

# West Virginia BEAD Program Monitoring Plan

Draft for Public Comment

State of West Virginia

West Virginia Division of Economic Development



INTERNET FOR ALL **West Virginia**

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# Introduction

## Purpose/Oversight

Under 2 CFR § 200.332 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance)), the West Virginia Department of Commerce, Division of Economic Development, Office of Broadband (WVDED), as an Eligible Entity of the National Telecommunications and Information Administration's (NTIA) Broadband Equity, Access, and Deployment (BEAD) Program, is required to evaluate subgrantees' risk of noncompliance with applicable Federal requirements as well as the achievement of the West Virginia BEAD Program's ("Program") performance and objectives and monitor subgrantees in order to ensure such compliance. Further under the Uniform Guidance, WVDED must monitor subgrantees to ensure Federal funds are used in accordance with Federal, State, and local requirements as well as the terms and conditions of the Federal award. The WVDED's West Virginia BEAD Program Monitoring Plan provides an overview of monitoring compliance throughout the lifecycle of awarded projects.

## Applicable Requirements

Prior to the subgrantee selection process, WVDED established a set of procedures for enforcing compliance and project cost reimbursement rules. WVDED has included these in its West Virginia BEAD Program Procedures – Benefit of the Bargain Round Entities ("Program Procedures"),<sup>1</sup> outlining subgrantee responsibilities in this regard. Moreover, all Program requirements as found in 47 U.S.C. § 1702 of the Infrastructure Investment and Jobs Act ("Infrastructure Act" or IIJA), the BEAD Notice of Funding Opportunity (NOFO) as amended by the NTIA BEAD Restructuring Policy Notice ("Restructuring Policy Notice"),<sup>2</sup> the United States Department of Commerce (USDOC) Standard Terms and Conditions, the State of West Virginia's ("the State") specific BEAD award, BEAD General Terms and Conditions, award amendments, and applicable laws shall be reflected in a forthcoming WVDED Guide to Reporting and Compliance Obligations for West Virginia BEAD Program Subrecipients ("Compliance Guide") and the BEAD Deployment Subrecipient Agreement/Grant Distribution Agreement ("Grant Agreement") between WVDED and subgrantees.<sup>3</sup> In addition, the Compliance Guide, Grant Agreement, and other compliance communications with subgrantees as part of WVDED's monitoring process will refer to the requirements of the Uniform Guidance and associated NTIA/USDOC-issued BEAD-related policy and waiver notices (where applicable).

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<sup>1</sup> West Virginia Division of Economic Development, Office of Broadband (WVDED), "West Virginia BEAD Program Procedures," Updated July 16, 2025 (<https://broadband.wv.gov/wp-content/uploads/2025/07/WV-BoB-Program-Procedures-UPDATE-07162025-For-Publication.pdf>)

<sup>2</sup> See *NTIA BEAD Restructuring Policy Notice*, June 6, 2025, <https://www.ntia.gov/sites/default/files/2025-06/bead-restructuring-policy-notice.pdf>.

<sup>3</sup> Both the Compliance Guide and the Grant Agreement shall be available at <https://broadband.wv.gov>.

# 1. Compliance with Terms and Conditions of Award

The Grant Agreements will contain the Program requirements provided by NTIA and WVDED, as well as any Specific Award Conditions (SAC) relevant to each subgrantee to ensure compliance with the terms and conditions of award.

WVDED will enforce requirements outlined in the Infrastructure Act, BEAD NOFO as amended by the Restructuring Policy Notice, the terms of the State's BEAD award, including any Specific Award Conditions (SACs), the BEAD Program General Terms and Conditions,<sup>4</sup> award amendments, and applicable laws and regulations. To achieve this, WVDED has implemented both reporting and monitoring requirements, discussed further below, and requirements that subgrantees must meet before proceeding with major activities during the post-award process.

The Grant Agreement contains the obligations for all subgrantees and outlines the responsibilities and expectations of them for compliance with NTIA and West Virginia BEAD Program requirements. Each subgrantee shall execute a Grant Agreement with WVDED, which, in addition to expectations, objectives, and performance measures of the Program, shall include information specifying the regular reporting requirements and documentation utilized to verify compliance.

As detailed below, the Grant Agreement includes provisions outlining reasonable measures WVDED may take if subgrantees fail to perform or meet Program requirements, including clawback and recovery of funds. As such, the Grant Agreement includes requirements related to: (1) distribution of funding to subgrantees for all deployment projects on a reimbursable basis (thus allowing WVDED to withhold funding for subgrantee nonperformance); (2) the inclusion of clawback provisions (for recoupment of funds already disbursed to subgrantees); and (3) timely subgrantee reporting requirements.

## 1.1 Strategy/Approach

WVDED will implement a comprehensive monitoring process that begins with an initial risk assessment during the pre-award phase through its application process. WVDED will continue to conduct ongoing monitoring through regular reporting from subgrantees and require remediation of any deficiencies discovered through this process. As part of the post-award monitoring process, on-site field reviews of constructed plant will be conducted to visually inspect the project build. Monitoring by WVDED will include but not be limited to review of construction progress, and project financial record reviews to ensure compliance with applicable state and Federal financial management, cost principles, and audit requirements.

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<sup>4</sup> See *General Terms and Conditions for the NTIA Broadband Equity, Access & Deployment Program (BEAD) Program Funds*, April 2024, ([https://broadbandusa.ntia.gov/sites/default/files/2024-05/BEAD\\_IPFR\\_GTC\\_04\\_2024.pdf](https://broadbandusa.ntia.gov/sites/default/files/2024-05/BEAD_IPFR_GTC_04_2024.pdf)).

## 1.2 Roles/Responsibilities Related to Program Monitoring

- **NTIA:** As the Federal awarding agency, NTIA will provide guidance, technical assistance, and program oversight for the West Virginia BEAD Program, including review of WVDED’s monitoring activities. Regarding the Environmental and Historic Preservation (EHP) review process, including compliance with the National Environmental Policy Act (NEPA), and all other relevant federal, state, and local environmental regulations, NTIA will share responsibility as joint-lead agency with WVDED. NTIA will conduct reviews of all required environmental documentation submitted by WVDED on behalf of subgrantees/subrecipients.
- **WVDED:** The administration of the BEAD Program for the State is the responsibility of WVDED. This includes monitoring subgrantee activities for compliance with applicable law and Program requirements and providing technical assistance to subgrantees. Regarding the EHP process, WVDED will share responsibility as joint-lead agency with NTIA by incorporating EHP-specific special award conditions in its Grant Agreements and collaborating with subgrantees on the collection, review, and management of project environmental reviews. In addition, WVDED will ensure that no construction or ground-disturbing activity will commence, and no funds will be disbursed in compliance with environmental review requirements and any other applicable permitting requirements.
- **Subgrantees/Subrecipients:** Shall comply with any information and documentation requests from WVDED to assist WVDED in assessing subgrantee compliance. Subgrantees shall also establish internal controls to monitor their own procedures as well as cooperate with WVDED regarding monitoring activities.<sup>5</sup> Among the responsibilities of subgrantees include:
  - Ensuring the approved project plans are followed;
  - Monitoring the progress of its own activities;
  - Providing regular reporting on progress;
  - Promptly paying any costs incurred for grant funded activities; and
  - Monitoring its own, as well as contractors’ compliance with Federal, State, and local requirements.

## 1.3 Prospective Subgrantee Application Risk Assessment

As part of the application phases of the Program, WVDED’s Program Procedures provides details regarding financial, organizational, and technical requirements to be an eligible subgrantee to the West Virginia BEAD Program. During the review process, WVDED assesses the subgrantees’ risk related to adherence and compliance with occupational safety regulations, Federal labor and employment laws, cybersecurity

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<sup>5</sup> As part cooperating with WVDED in fulfillment of its subgrantee monitoring obligations under 2 CFR § 200.332.

and supply chain risk management, NEPA, the National Historic Preservation Act (NHPA), and the Build America, Buy America Act (BABA), as well as ownership information required by 47 CFR § 1.2112(a)(1)-(7).

## 1.4 Standards for Financial Management

As required by 2 CFR § 200.302(b) and 2 CFR §§ 200.334-200.337, and as specified in the Grant Agreement between subgrantees and WVDED, subgrantees' financial management system must provide for the following:

- A subgrantee's financial management system must provide for the identification of all Federal awards received and expended and the Federal programs under which they were received. Federal program and Federal award identification must include, as applicable, the Assistance Listings title and number, Federal award identification number, year the Federal award was issued, and name of the Federal agency or pass-through entity.
- A subgrantee's financial management system must provide for accurate, current, and complete disclosure of the financial results of each Federal award or program in accordance with the reporting requirements in 2 CFR § 200.328 and 2 CFR § 300.329.
- A subgrantee's financial management system must maintain records that sufficiently identify the amount, source, and expenditure of Federal funds for the Federal award(s). These records must contain information necessary to identify Federal awards, authorizations, financial obligations, unobligated balances, as well as assets, expenditures, income, and interest. All records must be supported by source documentation, including but not limited to invoices from vendors.
- A subgrantee's financial management system must provide for effective control over and accountability for all funds, property, and assets. Subgrantees must safeguard all assets and ensure that they are used solely for authorized purposes in accordance with 2 CFR 200.303.
- A subgrantee's financial management system must provide for comparison of expenditures with budget amounts for each Federal award.
- A subgrantee's financial management system must provide for written procedures to implement the requirements of 2 CFR 200.305 (regarding payment methods).

Subgrantees' financial and accounting records pertaining to the Grant Agreement must be closed out at the end of the Grant Agreement period and must identify any excess monies or revenue over expenditures.

## 1.5 Audits

Regarding audits, reviews, and monitoring, WVDED will require subgrantees to agree as a condition of the award and as part of subgrantees' Grant Agreement with WVDED that subgrantees will cooperate with both WVDED and NTIA/USDOC with respect to any audit or review of WVDED's programs or the award.

WVDED will require subgrantees to review, understand, and comply with the West Virginia State Accountability requirements of the West Virginia Code Section 12-4-14. Public, nonprofit subrecipients expending federal awards of \$1,000,000 or more in the subgrantee's fiscal year will be required to conduct a single or program-specific audit in accordance with 2 CFR 200 Subpart F.

Additionally, unless otherwise specified in the terms and conditions of the award, entities that are not subject to the Subpart F audit requirements (i.e. for-profit, commercial subrecipients) that expend \$1,000,000 or more in grant funds in their fiscal year must submit to WVDED on an annual basis either a financial related audit in accordance with Generally Accepted Government Auditing Standards; or a program-specific audit in accordance with the requirements contained in 2 CFR § 200.507.

## 1.6 Record Keeping

Regarding WVDED's access to records, WVDED's Grant Agreement with subgrantees contains provisions detailing the right of WVDED and the Federal Awarding Agency, Inspector General, Comptroller General, State Auditors, program auditors, and other duly authorized representatives the right of timely and unrestricted access to books, documents, papers or other records as well as reasonable access to past and present personnel for purposes of audits, examinations, and the like. As for duration of the right of access to subgrantee records, WVDED will communicate that the right of access will last throughout the required retention period or as long as records are retained, if longer. As specified in the Grant Agreement, subgrantees shall be required to retain all financial records, supporting documents, statistical records, and all other records pertinent to the Grant Agreement for a period of five years from the date of submission of subgrantees' final expenditure report or payment of final invoice.

## 2. Monitoring Activities

Throughout the lifecycle of a project, WVDED has established a well-tested monitoring process to evaluate subgrantee performance related to compliance/reporting, financial activities, technical implementation/construction, procurement processes and documentation, EHP review and permitting, and through closeout processes.

### 2.1 Key Project Assessments and Compliance

As a part of executing a Grant Agreement with WVDED, and prior to a subgrantee making any eligible expenditures, subgrantees must obtain a Notice to Proceed with Exempt (i.e., pre-implementation) Activities (NTPE). WVDED will require subgrantees to submit a series of documents ("Evidentiary Materials") for approval. These documents capture the applicable requirements of NTIA, USDOC, and applicable laws and regulations. WVDED will provide an online portal through which subgrantees can upload these materials. To ensure subgrantees meet compliance requirements, WVDED, at minimum, requires the following documentation before approving funding:

- Signed/executed Grant Agreement with WVDED;
- Debarment/suspension review certification form;

- Proof of establishment of a separate project bank account or approved financial management system;
- Completed environmental review form and required certifications and acknowledgements;
- Certification of financial management system and record retention policies;
- Procurement policies and internal controls;
- Legally binding agreements between subgrantees and any private partners or subcontractors;
- Review compliance plan, Conflict of Interest Certification Form, and subgrantee certification that they have reviewed West Virginia Division of Highways (DOH) guidelines regarding fiber optic installations in the State rights-of-way (ROW);
- Evidence of required NEPA reviews or Categorical Exclusion (CE) Determination Decision Documents;
- Evidence of consultation with the State Historic Preservation Office (SHPO) and required clearances/completed Section 106 NHPA reviews.

Following the execution of subgrantees' Grant Agreement with WVDED, and if all required documentation in order to obtain a NTPE from WVDED is submitted and approved by WVDED, subgrantees may then begin pre-construction/design activities. This includes expenditures on soft costs such as engineering functions, permitting, and other non-construction activities.

Following the issuance of the NTPE activities by WVDED based on the above process, but prior to requesting a Notice to Proceed with Construction (NTPC), WVDED requires subgrantees to submit a detailed engineered design to WVDED (See Program Procedures, Section 8.4). Included in such submittal, WVDED requires subgrantees to provide copies of any DOH permits, any other applicable permits, clearances, applicable Dig Once notifications, pole attachment agreements, and applicable bonds as well. Should a subgrantee's project occur on private property or property outside of the ROW, WVDED requires the subgrantee to provide evidence of any required easements or clearances as well. For projects requiring underlying municipal, county, state, or Federal agency approvals, WVDED requires subgrantees to submit evidence of such documentation.

Furthermore, WVDED shall provide subgrantees with specific engineered design requirements detailing guidelines for the designs required to be submitted. Included in this process, and to request an NTPC from WVDED, subgrantees must provide a Network Design Certification form, a completed Design Project Checklist, and a completed Detailed Design Checklist. It should be noted that the types of information contained in these forms are described and included as exhibits to the Grant Agreement, however the final form and exact requirements shall be contained in WVDED's Grants Management System, as the information may be subject to change as these forms are in development. WVDED requires designs to be prepared under the review of a Professional Engineer (P.E.), or an engineer with substantial demonstrated experience. The engineer's credentials must be submitted to demonstrate the appropriate level of experience.

WVDED has prescribed in its published Program Procedures a process by which subgrantees shall be reimbursed for eligible expenses up to a maximum project cost identified in WVDED's award to that subgrantee. In addition, the Compliance Guide documents the steps in the post-award process for ensuring subgrantee accountability.



Regarding grants reimbursement, WVDED will award subgrants that are either “Standard Broadband Service Grants” or “LEO Capacity Grants.” Standard Broadband Service Grants will operate as a reimbursement program based on eligible expenditures made.

BEAD subgrants awarded to low Earth orbit (LEO) providers will be considered “LEO Capacity Grants” in compliance with the Policy Notice. Pursuant to a LEO Capacity Subgrant as defined by the Notice, WVDED will reserve sufficient capacity from the LEO provider to deliver broadband service that meets requirements with the conditions set forth in the Notice.<sup>6</sup>

WVDED will provide grant payments under LEO Capacity Grants on a milestone basis, according to the following schedule:

- a. 10% of the total amount of the subgrant upon 10% of the locations subscribing to the subgrantee’s qualifying broadband service
- b. 20% of the total amount of the subgrant upon 20% of the locations subscribing to the subgrantee’s qualifying broadband service
- c. 30% of the total amount of the subgrant upon 30% of the locations subscribing to the subgrantee’s qualifying broadband service
- d. 40% of the total amount of the subgrant upon 40% of the locations subscribing to the subgrantee’s qualifying broadband service
- e. 50% of the total amount of the subgrant upon 50% of the locations subscribing to the subgrantee’s qualifying broadband service

Upon achieving all of these milestones, WVDED will provide the subgrantee with the remaining 50% of the total amount of the subgrant in equal quarterly installments over the remaining period of performance, contingent on continued performance on the grant.

WVDED has provisions in its Grant Agreement with subgrantees stating that WVDED may deduct amounts or withhold payments invoiced by the subgrantee if the subgrantee fails to comply with any requirements of the Grant Agreement. Further, the Grant Agreement contains provisions stating that funds withheld due to unsatisfactory project performance or failure to comply with the terms and conditions of the Grant Agreement may be restored upon the subgrantee’s satisfactory remedy for the condition that caused the withholding. Lastly, in general WVDED shall retain 10% of any grant award until project completion, including approval of all closeout documents and reporting requirements. For Low Earth Orbit (LEO) Capacity subgrantees, the retained shall be equal to the last quarterly payment in the schedule, which may be more or less than 10% of the subgrant.

WVDED, in its Grant Agreement with subgrantees, includes provisions addressing the right of WVDED to disallow costs and recover funds allocated to the subgrantee’s match and/or grant funds disbursed based on audit or review, even following closeout of the project. The provisions specify that subgrantees shall be obligated to return any funds due as a result of later refunds, corrections, or other transactions. Any

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<sup>6</sup> See *NTIA BEAD Restructuring Policy Notice*, Appendix B: Low Earth Orbit Capacity Subgrants, p. 19, June 2025 (<https://broadband.wv.gov/wp-content/uploads/2025/06/bead-restructuring-policy-notice-june-6-2025.pdf>).

matching funds costs used or allocated to the subgrantee's match that are unallocated by WVDED due to subgrantee noncompliance will be restored to the subgrantee's matching funds requirement.

Additionally, WVDED's Grant Agreements with subgrantees will have provisions relating to subgrantee performance measures, with language stating that subgrantee achievement and compliance with performance measures will be evaluated based upon the subgrantee's approved project plan information. WVDED's intent is that the project plan and performance measures established therein will establish the goals against which performance under the Grant Agreement can be measured and evaluated during scheduled monitoring visits and reviews by WVDED.

Among the provisions in its agreements with subgrantees, WVDED will specify that failure to substantially meet the above performance measures may result in suspension of reimbursement payment, termination of the Grant Agreement with WVDED, and/or prohibit the subgrantee from being eligible to apply for future allocations until such time as the failures are resolved. Included in these provisions is an outline of the process for a subgrantee's failure to comply with its project plan. As part of this process, WVDED shall provide notice and an opportunity for subgrantees to cure any failures or deficiencies within 30 days, or such other reasonable time as may be specified in the notice. If the subgrantee fails to cure during the designated period, WVDED shall have the discretion to take one or more actions, such as (Per Program Procedures, Section 8.11 (Clawback/Recoupment of Funds)):

1. Requiring additional project monitoring to ensure compliance with the subgrantee's project plan;
2. Requiring the subgrantee to obtain technical or management assistance in order to ensure compliance with the project plan;
3. Reducing the program funds to be disbursed under the Grant Agreement in an amount not to exceed the difference between the full amount of the subgrantee award and the total amount for which the subgrantee has submitted a reimbursement request that is consistent with the progress made in complying with the project plan as of the date of the expiration of the cure period.

With regard to recapture provisions in the Grant Agreement with WVDED, WVDED shall recapture any funds remaining due to cost underruns.

## 2.2 Compliance Reporting

As detailed in the Program Procedures, Grant Agreement materials, and the Compliance Guide, WVDED requires regular reporting from subgrantees in line with those listed in the BEAD NOFO. As a part of this, WVDED also has subgrantees certify that they will comply with relevant record retention requirements to support these reporting and potential future audits, and as required by Federal and State laws, programmatic regulations, public policy, and/or administrative requirements.

To facilitate the reporting, WVDED will provide subgrantees with reporting forms and instructions. As part of these requirements and to facilitate proper and timely reporting to NTIA, subgrantees must submit reports to WVDED on a quarterly basis. The reporting form provided by WVDED will conform to BEAD Program requirements and provide guidance to subgrantees on how to properly submit information to the State. The penalties for failure to comply with these requirements are detailed in the aforementioned WVDED and NTIA documents.

## 2.3 Financial Monitoring

WVDED will conduct a two-tiered review of financial information submitted by subgrantees to ensure compliance with Program requirements. These reviews will be conducted in accordance with an established set of standards and done in a timely manner to prevent unnecessary project delays. If any remediation is needed, WVDED will promptly notify subgrantees, providing clear guidance on corrective actions.

### 2.3.1 Budget Amendments

Prior to disbursement of funds, provisional subgrantees must submit an initial budget, consistent with their approved application, to WVDED. The initial budget will be stated using cost categories of eligible expenses for reimbursement or milestone payments on the grant.

Upon full execution of a subgrantee's Grant Agreement with WVDED, the initial budget representing the approved Project(s) will be used for monitoring project fund expenditures. Any changes to this Budget, including expense category shifts, will require submission of a proposed budget amendment. Upon approval from WVDED, this will serve as the new budget baseline. The ability to make budget amendments is subject to WVDED approval and guidance and/or approval from NTIA.

### 2.3.2 Funding Requests

Subgrantees may use grant funds for eligible expenses prior to using all matching funds, and these will be reimbursed on a pro rata basis up to the maximum amount of the grant. All projects will include a retainer equal to 10% of the funds awarded withheld until project completion and until all close-out documents and reporting are submitted and approved. For LEO Capacity Grants, the retainer shall be equal to the last quarterly payment in the schedule, which may be more or less than 10% of the grant. To the extent necessary, the Program reserves the right to create additional requirements that prospective subgrantees must fulfill prior to disbursement of funds.

WVDED will provide subgrantees with a template to standardize the process. For all itemized expenditures included in the request, subgrantees must provide proof of payment. Furthermore, subgrantees must include lien waivers for each construction invoice greater than or equal to \$2,500. The lien waiver is an attestation signed by both the subgrantee and its vendor(s) stating that all construction invoices have been paid in full and that there are no outstanding claims against them.

If WVDED determines, based on audits and ongoing reviews, that any amounts or prior payments made are not allowable under the terms of the Grant Agreement, any applicable Federal or State Laws, program regulations, public policy, or administrative requirements, the subgrantee's invoice shall be subject to reduction by WVDED.

Generally, to be eligible for grant funding, subgrantees:

1. must comply with post-award monitoring and reporting requirements (see further below);
  2. are responsible for active technical, financial, and project management of the awarded project;
- and

3. must cooperate with technical and financial monitoring and review, including responses to all remediation requests.

Subgrantees may submit requests for reimbursement on soft costs as soon as their Grant Agreement has been fully executed, and they have received their Notice to Proceed with Exempt Activities from WVDED. Subgrantees may prepare as many funding requests per month as they deem necessary, however, the most recent request will not be reviewed for approval until all prior submissions have been approved for payment. WVDED will work with subgrantees to determine the most viable timing of grant distribution for their projects in compliance with applicable program procedures.

Subgrantees must submit a funding request during each quarter, at a minimum, to address any issues regarding the documentation in a timely manner. The WVDED will review the invoice format to ensure that documentation meets Program requirements.

### 2.3.3 Submitting Invoices

To ensure accurate and organized processing of invoices, WVDED requires subgrantees to adhere to the following submission guidelines:

1. Subgrantees must provide proof of payment to vendors and lien waivers with the submitted invoices;
2. Subgrantees are required to submit invoices in a sequential order corresponding to the subgrantee's funding request submission; and
3. In cases where an invoice is not 100% used in a single funding request, the subgrantee must include a clear running total marked up on the invoice to clearly identify the amount allocated to the given project. This also applies when a purchase covers multiple projects. Only the portion related to the given project shall be documented on the invoice and submitted as a funding request.

Milestone payments for LEO Capacity Grants will not require invoice submittals but will require proof that the subgrantee has met the subscription milestone claimed in the LEO provider's funding request.

## 2.4 Construction Progress Monitoring

WVDED will require full designs for the project, including a bill of materials, which will be compared to the approved project plan and timeline. There will be ongoing subgrantee reporting and meetings with WVDED to ensure alignment between planned and actual implementation. WVDED will conduct systematic monitoring of construction progress to verify compliance with grant requirements, assess adherence to deployment commitments, and mitigate potential risks associated with delays or non-compliance.

Depending on the scope of work, assessed risk factors, and the subgrantee's compliance history, WVDED may require mid-construction field reviews to ensure proper implementation. These reviews will allow for early detection of issues, enabling corrective actions before significant delays or deviations from the design occur. Subgrantees will be expected to provide regular updates on construction milestones and demonstrate progress consistent with their Grant Agreement.

## 2.4.1 Maintaining the Implementation Schedule

As outlined in the Program Procedures (see Section 4.2.4 Project Timeline), for Standard Broadband Service Grants prospective subgrantees are required to submit materials to demonstrate their deployment plans including network designs, diagrams, project costs, build-out timelines, and milestones for project implementation as well as capital investment schedules evidencing complete build out and initiation of service within four years of the date the subgrantees receive their subgrants. As an incentive to encourage speed to deployment, prospective subgrantees that committed to provide WVDED their final network design(s) within six (6) months of award (See Program Procedures, Section 6.2.4, (Secondary Criteria, Speed to Deployment scoring rubric), and submitted a credible plan to deployment within stated timeframes achieved higher scoring applications. As acknowledged in the Grant Agreement, if the subgrantee proposed a faster timeline than the four (4) year program deadline in its application, the subgrantee is bound by the faster timeline commitment.

LEO Capacity subgrantees must begin providing broadband service not later than four years from the date of the subgrant and must continue to offer access to broadband service for a ten-year period of performance.

For awarded projects, WVDED will monitor subgrantees' performance and progress against approved project milestones, including any accelerated timeframes.

## 2.4.2 Deployment Obligations

### 2.4.2.1 Network Capabilities<sup>7</sup>

#### 2.4.2.1.1 Speed Requirements

In accordance with the BEAD NOFO, as amended by the Restructuring Policy Notice, and as stated in the West Virginia BEAD Program Procedures, funded projects must deliver broadband with speeds of not less than 100 Mbps for downloads and 20 Mbps for uploads in accordance with the FCC's 80/80 metric. That is, if WVDED, or any other entity assigned by WVDED, tests the end user speeds of these plans, the requirements will only be met if 80% of tests meet or exceed 80% of the required speeds and 95% of latency measurements must be at or below 100 milliseconds round trip. Funded Network connections to eligible CAIs shall be capable of delivering service at speeds not less than 1 Gigabit per second for downloads and 1 Gigabit per second for uploads. WVDED shall ensure that such connections can be used to provide business data services. Fiber-optic technology, cable modem/hybrid fiber-coaxial (HFC) technology, LEO satellite services, and terrestrial fixed wireless technology utilizing entirely licensed spectrum, entirely unlicensed spectrum, or a hybrid of licensed and unlicensed spectrum, may be used by subgrantees for projects so long as the technologies employed in the project proposal meet the technical performance requirements in the BEAD NOFO, as redefined by the Restructuring Policy Notice, and the IJJA Statute.

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<sup>7</sup> See *West Virginia BEAD Program Procedures – Benefit of the Bargain Round*, Section 1.3, p. 3, July 2025 (<https://broadband.wv.gov/wp-content/uploads/2025/07/WV-BoB-Program-Procedures-UPDATE-07162025-For-Publication.pdf>).

#### 2.4.2.1.2 Speed and Latency

WVDED requires of subgrantees compliance with the standards and testing protocols for speed and latency established by the FCC in prior grant programs, and as may be further detailed by any forthcoming NTIA Performance Measures Guidance.<sup>8</sup> These standards require that testing be performed from the customer premises of an active subscriber to a remote test server at an end-point consistent with the requirements for a Commission-designated Internet Exchange Point (IXP).<sup>9</sup> WVDED will review performance testing conducted by the subgrantee to verify compliance with this requirement and WVDED may conduct additional testing at its discretion.

#### 2.4.2.2 Network Outages

As part of its Grant Agreement with WVDED, subgrantees shall agree that their funded network outages shall not exceed, on average, 48 hours over any 365-day period except in the case of natural disasters or other force majeure occurrences. Subgrantees also agree that they shall comply with any WVDED-developed metrics for measuring outages once subgrantees' networks are operational.

#### 2.4.2.3 Conduit Access Points

For any project that involves laying fiber optic cables or conduit underground or along a roadway, subgrantees must include interspersed conduit access points at regular and short intervals.<sup>10</sup> During the full application process, applicants certified that they would abide by this requirement, and in evaluating the applications WVDED verified that the applicants' responses attest that the final design will adhere to the requirement. During the post-award phase, WVDED will evaluate the low-level designs submitted by subgrantees to ensure that there are adequate access points along the underground fiber route.

#### 2.4.2.4 Service Obligations

Subgrantees are required to comply with service obligations included in the NOFO. These obligations include the requirement to offer not less than 1 low-cost broadband service option to "Eligible Subscribers",<sup>11</sup> requirements related to providing access to service for customers on reasonable and non-discriminatory terms, public awareness, public notice, and continuity of service requirements, and requirements related to cybersecurity, and supply chain risk management plans. WVDED has incorporated the requirements related to these items in its application materials, Program Procedures, and as part of the subgrantee Grant Agreement with WVDED and WVDED will monitor subgrantees for compliance with these requirements.

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<sup>8</sup> See *BEAD Performance Measures Guidance*, December 2024 ([https://www.ntia.gov/sites/default/files/2024-12/draft\\_performance\\_measures\\_for\\_bead\\_last-mile\\_networks\\_policy\\_notice.pdf](https://www.ntia.gov/sites/default/files/2024-12/draft_performance_measures_for_bead_last-mile_networks_policy_notice.pdf)).

<sup>9</sup> See *BEAD NOFO*, pgs. 64-65, May 2022 (<https://broadbandusa.ntia.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>).

<sup>10</sup> 47 U.S.C. § 1702(h)(4)(D).

<sup>11</sup> Eligible Subscriber is defined as any household seeking to subscribe to broadband internet access service that is eligible for the FCC's Lifeline Program, (See *NTIA BEAD Restructuring Policy Notice*, Section 2, p. 8, <https://www.ntia.gov/sites/default/files/2025-06/bead-restructuring-policy-notice.pdf>). Lifeline eligibility criteria are defined in 47 CFR § 54.409.

#### 2.4.2.4.1 Low-Cost Broadband Service Option

The low-cost broadband service option must be made available to eligible subscribers for the useful life of the network asset (i.e., the federal interest period, which is 10 years after the year in which the subgrant for a project has been closed out or in the case of LEOs, a ten-year period of performance).<sup>12</sup> The subgrantee's definition of a low-cost service option must detail:

- All recurring charges to the subscriber, as well as any non-recurring costs or fees to the subscriber;
- The plan's basic service characteristics (download and upload speeds and latency; the LCSO must be at least 100/20 Mbps and <100ms latency);
- The plan's price and, as applicable, how the price will change over time; and
- Whether the subgrantee will define Eligible Subscriber more broadly than the Restructuring Policy Notice.

#### 2.4.2.4.2 Access to Service

Subgrantees are required to provide consumers of BEAD-funded networks with access on terms and conditions that are reasonable and non-discriminatory. Subgrantees should initiate service at standard installation charges within 10 business days of a request from any consumer in the BEAD-funded network's service. LEO Capacity subgrantees are required to provide all necessary consumer premises equipment (CPE) at no cost as part of the standard installation for each new subscriber at the BEAD-funded location throughout the period of performance. This obligation is limited to no more than three (3) CPE per location during the period of Performance. For subgrantees planning to send CPE to the subscriber to self-install or use a third-party installer, the BEAD program requires at a minimum that the subscriber receive the CPE within ten days.<sup>13</sup> WVDED will ensure that subgrantees will adhere to the timelines set forth and establish procedures for customer installations, ensuring that these processes are not overly complicated, unnecessarily delayed, or discriminatory.

#### 2.4.2.4.3 Public Notice

Subgrantees are required to conduct public awareness campaigns, both online and through other means, to increase broadband adoption by highlighting the value and benefits of broadband internet access. As a condition of its grant agreement, WVDED shall require subgrantees to agree to notify relevant populations of the new or newly upgraded offerings available in each area.<sup>14</sup> Once the network has been deployed, WVDED shall also require subgrantees to agree, as a condition in its grant agreement, to provide public notice, online and through other means, of that fact to the locations and areas to which broadband service has been provided and share this public notice with WVDED.<sup>15</sup> In the event that a subgrantee can

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<sup>12</sup> See *BEAD Obligations for Subgrantees Deploying Network Projects*, August 2025, p. 10 ([https://broadbandusa.ntia.gov/sites/default/files/2025-08/BEAD\\_Obligations\\_for\\_Subgrantees\\_Deploying\\_Network\\_Projects.pdf](https://broadbandusa.ntia.gov/sites/default/files/2025-08/BEAD_Obligations_for_Subgrantees_Deploying_Network_Projects.pdf)).

<sup>13</sup> See *Id.* at p. 11, citing BEAD NOFO Section IV.C.2.c.iii (p. 68), and *BEAD Restructuring Policy Notice*, Appendix B (p. 21).

<sup>14</sup> *Id.* p. 11-12, citing IIJA (47 U.S.C. § 1702 (h)(4)(G)).

<sup>15</sup> 47 U.S.C. § (h)(4)(F).

no longer provide broadband service to the locations covered by the subgrant at any time, WVDED shall require the subgrantee to agree, as a condition of the grant agreement, that the subgrantee shall sell the network capacity at a reasonable, wholesale rate on a nondiscriminatory basis to other broadband service providers or public sector entities.<sup>16</sup>

#### 2.4.2.5 Inspection and Testing of Materials<sup>17</sup>

As detailed in the Grant Agreement with WVDED, all materials and equipment used in the completion of the Project shall be subject to adequate inspection and testing in accordance with accepted standards. As agreed to in the Grant Agreement, materials of construction, particularly those upon which the strength and durability of any structure may depend, shall be subject to inspection and testing to establish conformance with specifications and suitability for intended uses.

As part of its requirements for compliance with this item, subgrantees shall ensure that documentation of such inspection and testing is catalogued and retained by the subgrantees. WVDED requires that each subgrantee undertake and complete its project in a manner that is technically sound and that meets design and construction methods and uses materials that are approved, codified, recognized, meet standard or acceptable levels of practice, or otherwise are determined to be generally acceptable by the design and construction industry.

Once all construction has been completed, the subgrantee's engineer has conducted a final inspection, and any deficiencies have been addressed, the project moves into the closeout phase. At this stage, and after meeting all Project Completion Criteria (as detailed in an exhibit to the Grant Agreement), subgrantees must submit a written certification to WVDED confirming that the project has been placed into service, as defined in 47 U.S.C. 1702(h)(4)(C) for last-mile broadband deployment projects. This certification must be submitted by the end of the Period of Performance, at which point WVDED will verify project completion and initiate the closeout process. WVDED shall schedule the inspection for final acceptance after construction completion has been verified. Representatives of the NTIA, WVDED, the engineer, and the subgrantee and/or contractor(s) may attend WVDED's final field review to inspect the project.

## 2.5 Procurement

As communicated in the Grant Agreement, subgrantees as fixed amount broadband infrastructure subgrantees under the NTIA/USDOC Uniform Guidance Policy Notice,<sup>18</sup> are not required to comply with the Procurement Standards set forth in 2 CFR §§ 200.318-320 and §§ 200.324-326. All other Procurement Standards, i.e., 2 CFR § 200.317, §§ 200.322-200.323 (detailed below and in the Grant Agreement), and § 200.327 (also detailed below and in the Grant Agreement), remain as requirements. In addition, in the

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<sup>16</sup> 47 U.S.C. § (h)(4)(H).

<sup>17</sup> See *General Terms and Conditions for the NTIA BEAD Program Funds*, p. 6, April 2024, ([https://broadbandusa.ntia.gov/sites/default/files/2024-05/BEAD\\_IPFR\\_GTC\\_04\\_2024.pdf](https://broadbandusa.ntia.gov/sites/default/files/2024-05/BEAD_IPFR_GTC_04_2024.pdf)).

<sup>18</sup> See *NTIA/USDOC Policy Notice: Tailoring the Application of the Uniform Guidance to the BEAD Program*, December 26, 2023 ([https://broadbandusa.ntia.gov/sites/default/files/2023-12/BEAD\\_Policy\\_Note\\_of\\_Uniform\\_Guidance\\_Part\\_200\\_Exceptions\\_Related\\_Issues.pdf](https://broadbandusa.ntia.gov/sites/default/files/2023-12/BEAD_Policy_Note_of_Uniform_Guidance_Part_200_Exceptions_Related_Issues.pdf))



application process, prospective subgrantees made certifications related to compliance with the following procurement requirements.

### 2.5.1 Procurement Policy Requirement

WVDED requires that subgrantees provide a copy of their procurement policies and procedures as part of the required documentation to be submitted to WVDED along with the subgrantee's Grant Agreement. In addition, subgrantees are required to provide WVDED documentation of the procedures used to procure any subcontractors associated with the subgrantee's project.

As part of Compliance Guidance and as provisions to the Grant Agreement, if subgrantees are public subgrantees, there are additional state law procurement items that WVDED communicates to subgrantees that they must comply with, if applicable.

### 2.5.2 Secure and Trusted Communications Networks Act

Subgrantees (including any contractors or subcontractors of the subgrantee) may not use BEAD grant funds to procure or obtain, or extend a contract to procure or obtain, or enter into a contract to procure or obtain any covered communications equipment or service covered by and as defined by Section 9 of the Secure and Trusted Communications Networks Act of 2019 (47 U.S.C. § 1608) or 2 CFR § 200.216. The subgrantee shall refer to the Federal Communications Commission's (FCC) published list for the current listing of covered entities, available at <https://www.fcc.gov/supplychain/coveredlist>.

### 2.5.3 Purchases of Fiber Optic Cable and Equipment from China

Under the Infrastructure Act, WVDED requires that subgrantees acknowledge and agree in the Grant Agreement that subgrantees and any contractors or subcontractors of subgrantees may not use BEAD funding to purchase or support fiber optic cable and optical transmission equipment manufactured in the People's Republic of China unless a waiver of this requirement is received from the Assistant Secretary of the USDOC for Communications and Information. This requirement is independent of the BABA requirements and waiver.

### 2.5.4 BABA Compliance

The BABA, part of the Infrastructure Act, Pub. L. 117-58, 135 Stat. 429, 70901-70927, establishes domestic content procurement preference requirements for Federal financial assistance projects for infrastructure, including the BEAD Program, consistent with Section 70912(2) of the Infrastructure Act. Subgrantees and any contractors or subcontractors of the subgrantees shall comply with the BABA domestic content procurement preference general requirements under 2 CFR § 200.322 and 2 CFR Part 184 as well as the Limited General Waiver requirements for purchases of iron, steel, manufactured products, and construction materials used for its BEAD Project as applicable and as detailed in the BEAD NOFO, and the

*USDOC Limited General Applicability Nonavailability Waiver of the Buy American Domestic Content Procurement Preference.*<sup>19</sup>

As detailed in the Grant Agreement and Compliance Guide, subgrantees (including contractors and subcontractors of subgrantees) are responsible for knowledge of and compliance with the above BABA and waiver requirements, and that these requirements shall also apply to products purchased with matching funds as well. As part of compliance with these requirements, subgrantees, their contractors, and any subcontractors shall consult the NTIA published list of manufacturers of products that have certified compliance with the BABA requirements.

Subgrantees are further required to consult the BEAD BABA self-certification list.<sup>20</sup>

Regarding BABA compliance, subgrantees shall ensure that the subgrantee and any of its contractors and subcontractors demonstrate compliance with BABA before any applicable product is installed or used in its Project. As part of this compliance, manufacturers of such products shall provide to subgrantees a BABA certification letter for equipment that requires domestic production under BABA under the BEAD Waiver. Subgrantees must maintain this certification letter in the event of an audit. In addition, subgrantees must report certain information on finished waived electronics used in its BEAD Project. As part of its Grant Agreement with WVDED, subgrantees are required to compile and submit a reporting tracker on the finished waived electronics used in their BEAD Projects.

Also as a provision in the Grant Agreement with WVDED, subgrantees shall consult the NTIA's *BABA Reporting Compliance and Documentation Requirements and Procedures* in concert with WVDED published compliance materials regarding BABA, and shall comply with such requirements as well as ensure compliance by their contractors and subcontractors and each shall maintain inventory records of all Project equipment as may be procured with funds provided herein.<sup>21</sup>

### 2.5.5 Domestic Preferences for Procurements (2 CFR § 200.322)

As part of its Grant Agreement with WVDED, subgrantees shall acknowledge and agree that the subgrantee should, to the greatest extent practicable, and consistent with law, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products) and comply with 2 CFR § 200.322 as well as the above section regarding BABA compliance. The Grant Agreement further states that the requirements of this section must be included in all subawards, contracts, and purchase orders under the BEAD Federal award.

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<sup>19</sup> See *USDOC Limited General Applicability Nonavailability Waiver of the Buy American Domestic Content Procurement Preference*, February 2024 (<https://www.commerce.gov/sites/default/files/2024-02/BABA%20Waiver%20Signed.pdf>).

<sup>20</sup> See NTIA's *BABA Compliance and Self Certification* page ([https://broadbandusa.ntia.gov/technical-assistance/BABA\\_Compliance\\_and\\_Self\\_Certification](https://broadbandusa.ntia.gov/technical-assistance/BABA_Compliance_and_Self_Certification)).

<sup>21</sup> See NTIA's *BABA Reporting Compliance and Documentation Requirements and Procedures* ([https://broadbandusa.ntia.gov/sites/default/files/2024-07/BABA\\_Compliance.pdf](https://broadbandusa.ntia.gov/sites/default/files/2024-07/BABA_Compliance.pdf)).

## 2.5.6 Procurement of Recovered Materials (2 CFR § 200.323)

As part of its Grant Agreement with WVDED, the subgrantee shall agree that it will comply and that the subgrantee shall ensure that its contractors comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 as amended, 42 U.S.C. § 6962. The requirements of Section 6002 include procuring only items designated in the guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery to the extent permitted by state law; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA. The Subgrantee agrees that it should, to the greatest extent practicable and consistent with the law, purchase, acquire, or use products and services that can be reused, refurbished, or recycled; contain recycled content, are biobased, or are energy and water efficient; and are sustainable. This may include purchasing compostable items and other products or services that reduce the use of single-use plastic products. See Executive Order 14057, section 101, Policy.

## 2.5.7 Required Contract Provisions for Federal Awards (2 CFR § 200.327)

As communicated in Program Guidance materials and the Grant Agreement, WVDED also requires that subgrantees agree that the subgrantee's contracts contain the applicable contract provisions described in Appendix II to 2 CFR Part 200. Such provisions include but are not limited to provisions regarding:

- (1) Breach/remedies;
- (2) Termination;
- (3) Equal Employment Opportunity Clause (see 41 CFR 60-1.4(b) in accordance with Executive Order 11246, as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60);
- (4) Contract Work Hours and Safety Standards Act (For contracts over \$100,000);
- (5) The Clean Air Act and Federal Water Pollution Control Act (contracts in excess of \$150,000);
- (6) Debarment and Suspension;
- (7) The Byrd Anti-Lobbying Amendment certification;
- (8) Procurement of Recovered Materials (see Section 6002 of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act);
- (9) The Prohibition on Covered Communications Services and Equipment (see the Secure and Trusted Communications Networks Act and 2 CFR Section 200.216;
- (10) Domestic Preferences for Procurements (See 2 CFR 200.322).

WVDED in its Grant Agreement and compliance materials states that subgrantees are responsible for determining applicability of each of these above contract provisions.

## 2.6 Environmental and Historic Preservation (EHP) Review

BEAD projects are subject to NEPA and Section 106 of the NHPA. Subgrantees will be monitored for compliance with the requirements of all applicable Federal, state, and local environmental laws, regulations, and standards including those set forth in the Grant Agreement and associated exhibits. As part of its role as joint lead agency for NEPA, WVDED shall utilize the Environmental Screening and Permitting Tracking Tool (ESAPTT) within the NTIA Grants Portal to identify applicable categorical exclusions and enable transmission of environmental documents as well as generation of draft and final NEPA documents. WVDED may also utilize ESAPTT's permitting tracking capacity to evaluate and track subrecipient milestone schedules. Further as part of its monitoring as joint lead agency, WVDED shall ensure that subgrantees do not initiate any BEAD-funded implementation activities (site preparation, demolition, construction, ground disturbance, fixed installation, or any other implementation activities) prior to the completion of all EHP requirements. Exceptions are permitted for the limited permissible activities noted in Section 4.04(a) of the Grant Agreement for environmental surveys.

## 2.7 Closeout

WVDED conditions closeout of the subgrantee award upon receipt of the subgrantee's final semi-annual report, formal resolution of all monitoring and audit findings, and completion of a final project review. WVDED requires subgrantees to provide any outstanding financial, performance, or other required reports within 90 days after the end date of the period of performance.

As part of its Grant Agreement with WVDED, subgrantees are required to acknowledge that WVDED may take enforcement action against subgrantees if subgrantees fail to comply with any applicable requirement contained in § 60102 of IJJA, the BEAD NOFO as amended by the Restructuring Policy Notice, USDOC Standard Terms and Conditions, BEAD General Terms and Conditions, West Virginia BEAD Program Procedures, the BEAD Compliance Guide, WVDED's Initial and Final Proposals, and the Grant Agreement. In the event of subgrantee noncompliance, WVDED shall take the enforcement action(s) described above in Section 2.1.

WVDED generally conducts "ready-to-serve" field review(s) for each project. This process ensures that any new BEAD-funded constructed networks are compliant with construction/engineering standards and meet the BEAD program's minimum speed and service requirements. During these reviews, WVDED's consulting engineers reconcile invoices with as-builts or other design details to confirm project alignment with approved construction plans and spending estimates. During construction, WVDED may schedule and perform desktop and field reviews with subgrantees at its discretion. At the 100% completion point, WVDED will schedule and perform final desktop and field reviews with subgrantees for its inspection for final acceptance.

Additionally, WVDED's technical reviewers will verify that the project aligns with the approved scope and will document quality observations. WVDED will prepare reports identifying any discrepancies or issues with the constructed network, with the subgrantees given a prescribed period of time to cure or provide proof of corrective actions taken to remedy any issues.

Field reviews will be tailored to the distinct characteristics of the technologies used in the projects awarded. WVDED will request supporting materials that will inform the field review that will also vary depending on the technology type employed by the project. This may include, but is not necessarily limited to the following elements:

- Subgrantees using fiber optic will also be required to submit fiber test reports conducted with an Optical Time Domain Reflectometer (OTDR), or traces from capable intelligent Optical Link Mapper (iOLM) technology will also be accepted. To be considered acceptable for WVDED approval, these tests must be, at a minimum, passing. WVDED may provide guidelines for submitting OTDR/iOLM fiber traces.
- Subgrantees using terrestrial fixed wireless technology, either exclusively or as part of a mix of technologies, must produce and submit to WVDED a Point to Multipoint RF Engineering Report derived from the network design tool and a propagation map illustrating expected coverage and performance, with key technical inputs and based on the final locations in the network as constructed.
- Subgrantees using cable modem/hybrid fiber-coaxial (HFC) technology in the project either exclusively or as part of a mix of technologies, must retain and submit to WVDED a coax cable SWEEP report for the constructed network.
- Subgrantees using LEO satellite technology in the project either exclusively or as part of a mix of technologies, must retain and submit to WVDED proof of service at connected locations, network performance at connected locations, and any locations at which a subscriber attempted to initiate service but at which service was discontinued within 90 days. WVDED may require field reviews up to each payment milestone for LEO Capacity Grants.

Upon project completion, WVDED requires subgrantees to submit a closeout package with required documentation for review and approval. Upon approval of all closeout documentation and final field reviews, WVDED will release the final 10% of the grant retained.

### 3. Preventing Waste, Fraud, and Abuse

WVDED's West Virginia BEAD Program Procedures, Grant Agreement, and Compliance Guide alike have guidance for subgrantees regarding prevention and reporting of fraud, waste, abuse under the Program. In the Program Procedures Section 8.16, WVDED requires that as part of the transparency and accountability requirements of the Program, subgrantees establish and widely publicize telephone numbers and email addresses for the subgrantees' internal ethics office (or comparable entity) for the purpose of reporting waste, fraud, or abuse in the Program.

WVDED further states that subgrantees are encouraged to report any instances of fraud, waste, or abuse to the USDOC Office of Inspector General ("OIG") and to note the location of the OIG reporting hotline.

Regarding whistleblower rights, the Program Procedures state that WVDED and subgrantees alike will be subject to the whistleblower rights and remedies established under 41 U.S.C. § 4712, wherein subgrantee employees may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing information the employee reasonably believes to be evidence of gross mismanagement, waste, abuses of authority and dangers to public safety, violations of law, rule, or regulations related to a Federal contract or grant. Subgrantees are required to inform employees and contractors in writing of these whistleblower rights.<sup>22</sup>

In the event that WVDED detects any fraud schemes or any other suspicious activity, WVDED will contact its assigned NTIA Federal Program Officer and the USDOC Office of Inspector General Hotline as soon as possible.<sup>23</sup>

Additionally, in accordance with 2 CFR § 200.113, WVDED will disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. WVDED is required to report certain civil, criminal, or administrative proceedings to SAM.gov. Failure to make required disclosures can result in WVDED or NTIA pursuing any of the remedies for noncompliance described in 2 CFR § 200.339. (See also 2 CFR Part 180, 31 U.S.C. § 3321, and 41 U.S.C. § 2313).

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<sup>22</sup> See *Office of Inspector General Whistleblower Rights and Protections* (<https://oig.justice.gov/hotline/whistleblower-protection>).

<sup>23</sup> See *USDOC, Office of Inspector General Hotline* (<https://www.oig.doc.gov/Pages/Contact-Us.aspx>).

## Appendix: Reference Guide

- **2 CFR Part 200:** Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance)
- **WVDED:** West Virginia Division of Economic Development
- **Eligible Entity:** Recipient of BEAD grant funding from NTIA
- **NTIA:** National Telecommunications and Information Administration
- **BEAD Program:** Broadband Equity, Access, and Deployment Program
- **The Program:** West Virginia BEAD Program
- **IPV2:** Initial Proposal Volume 2
- **Program Procedures:** West Virginia BEAD Program Procedures
- **NEPA:** National Environmental Protection Act
- **EHP:** Environmental and Historic Preservation
- **NHPA:** National Historic Preservation Act
- **BABA:** Build America, Buy America Act
- **Compliance Guide:** WVDED's Guide for Subgrantees to Reporting and Compliance Obligations for the West Virginia BEAD Program
- **IIJA:** Infrastructure Investment and Jobs Act ("Infrastructure Act")
- **BEAD NOFO:** BEAD Notice of Funding Opportunity
- **USDOC:** United States Department of Commerce
- **State:** State of West Virginia
- **NTPD:** Notice to Proceed with Design Activities
- **Evidentiary Materials:** Required materials for Grant Agreement approval
- **NTPC:** Notice to Proceed with Construction
- **Dig Once Notifications:** Policy in West Virginia that aims to reduce the number of excavations required to install telecommunication infrastructure
- **ROW:** Right-of-Way