2.7 of the complete BEAD Deployment Program Procedures.

Applicants awarded projects using CPF/SLFRF funding and no BEAD funding are not required to provide a letter of credit or performance bond.

2.8 Affordability

Applicants proposing projects during the Extension must comply with the low-cost broadband service plan requirement and are encouraged to offer middle-class broadband service plans as described in Section 2.8 of the complete BEAD Deployment Program Procedures.

2.9 Network Resiliency, Risk Mitigation, Hardening, and Scalability

2.9.1 Compliance with Industry-Standard Practices

Applicants awarded projects using either CPF/SLFRF funding or BEAD funding are required to undertake and complete projects, in a manner that is technically sound, and must meet design and construction methods and use materials that are approved, codified, recognized, and meet standard or acceptable levels of practice, or otherwise are determined to be generally acceptable by the design and construction industry.⁵ In accordance with this, Applicants shall follow the practices outlined in Section 2.9.1 of the Complete BEAD Deployment Program Procedures.

2.9.2 Additional Resiliency and Scalability

As described in Section 2.9.2 of the Complete BEAD Deployment Program Procedures, WVDED strongly recommends that applicants meet or exceed any resiliency-related recommendations developed by federal, state, and local agencies and factor such scalability into their designs.

2.10 Certification of Compliance with Relevant Laws and Regulations

2.10.1 Build America, Buy America Act

Applicants undertaking broadband infrastructure projects funded solely by CPF/SLFRF funds are generally not subject to the Buy America Requirements set forth in the Build America Buy America Act (BABA) under the IIJA.⁶ Otherwise, applicants must comply with the BABA requirements detailed in Section 2.10.1 of the BEAD Deployment Program Procedures.

2.10.2 Secure and Trusted Communications Networks Act

Restrictions on Use of items Manufactured in China

Independent of BABA, applicants, as well as contractors and subcontractors of such prospective subgrantees, regardless of funding source, must not use program funds 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) or 2 CFR 200.216 (prohibition on certain

⁵ See Guidance for the Coronavirus Capital Projects Fund (September 2021) Section I. E. (Strong Labor practices in Construction) (pgs. 11-12). (<https://home.treasury.gov/system/files/136/Capital-Projects-Fund-Guidance-States-Territories-and-Freely-Associated-States.pdf>)

⁶ See U.S. Department of the Treasury Coronavirus State and Local Fiscal Recovery Funds (SLFRF) FAQs 6.18 and 6.19 (March 29, 2024) (<https://home.treasury.gov/system/files?file=136/SLFRF-Final-Rule-FAQ.pdf>).

telecommunications and video surveillance services or equipment).⁷ Further, program funds may not be used to purchase or support fiber optic cable and optical transmission equipment manufactured in the People's Republic of China.

2.10.3 National Environmental Policy Act (NEPA) and National Historic Preservation Act (NHPA)

Generally, the National Environmental Policy Act (NEPA) compliance does not apply to projects funded solely with SLFRF/CPF funds.⁸ However, such ARPA-funded projects may be subject to NEPA review if they are also funded by or involve actions from other Federal programs or agencies subject to NEPA.⁹

Regarding compliance with the National Historic Preservation Act (Section 106), applicants, regardless of funding sources, will be required to determine NHPA applicability to their project through the completion of a required applicability checklist as well as consultation with the State Historic Preservation Office (SHPO).

The Advisory council on Historic Preservation (ACHP) issued an Amendment to the Program Comment for Communication Projects on Federal Lands and Property, extending the applicability to create rules for all broadband projects regardless of location.¹⁰ The Amendment to the Program Comment creates a streamlined review for project areas that:

- Have been previously surveyed and found not to contain historic properties;
- Have been previously disturbed to the extent and depth where the probability of finding intact historic properties is low;
- Are not considered to have a high probability for historic properties by qualified professionals; or
- Meets certain existing conditional exemptions contained in the Program Comment.¹¹

As an additional note on the streamlined process above, in the event that a project area impacts national monuments, other historic sites, or national historic landmarks, the standard NHPA Section 106 review will still apply unless federal, state, or Tribal authorities are consulted and determine otherwise.

NOTE: The Categorical Exclusions (CE's) that are applicable to the NEPA process are not applicable to NHPA Section 106 Reviews.

⁷ A list of companies supplying "covered" equipment/services is included on the FCC's website, available at <https://www.fcc.gov/supplychain/coveredlist>.

⁸ See [Coronavirus SLFRF FAQ Treasury guidance](https://www.treasury.gov/system/files/136/SLFRF-Final-Rule-FAQ.pdf) (March 29, 2024) (Item 2.21, p. 21) (<https://home.treasury.gov/system/files/136/SLFRF-Final-Rule-FAQ.pdf>); and see [Capital Projects Fund Guidance](https://home.treasury.gov/system/files/136/Capital-Projects-Fund-Guidance-States-Territories-and-Freely-Associated-States.pdf), (September 2021) footnote 12, p. 18 (<https://home.treasury.gov/system/files/136/Capital-Projects-Fund-Guidance-States-Territories-and-Freely-Associated-States.pdf>).

⁹ Id.

¹⁰ See Advisory Council on Historic Preservation (ACHP), "[Amendment to the Program Comment for Communications Projects on Federal Lands and Property](https://www.achp.gov/sites/default/files/program_comments/2024-03/Communications%20Project%20PC%20amendment%20-%2020240313%20letterhead_SIGNED.pdf)," March 2024 (https://www.achp.gov/sites/default/files/program_comments/2024-03/Communications%20Project%20PC%20amendment%20-%2020240313%20letterhead_SIGNED.pdf).

¹¹ Program Comment for Communications Projects on Federal Lands and Property (Program Comment), 82 Fed. Reg. 23818 (May 24, 2017).

2.10.4 Labor Standards and Protection

Applicants must generally comply with the same labor standards and protections for their projects, regardless of whether funded through CPF/SLFRF or BEAD funds. If a project is funded through SLFRF, the labor reporting requirements threshold applies to projects over \$10 million, whereas for CPF and BEAD funded projects the labor reporting requirements apply to projects of \$5 million or more.

2.10.5 Civil Rights Compliance

Applicants must comply with the same requirements with regard to civil rights regardless of their project's funding source. For details on these requirements, please see Section 2.10.5 of the complete BEAD Program Procedures.

2.11 Minority Business Enterprises/Women's Business Enterprises/Labor Surplus Area Firms Inclusion (MBE/WBE/LSA)

Applicants awarded projects using CPF/SLFRF funding and no BEAD funding are not required to comply with the 2 CFR 200.321 Minority Business Enterprises (MBE), Women's Business Enterprises (WBE), Labor Surplus Area (LSA) Firms procurement inclusion requirements detailed in Section 2.11 of the complete BEAD Deployment Program Procedures. Applicants awarded projects that will include BEAD funding, however, must comply with this requirement.

2.12 Compliance with Grant Distribution Agreement and Cooperation with Grant Recipient Obligations

Subgrantees must execute a grant distribution agreement with WVDED that outlines all program and compliance requirements, whether funded through BEAD or CPF/SLFRF. To the extent that there are any federal, state, or local program compliance requirements, regulations, or laws that are applicable to the subgrantee and that are not included in the grant distribution agreement, subgrantees are responsible for complying with those requirements as well.

2.13 Other BEAD-Specific Requirements

Applicants awarded CPF/SLFRF funding will not be required to comply with requirements specific to the BEAD program not also applicable to CPF/SLFRF, or not otherwise specifically identified by WVDED. The following requirements only apply to BEAD-funded projects:

- Network Outages (not to exceed 48 hours/year) requirement (For details, See BEAD NOFO, p. 65)
- Conduit Access Points requirements (For details, see BEAD NOFO, p. 66)
- Public Notice (awareness campaigns) requirement (For details, see BEAD NOFO, pgs. 68-69)

- Interconnection Requirements and wholesale access (For details, see BEAD NOFO, p. 69)
- Cybersecurity Risk Management plan requirement (For details, see BEAD NOFO, p. 70)
- Supply Chain Risk Management plan requirement (For details, see BEAD NOFO, pgs. 70-71)
- Eminent domain use prohibition (For details, see [BEAD General Terms and Conditions](#), April 2024, p. 6) (https://broadbandusa.ntia.gov/sites/default/files/2024-05/BEAD_IPFR_GTC_04_2024.pdf)
- Engineered Design/Professional Engineer requirement (For details, see BEAD NOFO, p. 74)
- Procurement requirements for BEAD Broadband Infrastructure Deployment subgrantees:¹²
 - Contracting with Small and Minority Businesses, and Labor Surplus Area Firms (See BEAD NOFO, pgs. 85-86, citing 2 CFR 200.321)
 - Procurement of Recovered Materials (2 CFR 200.323) (Solid Waste Disposal Act)
 - Required Contract provisions under 200.327 as applicable:
 - Breach/Remedies (contracts above the Simplified Acquisition Threshold)
 - Termination (contracts over \$10,000)
 - Equal Employment Opportunity Clause (applicable to all federally assisted construction contracts)
 - Contract Work Hours and Safety Standards Act (Contracts over \$100,000)
 - Clean Air Act and Federal Water Pollution Control Act provisions (contracts over \$150,000)
 - Debarment and Suspension (prohibiting contract awards to parties listed on the governmentwide exclusions list at www.sam.gov)
 - Byrd Anti-Lobbying (contractors bidding for an award over \$100,000 must file the certification as detailed in 2 CFR 200.327 Appendix II)
 - Procurement of Recovered Materials. Subgrantees that are state agencies or agencies of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. (See 2 CFR 200.323)
 - Domestic Preferences for Procurements. Provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (See 2 CFR § 200.322).
 - NOTE: For projects funded by CPF/SLFRF, CPF/SLFRF ISP subgrantees are exempt from the few BEAD procurement requirements listed above as well as the full procurement requirements of 2 CFR 200.318-200.327, however under the [Treasury SLFRF and CPF Supplementary Broadband Guidance](#) (May 17, 2023), non-ISP CPF/SLFRF subgrantees must comply with those full procurement requirements of the Uniform Guidance 2 CFR 200.318-200.327.
- BEAD Property requirements for Deployment projects¹³
 - NOTE: While CPF/SLFRF ISP subgrantees do not need to comply with the BEAD property requirements detailed in the resource footnote indicated, they must comply with the

¹² See United States Department of Commerce/National Telecommunications and Information Administration Policy Notice, *Tailoring the Application of the Uniform Guidance to the BEAD Program*, p. 7 (https://broadbandusa.ntia.doc.gov/sites/default/files/2023-12/BEAD_Policy_Note_of_Uniform_Guidance_Part_200_Exceptions_Related_Issues.pdf)

¹³ See United States Department of Commerce/National Telecommunications and Information Administration Policy Notice, *Tailoring the Application of the Uniform Guidance to the BEAD Program*, pgs. 7-9. (https://broadbandusa.ntia.doc.gov/sites/default/files/2023-12/BEAD_Policy_Note_of_Uniform_Guidance_Part_200_Exceptions_Related_Issues.pdf).

CPF/SLFRF Supplementary Guidance for ISP subgrantees regarding property, see pgs. 3-4 “Ownership of Infrastructure”, (<https://home.treasury.gov/system/files/136/SLFRF-and-CPF-Supplementary-Broadband-Guidance.pdf>). Further, non-ISP ARPA subgrantees must comply with the full property requirements under 2 CFR 200.310-200.316.

- Proprietary/Confidentiality Requirements (See BEAD NOFO, pgs. 94-95)
- Whistleblower Protections (see BEAD NOFO, pgs. 95-96, citing 41 U.S.C. Section 4712)
- Reporting Requirements for BEAD: (Detailed in the BEAD NOFO, pgs. 90-92 and Section 7.6 (Compliance Reporting) below).

3. Pre-Application

Participation in the pre-application phase is required for applicants to participate in the Extension. Applicants that have previously completed the pre-application phase have met this requirement.

Applicants that have not previously submitted a pre-application may submit those materials during the Extension. Applicants who submit a pre-application during the Extension will only be considered for projects included in the lists of Target Areas available during the Extension.

See Section 3 of the Complete BEAD Deployment Program Procedures for a full description of pre-application materials.

4. Full Application

4.1 Creating Proposed Projects

The definitions of Target Area and Region remain the same from Section 4.1 of the complete BEAD Deployment Program Procedures.

During the Extension, applicants will propose projects (here “Proposed Projects” or “Projects”) for which they seek grant funding. WVDED will publish a map and lists of Target Areas that are the subject of the Extension at broadband.wv.gov. Applicants will use the Target Areas in the list to create Proposed Projects for which they will provide service.

Applicants must use Target Areas as the smallest geographic unit to define where Proposed Projects will provide service to Target Locations, with a limited exception during the Extension. An applicant may, but is not required to, divide a given Target Area between a pair of Projects. The pair of projects must cover all Target Locations in the Area, and each Project cannot contain duplicated Locations from the other half. These Projects will be considered distinct and separate for the purposes of funding. Applicants may subdivide Target Areas into these paired projects to provide different technologies in the different parts of a Target Area, to propose different build-out schedules, to propose different levels of match, and/or to allow Projects to be funded by separate funding sources. If subdividing for funding sources, an Applicant may, for example, apply for one Project to be considered for CPF/SLFRF funding and the other Project for BEAD funding (with or without ARC funding).

Applicants must follow five rules when creating Proposed Projects from Target Areas as described in the complete BEAD Deployment Program Procedures and listed below. Applicants may submit more than one set of Proposed Projects, each of which must be self-contained and follow the five rules independently of the other sets.

1. If an applicant proposes to include any Target Area within a Target Region in a Proposed Project, it must include all Target Areas in that Target Region in a Proposed Project. The applicant may, however, choose to propose that the Target Areas within the Target Region be in one Proposed Project or distributed among multiple Proposed Projects.
2. Proposed Projects may not overlap one another.
3. Dependent Projects are not allowed.
4. Proposed Projects may not contain more than one Target Region.
5. Target Areas containing only CAI Target Locations must not be in a Proposed Project with any Target Areas containing unserved or underserved Target Locations. Target Areas that contain a mix of CAI and non-CAI Target Locations may be in a Proposed Project with other Target Areas containing unserved or underserved Target Locations.

During the Extension, the following cases will be permitted under these rules.

1. During the Extension, not all of the original Target Areas in a Target Region may be available or may not all be available for projects using either ARC or CPF/SLFRF funding. In these cases,

- applicants are not required to include all Target Areas in a Target Region in a Proposed Project. Applicants may propose projects for one or more remaining Target Areas within a Target Region.
2. Proposed Projects during the Extension may overlap a Proposed Project previously submitted in an initial full application. If an applicant previously submitted a Proposed Project for the Target Area, a new Proposed Project during the Extension does not supersede the original project, though WVDED will consider all new projects proposed during the Extension in addition to Proposed Projects previously submitted.

4.2 Full Application Information

During the Extension, applicants must submit accompanying information to support their Proposed Projects, including any details requested to award ARC or CPF/SLFRF funding.

4.2.1 High-Level Designs and Technical Capabilities

In addition to the requirements discussed in Section 4.2.1 of the complete BEAD Deployment Program Procedures, applicants proposing pairs of Projects must clearly identify which of the Target Locations within the Target Area(s) are covered by each Project in the pair.

4.2.2 Proposed Project Budget

In addition to the requirements discussed in Section 4.2.2 of the complete BEAD Deployment Program Procedures, applicants must detail any non-construction costs related to their projects.

4.2.3 Projects with Mixed Unserved and Underserved Target Locations

See Section 4.2.3 of the complete BEAD Deployment Program Procedures.

4.2.4 Project Timeline

In addition to the requirements discussed in Section 4.2.4 of the complete BEAD Deployment Program Procedures, applicants must note whether it is possible to complete construction and be ready to serve customers in those areas by December 31, 2026. The implementation schedule must be described in the construction and deployment timeline.

4.2.5 Demonstration of Community Support and Community Impact

During the Extension, applicants must include the same community support material as discussed in Section 4.2.5 of the complete BEAD Deployment Program Procedures.

5. Application Review and Award

5.1 Department Information Requests

Proposed Projects received during the Extension will be reviewed during the full application review process. WVDED (including through its contracted technical reviewers) may request clarification from applicants as discussed in Section 5.1 of the complete BEAD Deployment Program Procedures.

5.2 Project Ranking

Provisional awards will be made for Proposed Projects received during the Extension using the same ranking process described in Section 5.2 of the complete BEAD Deployment Program Procedures. Projects proposed during the Extension will be ranked at the same time as projects proposed by the original Full Application deadline. When selecting projects, WVDED will generally rank projects against each other notwithstanding their proposed use of different funding sources. WVDED reserves the right, however, to manage available funding sources by prioritizing awards that can use one or another of the funding sources.

5.2.1 Ranking Levels

See Section 5.2.1 of the complete BEAD Deployment Program Procedures.

5.2.2 Selection Among Projects with Different Ranking Levels

See Section 5.2.2 of the complete BEAD Deployment Program Procedures.

5.2.3 Selection Among Projects with the Same Ranking Levels

See Section 5.2.3 of the complete BEAD Deployment Program Procedures.

5.2.4 Scoring Criteria

Applicants will be scored using the same criteria included in Section 5.2.4 of the complete BEAD Deployment Program Procedures. To generate a score for paired Projects, WVDED will use a weighted average score of the two projects.

For Projects WVDED considers for CPF/SLFRF funding, WVDED will use the same criteria included in Section 5.2.4 of the complete BEAD Deployment Program Procedures, with adjustments to the minimum grant funds category shown below:

Minimum Grant Funds (Compared to Benchmark)	Max points	
Category: Primary	Priority: 100	Non-priority: 100
<p>The difference between zero and the sum of the CostQuest Associates FTTH Greenfield deployment NPV estimates for all of the Target Locations contained within a Proposed Project equals the expected total program outlay. If the expected total program outlay is less than or equal to zero—meaning the aggregate NPV was positive—WVDED will consider the expected total outlay for the Proposed Project to be \$0. Therefore, the minimum expected total outlay is considered to be \$0.</p>		
<p>WVDED will then divide the total funding that the applicant requests by this calculated expected total outlay to establish a percentage figure. WVDED will then assign points for this category as follows: Projects falling below 50% of the expected outlay will be rounded to 50%; projects falling above 150% of the expected outlay will be rounded to 150%. For every percentage point less than 150%, one point will be awarded, up to and including 50%. If the expected total outlay for the Proposed Project is \$0, WVDED will award the full 100 points to applicants that request \$0 of funding for the Project and zero points to applicants that request any amount of funding for the Project.</p>		
<p>As an example, if the sum of the CostQuest Associates FTTH Greenfield deployment NPV estimates for all of the Target Locations in a Proposed Project equals -\$1,000,000 (i.e., negative \$1,000,000), and an applicant proposes a total funding amount of \$750,000, then the resulting percentage will be $\\$750,000/\\$1,000,000 = 75\%$. The applicant will then earn $150-75 = 75$ points for the Proposed Project. If the applicant proposed a total funding amount of \$450,000, the percentage would be 50% because the original percentage of $\\$450,000/\\$1,000,000 = 45\%$ would be rounded to 50%, as described above. In this case, the applicant would earn $150-50 = 100$ points for the Proposed Project.</p>		

5.3 Provisional Award Process

For Proposed Projects received during the Extension, WVDED will conduct the same provisional award process described in Section 5.3 of the complete BEAD Deployment Program Procedures.

5.3.1 Capacity

See Section 5.3.1 of the complete BEAD Deployment Program Procedures.

5.3.2 Program Budget and the Extremely High-Cost Threshold

See Section 5.3.2 of the complete BEAD Deployment Program Procedures.

5.4 Additional Awarded Areas

See Section 5.4 of the complete BEAD Deployment Program Procedures. WVDED may also use CPF/SLFRF funding for line extensions in additional awarded areas in lieu of BEAD funding. Applicants may decline additional awarded areas using CPF/SLFRF funding that they are unable to commit to completing by December 31, 2026.

5.5 Potential Award Pro Forma Review

See Section 5.5 of the complete BEAD Deployment Program Procedures.

5.6 Provisional Subgrantee Letters of Credit or Performance Bond

Prior to entering into any subgrantee agreement, applicants provisionally awarded BEAD and ARC funding must obtain either a letter of credit or performance bond and are subject to the requirements described in Section 5.6 of the complete BEAD Deployment Program Procedures.

Applicants provisionally awarded projects using CPF/SLFRF funding are not required to provide a letter of credit or performance bond for those areas.

5.7 NTIA Approval of West Virginia BEAD Final Proposal

All selected Projects that include BEAD funding, including any received during the Extension, will be included in West Virginia's BEAD Final Proposal and subject to NTIA's approval. Selected projects funded using ARPA funding will not be subject to NTIA's approval of West Virginia's BEAD Final Proposal.

6. Grant Distribution Agreement and Standard Terms

Given the different program and compliance requirements associated with projects funded by CPF/SLFRF and those funded with BEAD, applicants that receive provisional awards for projects proposed during the Extension will be subject to the grant distribution agreement terms of the grant agreement (BEAD or CPF/SLFRF) specific to their funding source.

7. Grant Recipient Obligations and Post Award Monitoring

Awardees of grant funds must comply with post-award monitoring and reporting requirements described in Section 7 of the complete BEAD Deployment Program Procedures.

7.1 Notice to Proceed with Exempt Activities (NTPE)

Subgrantees should refer to the complete BEAD Deployment Program Procedures Section 7.1 for detail on the Notice to Proceed with Exempt Activities process.

7.2 Budget Amendments

Subgrantees should refer to the complete BEAD Deployment Program Procedures Section 7.2 for detail on the Budget Amendment process and requirements.

7.3 Engineered Design and Notice to Proceed with Construction (NTPC) Requirements

Subgrantees should refer to the complete BEAD Deployment Program Procedures Section 7.3 for detail on the Engineered Design submittal and Notice to Proceed with Construction (NTPC) process and requirements. If funded by CPF/SLFRF, subgrantees are not required to comply with the BEAD Program's Professional Engineer requirement.

7.4 Invoice Submittals

Subgrantees should refer to the complete BEAD Deployment Program Procedures Section 7.3 for detail on the Invoice Submittal process.

7.5 Grant Disbursement Requests

Subgrantees should refer to the complete BEAD Deployment Program Procedures Section 7.5 for detail on the Grant Disbursement request process.

7.6 Compliance Reporting

Subgrantees awarded BEAD funds must meet the compliance requirements detailed in the BEAD NOFO, pgs. 90-92, and in Section 7.6 of the BEAD Deployment Program Procedures. BEAD minimum requirements include, among others, listing all interconnection agreements that were requested, as well as current status, and the number and amount of contracts and subcontracts awarded by the subgrantee

disaggregated by recipients of each such contract or subcontracts that are Minority Business Enterprises or Women's Business Enterprises. BEAD subgrantees must meet the requirement of including an SF-425 Federal Financial Report, as well as meeting the requirements of the Department of Commerce Standard Terms and Conditions (Dated November 12, 2020), Section A.01 for Financial Reports.

Subgrantees awarded CPF/SLFRF funding must meet the requirements detailed in the latest ARPA CPF or SLFRF Compliance Guidance¹⁴ and report the following information:

- a) project and subgrantee identifying information,
- b) location information and location type (residential, business, community anchor institution) where service is installed,
- c) construction start and end dates,
- d) whether CPF/SLFRF funding is used in conjunction with other federal funding,
- e) project obligations, expenditures, income earned and expended,
- f) project status, and
- g) labor reporting.

In addition, for CPF/SLFRF-funded projects, quarterly reporting must include:

- a) planned or actual project technology types,
- b) total miles of fiber deployed,
- c) locations served broken out by speeds and latency Pre-and post-CPF/SLFRF investment,
- d) number of funded locations served (planned/actual) broken out by type,
- e) speed tiers and pricing information for each speed tier, and confirmation of participation in the FCC affordability programs.¹⁵

The labor reporting requirements described in Section 7.6 of the BEAD Deployment Program Procedures are the same for BEAD and CPF/SLFRF funding, with the exception of the threshold for reporting. For SLFRF-funded projects, this threshold for labor reporting is projects greater than \$10 million, whereas for CPF and BEAD projects, the threshold for labor reporting is projects of \$5 million or greater.

7.7 Ready to Serve Review/Field Review

Subgrantees should refer to the complete BEAD Deployment Program Procedures Section 7.7 for detail on the Ready to Serve Review/Field Review process and requirements.

7.8 Speed Testing

Subgrantees should refer to the complete BEAD Deployment Program Procedures Section 7.8 for detail on the Speed Testing process and requirements.

¹⁴ See U.S. Department of the Treasury, Coronavirus Capital Projects Fund Compliance and Reporting Guidance for States, Territories, and Freely Associated States, pgs. 4-8; see also U.S. Department of the Treasury, Coronavirus State and Local Fiscal Recovery Funds Compliance and Reporting Guidance, pgs. 42-43.

¹⁵Id.

7.9 Clawback/Recoupment of Funds

Subgrantees should refer to the complete BEAD Deployment Program Procedures Section 7.9 for detail regarding clawback and recoupment of funds.

7.10 Timely Subgrantee Reporting Mandates

Subgrantees should refer to the complete BEAD Deployment Program Procedures Section 7.10 for detail regarding subgrantee reporting mandates. As noted above in Section 7.6 (Compliance Reporting), requirements may differ depending on whether a project is funded by CPF/SLFRF or BEAD funds.

7.11 Record Retention

Subgrantees should refer to the complete BEAD Deployment Program Procedures Section 7.11 for detail on requirements related to record retention.

7.12 Audits/Monitoring

For projects funded by either CPF/SLFRF or BEAD, Under 2 CFR 200, public non-profit subgrantees that expend \$750,000 or more in Federal award funds—to be increased to \$1,000,000 on October 1, 2024 as of the implementation of the revised 2 CFR 200—across all subgrants during their fiscal year are subject to the audit requirements of 2 CFR 200 Subpart F, which requires these public, non-profit subgrantees to submit single or program specific audits to the Federal Audit Clearinghouse.¹⁶

Commercial, for-profit (commercial entity) subgrantees are not subject to the above Subpart F audit requirements but if they expend \$750,000 (\$1 million as of October 1, 2024) or more in grant funds during their fiscal year, they must submit to the Grants Officer either: 1) a financial related audit of each Federal grant or subgrant in accordance with Generally Accepted Accounting Standards; or (ii) a program-specific audit for each grant or subgrant in accordance with the requirements of 2 CFR 200.507.¹⁷ Methods that may be used by WVDED to ensure compliance for commercial subgrantees may include pre-award audits, monitoring during the agreement, and post-award audits.

NTIA, Treasury, the US Department of Commerce Office of Inspector General, Treasury Office of Inspector General, or other authorized Federal agency may conduct an audit of an award at any time.

¹⁶ See NTIA General Terms and Conditions for the NTIA BEAD Program Funds, (April 2024), pgs. 8-9; and see also U.S. Department of the Treasury SLFRF and CPF Supplementary Broadband Guidance (May 17, 2023), pgs. 4-5.

¹⁷ Id.

7.13 Civil Rights Compliance

Prior to distributing grant funding to subgrantees, WVDED shall require all subgrantees to agree, by contract or other binding commitment, to abide by the nondiscrimination requirements set forth in Section 7.13 (Civil Rights Compliance) of the complete BEAD Program Procedures.

7.14 Cybersecurity and Supply Chain Risk Management

7.14.1 Cybersecurity

Subgrantees whose projects are funded by CPF/SLFRF are not required to comply with the Cybersecurity requirements detailed in complete BEAD Deployment Program Procedures Section 7.14.

7.14.2 Supply Chain Risk Management (SCRM)

Subgrantees whose projects are funded solely by CPF/SLFRF are not required to comply with the Supply Chain Risk Management (SCRM) requirements detailed in complete BEAD Deployment Program Procedures Section 7.15.

7.15 Compliance with Federal Funds Obligations

Subgrantees of federal funds must comply with federal program guidelines and recipient obligations, in addition to reporting obligations. Subgrantees should expect to comply with requirements of other applicable federal statutes, regulations, and executive orders applicable to recipients of federal funds. Applicants should consider how and whether certain aspects of these requirements may apply. Depending on the Federal funding source of a subgrant, subgrantees will be subject to audit or review by the U.S. Department of the Treasury, the U.S. Department of Commerce, NTIA, the Department of Commerce or Treasury's Offices of Inspector General, or another authorized federal agency at any time. Subgrantees must comply with the reporting requirements above as set forth in program compliance materials as well as obligations set forth in 2 CFR Part 200 and the Department of Commerce Financial Assistance Standard Terms and Conditions (for BEAD-funded awards).

Subgrantees may consult compliance guidance offered by their funding source's authorized federal agency to confirm the applicability of the 2 CFR Part 200 Uniform Guidance for their award(s). For CPF/SLFRF subgrantees, the applicability of certain Uniform Guidance requirements are detailed in the U.S. Department of the Treasury's May 17, 2023 Supplementary Guidance.¹⁸ For BEAD subgrantees, the

¹⁸ See U.S. Department of the Treasury SLFRF and CPF Supplementary Broadband Guidance (May 17, 2023) (<https://home.treasury.gov/system/files/136/SLFRF-and-CPF-Supplementary-Broadband-Guidance.pdf>).

applicability of the Uniform Guidance for deployment subgrantees are detailed in the U.S. Department of Commerce’s “Policy Notice: Tailoring the Application of the Uniform Guidance to the BEAD Program.”¹⁹

The above is not a comprehensive list of federal funding obligations. Subgrantee obligations shall be more fully described in the subgrantee’s grant distribution agreement with WVDED as well as WVDED’s Guides to Reporting and Compliance Obligations for West Virginia ARPA and BEAD Broadband Investment Plan Subrecipients, both compliance guides to be available at <https://broadband.wv.gov>. In addition to their grant distribution agreement with WVDED, subgrantees shall be responsible for reviewing the compliance guide for their particular program funding source as well as the applicable guidance provided and requirements as identified by the U.S. Department of the Treasury²⁰ (for CPF/SLFRF projects) or the NTIA and the United States Department of Commerce²¹ (for BEAD projects), as applicable.

7.16 Cooperation with State Broadband Mapping

Subgrantees should refer to the complete BEAD Deployment Program Procedures Section 7.16 for details on requirements related to compliance with state broadband mapping requirements.

7.17 Disaster Recovery and Preventative Maintenance Plans

If subgrantees’ projects are funded by CPF/SLFRF, they do not need to comply with the complete BEAD Deployment Program Procedures Section 7.17 regarding disaster recovery and preventative maintenance plans.

¹⁹ See U.S. Department of Commerce Policy Notice: Tailoring the Application of the Uniform Guidance to the BEAD Program (December 2023) (https://broadbandusa.ntia.doc.gov/sites/default/files/2023-12/BEAD_Policy_Note_of_Uniform_Guidance_Part_200_Exceptions_Related_Issues.pdf).

²⁰ See <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments>.

²¹ See <https://broadbandusa.ntia.doc.gov/funding-programs/broadband-equity-access-and-deployment-bead-program>.