
West Virginia BEAD Program Guidance Alternative Technologies

State of West Virginia

West Virginia Department of Economic Development



INTERNET FOR ALL **West Virginia**

Updated as of November 15, 2024

Introduction

On August 26, 2024, the NTIA published a draft, pre-decisional Proposed BEAD Alternative Broadband Technology Guidance, subject to public comment and proposing to subsequently issue “A BEAD Alternative Broadband Technology Policy Notice to provide Eligible Entities with additional guidance regarding the use of alternative technologies to serve unserved and underserved locations within their jurisdiction.”¹ The Policy Notice with final guidance will not be published by NTIA prior to the conclusion of West Virginia’s BEAD competitive subgrantee selection process, and The West Virginia Office of Broadband (the “Office”) is publishing this guidance document so Alternative Technology providers to satisfy the timelines associated with notification requirements for Case 2, described below. The draft guidance can be found here: <https://www.ntia.gov/sites/default/files/publications/bead-alternative-broadbandtechnology-policy-notice-for-public-comment-final.pdf>

In the draft guidance, the term “Alternative Technologies” describes any broadband access technology that does not qualify as Reliable Broadband Service but meets the BEAD Program’s minimum technical requirements of speeds of not less than 100 Mbps for downloads and 20 Mbps for uploads and latency less than or equal to 100 milliseconds. Alternative Technologies may include unlicensed wireless and low earth orbit satellite. The Office encourages all interested parties to review the draft guidance from the NTIA.

After conducting a competitive subgrantee selection process to find the most robust Reliable Broadband technology, the Office may have project areas with Unserved or Underserved locations where no prospective subgrantee has submitted an offer for Reliable Broadband service or has submitted an offer that is above the Extremely High Cost Per Location Threshold. In these cases, the Office must make determinations based on three Cases presented in the draft guidance. The Office must determine:

- **Case 1:** if any Alternative Technology providers have enforceable funding commitments to provide broadband service meeting BEAD Program performance requirements, or
- **Case 2:** if any Alternative Technology providers can demonstrate they already serve these BEAD eligible locations with service meeting BEAD Program performance requirements, or
- **Case 3:** if Alternative Technology providers can demonstrate they currently cannot serve these BEAD eligible locations with service meeting BEAD Program performance requirements but can do so with BEAD funding.

If BEAD eligible locations included in the West Virginia BEAD Program Application Extension Round and subsequent, transparent direct negotiations receive no fundable applications proposing Reliable broadband technology, the Office must determine which of the three Cases above are applicable to those locations. Alternative Technology Providers seeking to participate in the process must submit documentation to the Office described in the Case descriptions below. If a provider submits the required documentation by the deadline but does not meet the required criteria, that provider is not precluded from being awarded BEAD funding provided its application meets program requirements and it is deemed the winning application.

Case 1: Enforceable Commitments for Alternative Technologies

If BEAD eligible locations included in the West Virginia BEAD Program Application Extension Round receive no fundable applications proposing Reliable broadband technology, the Office must determine if any Alternative Technology providers have “an enforceable federal, state, or local commitments to

¹ Proposed BEAD Alternative Broadband Technology Guidance page 1.

deploy Alternative Technologies to some or all locations. If an enforceable commitment to deploy an Alternative Technology is present, the Office must determine whether the funding program includes network performance monitoring that verifies that the service is provided at or above the BEAD Program's benchmark for at least four years after the date of submission of the Office's Final Proposal."²

Alternative Technology providers with enforceable state or federal funding commitments to provide broadband service meeting BEAD performance requirements can provide appropriate information on that funding commitment to the Office.

Case 2: Provider Can Demonstrate that It Currently Meets BEAD Requirements for Alternative Technology Deployments

If BEAD eligible locations included in the West Virginia BEAD Program Application Extension Round receive no fundable applications proposing Reliable broadband technology, the Office must determine if an Alternative Technology provider serving those locations can demonstrate their service meets BEAD Program performance requirements for speed and latency. If this demonstration can be made, and the Office determines that Alternative Technology service meeting or exceeding BEAD Program requirements is already serving the locations in question, then BEAD funds will not be allowed for those locations.

With the posting of this guidance document, Alternative Technology providers have eight days to indicate their interest in qualifying under **Case 2** and demonstrating they can provide service meeting or exceeding BEAD program requirements to BEAD eligible locations included in the West Virginia BEAD Program Application Extension Round.

In addition, the Office will attempt to contact known providers using Alternative Technologies directly. Alternative Technology providers will have until November 25, 2024 to indicate interest in qualifying. Providers using Alternative Technology that are interested in qualifying should send an email to Peters, luke.n.peters@wv.gov indicating that interest.

Alternative Technology providers that indicate interest in responding will then have 30 days to submit necessary documentation and evidence required for the Office to substantiate that existing service provided by Alternative Technology meets BEAD Program requirements. Details of the necessary documentation will be provided to providers that indicate their interest in qualifying prior to the deadline.

Case 3: BEAD Investment in Alternative Technologies

If BEAD eligible locations included in the West Virginia BEAD Program Application Extension Round receive no fundable applications proposing Reliable broadband technology, and if Alternative Technology providers able to serve these locations choose to not demonstrate their service meets BEAD Program performance requirements, the Office must determine if that service does not meet BEAD performance requirements and determine if it would meet BEAD program requirements with the addition of BEAD funding. If Alternative Technology providers are currently reporting service meeting BEAD program speed and latency requirements to the Federal Communications Commission Broadband Data Collection program to the locations in question, they must sufficiently demonstrate why that

² Ibid page 7.

service does not meet BEAD program requirements for the BEAD eligible locations in question.

Any proposal to use Alternative Technologies for BEAD funded projects must include a certification and documentation that the applicant is able to provide at least 5 Mbps of capacity (or 2 TBs of usage per month) to each Broadband Serviceable Location in the project area within four years. Any proposal to use Alternative Technologies for BEAD funded projects must include detailed information about how the applicant calculated the cost of the network capacity per Broadband Serviceable Location.

Alternative Technology providers that were identified as serving locations under Case 2 but did not respond to the Office in a timely manner may be determined to be incapable of “carrying out activities funded by the subgrant in a competent manner” and lack the “managerial capacity” to “meet [...] such other requirements as have been prescribed by the Assistant Secretary.”³ In this situation, such providers are ineligible to become BEAD subgrantees for these locations.

³ Ibid page 9.