

<b>Federal Award ID Number</b>	20-20-B172
<b>Grant Request Number</b>	GRN-000172
<b>Funding Program Name</b>	Broadband Equity Access and Deployment (BEAD) Program
<b>Funding Request Name</b>	Kansas-BEAD-Initial Proposal-Volume 2
<b>Applying Organization</b>	STATE OF KANSAS DEPARTMENT OF COMMERCE
<b>Applicant Name</b>	Jade Piros de Carvalho

### 02.01.01 Objectives

Outline the long-term objectives for deploying broadband; closing the digital divide; addressing access, affordability, equity, and adoption issues; and enhancing economic growth and job creation. Eligible Entities may directly copy objectives included in their Five-Year Action Plans.

The definitive medium of communications and vital information availability in the 21st Century is the internet and its associated technologies. Communities and businesses unable to access high-quality internet connections are not only at a disadvantage but are effectively disqualified from active engagement in the modern economy. As providing broadband access to all communities across our state is a critical priority for Governor Kelly and the Kansas Department of Commerce, KOBD’s vision is to ensure that all Kansans can live, work, learn and compete in a global economy by improving universal access to quality, affordable and reliable broadband.

The tangible results of this vision will drive economic development, enable digital experiences, and accelerate sector-specific innovations in the everyday lives of Kansans. The state aspires to be a national leader in broadband availability, adoption, and affordability. Specifically, Kansas strives to be among the top 10 states by 2030 in terms of the percentage of households able to access 100/20 Mbps service. This means we must prioritize fiber-deployment solutions, while also evaluating non-fiber broadband technologies where economically and technically required. Furthermore, KOBD recognizes the need to ensure affordability and to encourage adoption to maximize the gains offered via broadband accessibility on transportation, education, commerce, agriculture, healthcare, public safety, and our culture.

This suite of goals is intended to create an accountable and reportable baseline that can measure and demonstrate progress toward our vision of Kansas as a fully “connected” state.

Objective 1: Ensure affordable universal broadband coverage to every home, business, farm, and CAI

GOALS

Expand middle mile infrastructure and interexchange points to reduce deployment costs to unserved communities

Prioritize unserved, high-cost, and rural locations

Understand and mitigate the localized barriers to deployment

Ensure affordability plans are available to all qualified Kansans

#### KEY METRICS/TARGETS

Percentage of served households: 100%

Percentage of CAIs having access to 1Gbps symmetrical speed: 100%

Percentage of BEAD grant awards with commitment letters: 100%

Percentage of BEAD grant awards offering affordable service plans: 100%

Objective 2: Leverage innovative solutions and “future-proof” technologies for broadband deployment and accessibility

#### GOALS

Prioritize fiber deployment solutions

Evaluate and deploy non-fiber broadband technologies where economically and technically required

Examine process(es), partnership(s), and grant design(s) to ensure sustainability and the accrual of long-term benefits

#### KEY METRICS/TARGETS

Deploy fiber solutions to 75% of all unserved and underserved BSLs

Deploy non-fiber solutions to 25% of all unserved and underserved BSLs

Objective 3: Continue to develop and evolve the digital economy throughout the state

#### GOALS

Collaborate with state agencies, educational institutions, and private sector to develop training and certifications for broadband installation and maintenance related jobs

Collaborate with state agencies, educational institutions, and private sector to develop training for broadband-affiliated jobs (i.e., sales, customer service, technical support)

Collaborate with state agencies, educational institutions, and private sector to develop career pathways (i.e., apprenticeships and K-12 curriculum) to meet the workforce need for universal broadband coverage

#### KEY METRICS/TARGETS

Survey: (i) entities that have broadband-specific related jobs, and (ii) entities that have broadband-affiliated jobs to determine needs to support universal broadband service deployment

Survey: (i) entities that have broadband-specific related jobs, and (ii) entities that have broadband-affiliated jobs to determine needs to support sustainable digital skills training and technical support competencies

Recommend a workforce and digital skills development strategy for the state based on survey results

Objective 4: Ensure all Kansans can live, learn, work, play and compete regardless of where they live in the state

#### GOALS

Prioritize digital skills development and training for covered populations

Create state-wide digital navigator and device placement program(s)

Augment the value of universal broadband coverage to Kansans (i.e., tele- health, remote working, education, social and community activity, etc.)

#### KEY METRICS/TARGETS

Baseline digital skills content; work with local partners to scale working model(s)

Baseline digital navigator and device placement programs; work with local partners to scale working model(s)

Work with local broadband champions to find “early wins” to develop localized buy-in

These goals, objectives, and key metrics/target are coordinated with the objectives, strategies, and key performance indicators in the Kansas State Digital Equity Plan.

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### **02.02.01 Local, Tribal and Regional Broadband Planning Processes**

Identify and outline steps that the Eligible Entity will take to support local, Tribal, and regional broadband planning processes or ongoing efforts to deploy broadband or close the digital divide. In the description, include how the Eligible Entity will coordinate its own planning efforts with the broadband planning processes of local and Tribal Governments, and other local, Tribal, and regional entities. Eligible Entities may directly copy descriptions in their Five-Year Action Plans.

KOBD began the BEAD and DEA planning effort understanding the identification of and outreach to diverse and local stakeholders is foundational to closing the digital divide. To this end, KOBD implemented a layered methodology for the outreach strategy, beginning with the stated leaders of the stakeholder groups and then filtered down to the applicable constituents within each group. The first step of this strategy was to identify groupings of common interests. Grouping stakeholders by common interest aided in calibrating outreach discussions, meetings, and surveys to capture the specific information and concerns important to each group. KOBD was careful to note stakeholder interests that cross over between BEAD and DEA to ensure holistic conversations occurred.

KOBD conducted a six-month statewide “Broadband Roadshow” (Roadshow) in the winter and spring of 2023 that served as the initial introduction of KOBD to residents, businesses, local officials, non-profits, CAIs, and associations of Kansas. Meeting Kansans “where they are and live” meant each local meeting took place in locations suggested by the residents themselves. Roadshow meetings were moderated by our partners from Wichita State University (WSU), with multiple KOBD staff members in attendance at each one.

Roadshow discussions centered on the lived experience of the attendees and residents. A brief presentation introduced the Infrastructure Investment and Jobs Act (IIJA), KOBD, and the state’s overall goals with BEAD funds. Specific time was allocated for group roundtable discussions focused on gathering the following information:

Availability and quality of broadband service at their homes, businesses, and/or farms

Affordability of broadband services in their area

Key concerns and perceived barriers to deployment

KOBD received frank, direct, and honest feedback from Roadshow attendees. Here is a summary of the prevalent concerns:

Broadband service is not reliable throughout rural Kansas

Creates a deterrent to adoption

Augments safety concerns, as there are multiple documented and obvious emergency service impacts when one cannot access 911 services

Costs are too high

Businesses pay high rates for insufficient service

Hinders business and economic growth in rural and economically distressed areas

Impacts level of service for their customers

Residents lack awareness of affordability programs, such as ACP

The ACP enrollment process is too cumbersome

Members of covered populations outlined concerns unique to their communities:

Veterans

Costs are prohibitively high

Digital skills and literacy are low

Individuals with a language barrier

They are not aware of ACP

It is difficult to obtain support service in their language

Individuals who primarily reside in a rural area

No access to broadband service, and when there is, costs are prohibitively high

Limited and oversubscribed community locations for support and access

Past promises of broadband infrastructure not realized

Farmers are unable to take advantage of real-time market data

Internet-enabled farm equipment and applications are not accessible

Individuals with disabilities

Assistive services not always available

Individuals who live in covered households (e.g., lower income):

Costs are prohibitively high

Lack of awareness of ACP program

Multiple Dwelling Units (MDUs) that are not serviceable or the lack of inside wiring to individual units

Overlooked urban broadband deserts (i.e., lower-income locations near densely populated communities)

### Sovereign Tribal Nation Meetings

Imperative to our overall effort is to engage with the four federally recognized Sovereign Tribal Nations residing in Kansas: (1) Iowa Tribe of Kansas and Nebraska, (2) Kickapoo Tribe in Kansas, (3) Prairie Band of the Potawatomi, and (4) Sac and Fox Nation of Missouri in Kansas. KOBD collaborated with the four Sovereign Tribal Nations to discuss their broadband needs and specific funding opportunities unique to them. The goal for each meeting was to grow the relationships between key stakeholder groups and cover common topics including updates on federal, state, and tribal initiatives; infrastructure access; digital equity; and workforce opportunities. Notes captured feedback from each session and next steps for the NTIA, KOBD and the four Sovereign Tribal Nations:

On February 24, 2023, the consultation with the Iowa Tribe of Kansas and Nebraska included tribal council members and staff, executives of Grey Snow Management, NTIA FPOs from Nebraska and Kansas, and the Executive Director of the Office of Native American Affairs for the State of Kansas. Emphasizing sovereignty, the tribe's representatives shared a need to coordinate across state and geographical lines. Related to digital equity needs, KOBD will provide a point of contact to help tribal members enroll in ACP. Workforce topics included discussion of partnerships with a Nebraska community college and succession planning needs. In collaboration with KOBD, the tribal members staffed an oral storytelling booth during the annual Tribal Meeting of the Iowa where they also gathered Digital Equity information. This information was protected by an MOU negotiated with KOBD stating that the names or information gathered will not be shared without the express permission of the tribe.

On March 24, 2023, the consultation with the Prairie Band of the Potawatomi focused on the tribe's frustration with the overall structure of the IJA, specifically the lack of respect for their sovereignty, rights of way (ROW) issues, and mapping. Tribal representatives highlighted that the lack of infrastructure access and affordability presented a fundamental gap to any digital equity and inclusion effort. The tribe utilizes a workforce consultant to determine opportunities and the potential to collaborate with KOBD to accelerate already envisioned strategies will be discussed.

On May 1, 2023, the consultation with the Sac and Fox Nation included tribal members and staff, along

with the Executive Director of the Office of Native American Affairs for the State of Kansas. An overview of technical support, ISP relationships, public relations, public safety, and historic preservation were discussed. Related to digital equity needs, affordability with their current provider is a challenge, along with a need for increased access to digital training, coaching, and support. The Sac and Fox Tribe were particularly interested in the ability for broadband to build the needed workforce, and the desire to continue communication with KOBD.

On August 4, 2023, the consultation with the Kickapoo Tribe in Kansas outlined concern about underserved areas, infrastructure, and modernization of technology within public areas, internal tribal support of broadband (versus reliance on outside entities), and effective outreach to tribal members. The lack of direct federal funding to the tribe created greater interest to support broadband use and adoption on the reservation. Plans for continued communication with the Kickapoo Tribe in Kansas to support training, workforce development, and network deployment will occur.

KOBD formed the Digital Equity Advisory Council (Advisory Council) to advise KOBD on DEA planning efforts. The Advisory Council consists of subject matter experts from education, healthcare, library, sciences, banking, non-profits, municipal, industry, Sovereign Tribal Nations, NTIA, and NDIA. The group meets bi-weekly to inform the mission, vision, and actualization of digital equity and inclusion efforts throughout the state, including the coordination of partners actively involved with access, adoption, and workforce development efforts.

#### State Departments and Agency Meetings

KOBD held planning meetings with key state departments and agencies on the plans, timelines, and priorities of BEAD funding. Specifically, KOBD engaged with the following departments and agencies:

Kansas Adjutant General's Department, Kansas Homeland Security

Kansas Behavioral Health Services Commission

Kansas Commission on Veterans Affairs

Kansas Department for Aging and Disability Services

Kansas Department for Children and Families

Kansas Department of Administration, Office of Financial Management

Kansas Department of Commerce

Kansas Department of Corrections

Kansas Department of Education

Kansas Department of Health and Environment

Kansas Department of Labor

Kansas Department of Transportation

Kansas Department of Wildlife and Parks

Kansas Tourism Division at the Kansas Department of Commerce

Kansas Office of Minority & Women Business Development at the Kansas Department of Commerce

KOBD requested each attendee for these meetings to consider key contacts in their agency, industry, and associations that could help amplify communications and support for the BEAD and DEA planning efforts. Additional meetings with key agencies, such as the Kansas Department of Transportation and Kansas Department of Labor, led to further discussions around items such as state fiber facilities, ROWs, and workforce readiness. KOBD maintains a close working relationship with these state agencies ensuring awareness of timelines, needs, and priorities required as progress occurs.

#### Telecommunications Industry, Internet Service Provider Meetings

In addition to direct meetings with individual internet service providers (ISP) serving Kansas, KOBD hosted two provider meetings focused on BEAD timelines, anticipated funding, planning requirements, and stressed the cooperation needed from all providers to meet our BEAD goals. Another set of ISP meetings provided updates on progress and to lay out 2023 funding opportunities that extend beyond BEAD and DEA. KOBD also met with the Kansas Cable Telecommunications Association and the Communication Coalition of Kansas, groups that represent multiple ISPs, to review the BEAD initiatives, timelines, goals, and objectives.

Coordination with the ISPs is a priority for KOBD. Regular industry calls combined with our open-door policy provides KOBD with the opportunity to hear directly from ISPs about the work being done and the challenges that lie ahead. KOBD's commitment to transparency underpins a robust set of outreach efforts to ISPs, particularly in the planning and expectations of these critical partners. Moving forward, KOBD is committed to the spirit of transparency via regular meetings with ISP partners to share plans and timelines.

#### Surveys

To date, KOBD has distributed four surveys to gather statewide data for the assets and needs inventories.

(1) Wichita State University: This survey focused on covered populations to assess broadband needs,



barriers to adoption, and known content that may be available to assist in digital skills development. This survey and its results are covered in the Kansas Digital Equity Plan.

University of Kansas conducted two surveys:

(2) The first survey was sent to ISPs seeking to identify private broadband assets currently deployed within the state. The survey also asked providers to share the next five years of planned infrastructure deployments and any existing commitments on previously awarded federal and state funded broadband projects. This survey was also sent to agencies and associations that may own fiber assets to document facility routes, capacity, utilization, and commercial status. The goal of this survey was to determine if any of these assets could reduce the time and resources required for network deployment in unserved and underserved areas.

(3) The second survey was focused on Digital Equity Assets and sent to agencies, associations, and non-profits to gather information on existing digital equity programs, their funding source, their targeted audience, intended benefit(s), current progress, and plans.

(4) Workforce Development: This survey was sent to ISPs to document projected workforce needs, by position, to fulfill BEAD infrastructure builds and ongoing operations.

Of the 176 total surveys sent to providers, agencies, and associations, 53 completed surveys were returned, whereby 43 providers and 10 agencies responded. A summary of the returned surveys is as follows:

Twenty-seven of the respondents own middle mile fiber covering 2,700 combined miles

All the middle mile facility owners were last mile providers as well (i.e., no exclusive middle mile providers)

Eleven of the respondents have previously received broadband grants totaling more than \$100 million, including:

Eleven state broadband recipients, several of which were also recipients of other federal awards:

Two USDA recipients

Three CAF 2 recipients

One RDOF recipient

Seventeen of the respondents are Fiber-to-the-Home (FTTH) providers

Two of the respondents are fixed wireless providers

Thirty-two respondents indicated plans to apply for additional grants, including BEAD

Many respondents provided contact information and requested to execute an NDA with KOBD to provide more detailed information

Two respondents asked for contact to discuss BEAD plans

Six state agencies replied detailing the fiber assets they use, own, or manage, including:

Kansas Bureau of Investigation

Kansas Department of Agriculture (two responses)

Kansas Department of Transportation

Kansas Department of Wildlife Parks and Tourism (two responses)

Kansas State Library

Kansas State Research and Extension

KanREN, a non-profit organization (501(c)3) providing Research and Education Networks throughout Kansas

All respondents offered to support KOBD community outreach efforts via email, their own websites, and newsletters

The Kansas State Library system detailed their digital skills training program inventory, called "Learning Express"

Economic Development Meetings

Upon completion of the first set of meetings with state departments and agencies, a second layer of outreach meetings occurred involving leadership teams from the eight Economic Development Districts (EDD). Engaging with each EDD is the best method to ensure an accurate and inclusive list of needs of their regions, counties, and communities. Meetings with each EDD included their chosen geographical representatives where KOBD provided an overview of IJJA, BEAD, and DEA opportunities. Each EDD was shown an excerpt of the FCC Broadband Fabric Map, state maps showing current CAIs, and their region's eligible ACP households and current adoption rates. Importantly, each EDD nominated individuals who might act as their broadband champion(s) (i.e., points of contact for local planning) to work alongside KOBD.

The next set of EDD meetings will occur with the designated broadband champion(s) to finalize localized broadband needs within their area; collaborate with local providers and ISPs; review technology choices; provide technical assistance; and project the buildout costs of their areas. This level of outreach will foster the extensive collaboration and local buy-in between the residents, businesses, farmers, ISPs, and the state needed for these deployment projects.

Given that the expertise level varies among regions, KOBD will develop a user-friendly guide to data collection, need assessments, provider requirements, and collaborative meetings to lay the foundation for each region to develop the needed relationships for successful BEAD applications.

In addition, KOBD will extend support to each EDD via their Economic Development Managers to determine local planning efforts, monitor effective coordination with ISPs, and answer any questions related to BEAD planning, awards granted, or deployment progress.

### Broadband Ready Communities

KOBD established a community-based program called "Broadband Ready Communities" (BRC) where communities, cities, counties, Sovereign Tribal Nations, or regions may be designated a broadband ready community. The BRC designation fosters readiness among local communities as they prepare for further broadband buildout. These partnerships focus on permitting, ROWs, easement issues, and how to streamline and simplify these processes to support the efficient and effective deployment of broadband networks within the BRC partnership area.

### KOBD Website

KOBD's public-facing website engages and updates constituents across sectors. The website shares key strategic plans, funding opportunities, social media, links to the Kansas broadband speed testing website, KOBD contact information, industry information, state events, and relevant articles. The website provides transparency of resources allocated, and application processes.

<https://www.kansascommerce.gov/broadband/>

### KOBD Newsletter

KOBD sends the Kansas Broadband Newsletter to provide updates on KOBD plans and progress. KOBD shares the newsletter proactively with members of the following communities:

Agricultural community

Community champions

Economic development representatives

Educational institutions

Healthcare centers

ISPs

Local governments

Tribal Governments and their representatives

KOBD encourages all Kansas residents to sign up for the newsletter through the KOBD website.

State Speed Test Opportunity Communications

In May of 2023, KOBD launched a website for residents of the state to conduct speed tests and provide demographic data in support of the BEAD and DEA efforts. This website serves multiple functions for BEAD and DEA planning, namely:

Validation of broadband service availability and quality

Involvement of Kansas residents in the BEAD and DEA planning efforts

Collection of BEAD and DEA demographic data

Vehicle for NTIA-required challenge data, if required

KOBD engaged in multiple outreach activities to ask for participation in the speed test effort. Letters in English and Spanish, requesting distribution to students, faculty, and staff were sent to every school district in the state. In addition, KOBD sent a request to state agencies and relevant state associations, groups, and communities to distribute flyers and letters to their membership.

To date, 8,657 tests (from 5,638 unique IP addresses) have occurred. When users conduct a speed test, KOBD asks the user to complete multiple tests at varying times of the day to validate speed of service. In addition, for those residents interested in participating in the challenge process, more specific test parameters will be coordinated to ensure compliance.

8,350 demographic surveys were completed detailing: the number of users in the home; demographics for each user; predominate use requirements (i.e., work, education, healthcare, social, gaming, etc.); existing provider information; affordability; and price elasticity.

These speed tests and surveys continue to support the challenge efforts and measure progress of investments and infrastructure deployment. The KOBD Speed Test site is found at <https://broadbandks.com/>.

## Covered Populations, Groups, Associations and Non-Profits

KOBD conducted focused outreach to the covered populations of Kansas to present the BEAD and DEA planning efforts, understand their broadband needs, and to document barriers or limitations. A representative list of DEA partners is provided in the table below, whereas a full list of Digital Equity Assets is documented in the KOBD Digital Equity Plan.

### DEA Partners

AARP

Kansas African Affairs Commission

Kansas Association of Area Agencies on Aging

Kansas Association of City/Town Management

Kansas Association of Community Action Programs

Kansas Association of Counties

Kansas Association of Educational Service Agencies

Kansas Board of Regents

Kansas Commission on Veterans Affairs Office

Kansas Department for Children and Families

Kansas Department of Corrections

Kansas Department on Aging and Disability Services

Kansas Farm Bureau

Kansas Hispanic & Latino American Affairs Commission

Kansas League of Municipalities

Kansas Library Association

Kansas Silver Haired Legislature

Kansas State Department of Education

## KANSASWORKS

### Outreach Summary

Early in the BEAD and DEA planning effort, KOBD adopted an aggressive local outreach plan. With a goal to hear from Kansans from across the state, KOBD created structured and organized plans for the Roadshow, surveys, agency meetings, Sovereign Tribal Nation meetings, EDD discussions, partnership meetings, and collaborative meetings with service providers. KOBD will continue to use the tools developed and add capabilities via social outreach, local planning, and covered population groups. In addition, KOBD is looking to actively name local broadband champions who will help “localize” messaging to their specific communities.

KOBD will continue to publish newsletters, post on social media, and provide updates via the Kansas Department of Commerce website to update all Kansans on BEAD plans and progress.

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#### **02.03.01 Local Coordination Tracker and Description**

Describe the coordination conducted, summarize the impact such coordination has on the content of the Initial Proposal, and detail ongoing coordination efforts. Set forth the plan for how the Eligible Entity will fulfill the coordination associated with its Final Proposal.

To develop the BEAD-IP, KOBD travelled to every corner of the state to engage a wide range of stakeholders, including residents, local government leadership, non-profits, community organizations, ISPs, Sovereign Tribal Nations, and the Governor’s office. Completing this outreach methodically is key to the development of the three key BEAD documents (i.e., FYAP, BEAD-IP, and BEAD-FP). KOBD tracked every engagement meeting since the beginning of the BEAD program, which can be seen in the Local Coordination Tracker Tool found as attachment “2.3.1.1 Local Coordination Tracker Tool-Attachment.pdf.”

The strongest indicator of how the coordination conducted by KOBD impacted the content of the BEAD -IP is found in the BEAD scoring rubric. BEAD applicants must adequately demonstrate their active and ongoing engagement with the local communities they are attempting to serve to be considered for an award. Specifically, applicants need to prove they understand the broadband needs of these communities, describe their intended technological solutions, and rely on established relationships to support their application(s). Furthermore, the provisioning of timely broadband infrastructure delivery and the offering of low-income subscriber plans must be acceptable to these communities. Simply, the BEAD scoring matrix designed by KOBD will require well documented and specific local coordination, along with integrated planning, to receive maximum local coordination points.

Other impacts to the BEAD-IP of these outreach and planning efforts helped prioritize areas such as

workforce development, digital equity needs, and understanding the true impact of the digital divide in Kansas. For instance, universities, community colleges, industry experts, state agencies, and providers provided valuable input into the workforce readiness needed for the BEAD-IP. As these entities assessed their hiring needs, recruitment, workforce plans, and training capabilities, their insight helped KOBD determine the gaps that present a risk to BEAD timelines and the need for a cohesive, statewide workforce development program.

KOBD's ongoing coordination efforts, along with the plan to fulfill the requirements of the BEAD-FP, are as follows:

KOBD will continue the detailed tracking found in the Local Coordination Tracker Tool throughout the entire BEAD program. Outreach, planning, coordination, risk management, and execution will be recorded as evidence of the collaborative KOBD process.

KOBD will continue to post information on all plans, programs, and outreach to the KOBD website to ensure transparency.

KOBD will continue local and statewide outreach to support the challenge process, successful monitoring of grant commitments, and grant administration. KOBD will coordinate additional outreach meetings with community leaders to collaborate and develop a long-term working relationship with their potential provider partners.

KOBD will continue to host regular meetings with ISPs in the state. These meetings are an effective way to share plans, provide NTIA guidance, provide lessons learned, share best practices, and answer questions relevant to the provider community.

KOBD will continue the engagement with the eight Economic Development Districts of Kansas and the designated local broadband champions. The importance of understanding and identifying each region's broadband needs is critical to the joint planning and collaboration effort with providers. KOBD must play a facilitation role to ensure comprehensive broadband plans are included in the applications for BEAD funding.

KOBD will continue hosting Advisory Council meetings and outreach efforts post-planning and during deployment to ensure support for digital equity strategies are progressing. The goal of universal access is complemented by accessing devices, digital upskilling, and affordability plans, which requires continuous care, planning, coordination, communication, and risk management.

KOBD shall develop a workforce development and readiness strategy, in collaboration with state agencies, non-profits, local governments, providers, and educational entities, to create a holistic view of the broadband skills needed for the entire state. An effective workforce will support the deployment of networks, adoption of broadband, and the technical support and upskilling for meaningful engagement in the digital economy.

KOBD shall evaluate best practices to coordinate training facilities, instructors, curriculum, class schedules, locations, and attendees to document and implement the workforce development and readiness strategies.

KOBD has tracked every engagement meeting since the beginning of the BEAD program, which can be seen in the Local Coordination Tracker Tool found as attachment "2.3.1.1 Local Coordination Tracker Tool-Attachment.pdf"

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#### **02.03.01.01 Local Coordination Tracker Tool**

As a required attachment, submit the Local Coordination Tracker Tool to certify that the Eligible Entity has conducted coordination, including with Tribal Governments, local community organizations, unions and work organizations, and other groups.

2.3.1.1 Local Coordination Tracker Tool-Attac-11-27-2023 11-51-Commerce, Kansas Department of-GRN-000172.pdf

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#### **02.03.02 Tribal Consultation**

Describe the formal tribal consultation process conducted with federally recognized Tribes, to the extent that the Eligible Entity encompasses federally recognized Tribes. If the Eligible Entity does not encompass federally recognized Tribes, note "Not applicable."

Imperative to our overall effort is to engage with the four federally recognized Sovereign Tribal Nations residing in Kansas: (1) Iowa Tribe of Kansas and Nebraska, (2) Kickapoo Tribe in Kansas, (3) Prairie Band of the Potawatomi, and (4) Sac and Fox Nation of Missouri in Kansas. KOBD collaborated with the four Sovereign Tribal Nations to discuss their broadband needs and specific funding opportunities unique to them. The goal for each meeting was to grow the relationships between key stakeholder groups and cover common topics including updates on federal, state, and tribal initiatives; infrastructure access; digital equity; and workforce opportunities. KOBD involved other State and Federal partners including the Governor's Native American Affairs office and the NTIA Tribal Connectivity Program Team to support our engagement efforts. Notes captured feedback from each session and next steps for the NTIA, KOBD and the four Sovereign Tribal Nations:

On February 24, 2023, the consultation with the Iowa Tribe of Kansas and Nebraska included tribal council members and staff, executives of Grey Snow Management, NTIA FPOs from Nebraska and Kansas, and the Executive Director of the Office of Native American Affairs for the State of Kansas. Emphasizing sovereignty, the tribe's representatives shared a need to coordinate across state and geographical lines. Related to digital equity needs, KOBD will provide a point of contact to help tribal members enroll in ACP. Workforce topics included discussion of partnerships with a Nebraska



community college and succession planning needs. In collaboration with KOBD, the tribal members received an MOU that included an oral storytelling booth with digital equity-related questions.

On March 24, 2023, the consultation with the Prairie Band of the Potawatomi focused on the tribe's frustration with the overall structure of the IJA, specifically the lack of respect for their sovereignty, ROW issues, and mapping. Tribal representatives highlighted the lack of infrastructure access and affordability presented a fundamental gap to any digital equity and inclusion effort. The tribe utilizes a workforce consultant to determine opportunities and the potential to collaborate with KOBD to accelerate already envisioned strategies.

On May 1, 2023, the consultation with the Sac and Fox Nation included tribal members and staff, along with the Executive Director of the Office of Native American Affairs for the State of Kansas. An overview of technical support, ISP relationships, public relations, public safety, and historic preservation were discussed. Related to digital equity needs, affordability with their current provider is a challenge, along with a need for increased access to digital training, coaching, and support. The Sac and Fox Tribe were particularly interested in the ability for broadband to build the needed workforce, and the desire to continue communication with KOBD.

On August 4, 2023, the consultation with the Kickapoo Tribe in Kansas outlined concern about underserved areas, infrastructure, and modernization of technology within public areas, internal tribal support of broadband (versus reliance on outside entities), and effective outreach to tribal members. The lack of direct federal funding to the tribe created greater interest to support broadband use and adoption on the reservation. Plans for continued communication with the Kickapoo Tribe in Kansas to support training, workforce development, and network deployment will occur.

KOBD will plan additional consultations with all four of the Sovereign Tribal Nations on subjects related to public comments for the upcoming Digital Equity Plan, procedures and tools used for the challenge process, and opportunities for continued collaboration.

Documentation related to tribal consultations may be found as attachment: "2.3.2.1 Formal Tribal Consultation Documentation-Attachment.pdf."

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#### **02.03.02.01 Tribal Consultation Evidence**

As a required attachment only if the Eligible Entity encompasses federally recognized Tribes, provide evidence that a formal tribal consultation process was conducted, such as meeting agendas and participation lists.

2.3.2.1 Formal Tribal Consultation Documentat-11-27-2023 11-52-Commerce, Kansas Department of-GRN-000172.pdf

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## **2.4 Deployment Projects Subgrantee Selection Process**

### **02.04.01 Subgrantee Selection Process Integrity**

Describe a detailed plan to award subgrants to last-mile broadband deployment projects through a fair, open, and competitive process.

KOBD has developed a rigorous and transparent subgrantee selection process aimed at identifying the most qualified applicants for broadband infrastructure deployment. Our approach promotes accountability and fairness and ensures that all potential grant recipients have access to the information, tools, and resources needed to participate fully in this opportunity. Fairness. KOBD includes a broad set of safeguards to ensure a fair subgrantee selection process that is free of conflicts of interest (COI), direct or indirect collusion amongst applicants and biased or otherwise arbitrary outcomes.

First, as a fundamental requirement applicants must fully disclose any real or apparent (perceived) COIs. In addition to these generally applicable requirements, KOBD will require attestation from prospective subgrantees that will include the acceptance of these terms. Such a conflict would arise when the “employee, any member of his (her) immediate family, his or her partner...has a financial or other interest in the firm selected for award” (2 CFR 200.318). In addition to requiring such attestation from applicants, KOBD will also require state employees and contractors involved in the evaluation of subgrant applications to disclose any financial or other interest in any applicant entity and will not allow any employees with such an interest to participate in the selection of BEAD subgrants. Other federal regulations with which the grantee must comply are the conflict-of-interest requirements in 2 CFR 200.112 and 24 CFR 570.489(h). Based on these disclosures, KOBD reserves the right to take any appropriate mitigation steps including, if necessary, the disqualification of the entity from BEAD.

Second, Kansas law prohibits direct collusion between bidders or applicants for state-provided funds; these rules directly apply to BEAD. In addition, BEAD implements several new requirements designed to mitigate the risks of indirect collusion between applicants in the form of public communication about desired service areas, funding requests, or other information that could lead to anti-competitive signaling behavior or other forms of coordination by applicants. In addition, all prospective subgrantees also will agree to adhere to the specific BEAD rule prohibiting any prospective subgrantee from publicly disclosing that it has received an award until after KOBD announces the end of BEAD after Round 2, or subsequent rounds are completed. This prohibition specifically applies to any prospective subgrantees confidentially notified of a Round 1 award, and failure to comply with this rule shall result in the disqualification of any remaining Round 2 applications

Third, KOBD will guard against bias or arbitrary outcomes via the use of transparent, objective criteria both for the definition of Project areas as well as for scoring and selecting winning subgrantees. For example, as described below in section 2.4.2, the KOBD scoring rubric is strongly weighted toward objective, quantitative metrics (including for BEAD funding level, affordability, speed of deployment, local/tribal support, and speed of network for non-FTTH projects) that involve little or no qualitative scoring discretion and therefore minimal or no risk of arbitrary outcomes).

The BEAD subgrantee selection process shall begin upon approval of the BEAD-IP Volume 2 by NTIA. Prior to that approval, but after the Challenge Process adjudication period, KOBD will accept preregistration information from entities interested in applying for subgrantee selection to advance administrative tasks that are common to all applications. This will help streamline processing time once applications are submitted. Preregistration is not required to participate in the BEAD program, nor does it imply approval of any preregistered respondent information gathered. Preregistration guidelines shall be published on the KOBD website seven calendar days before its opening and information will be shared via webinars to be held with all eligible prior to preregistration beginning. The information collected during preregistration can apply to future BEAD applications, thereby streamlining application preparation and KOBD review. For preregistered entities, their application portals will have a checkbox to attest information provided in the preregistration period has not changed or the information can be edited during the application process.

In addition to contact information and Federal Registration Number (FRN), if appropriate, the preregistration information may include, but not be limited to:

Category	Guidance Reference
Financial Capability	2.4.11
Managerial Capability	2.4.12
Operational Capability	2.4.15
Technical Capability	2.4.13
Ownership Information	2.4.16
Public Funding Information	2.4.17

Excluding the response to Financial Capability, responses to each category shall not exceed three (3) pages in length, using single-spaced, and 11-point font formatting.

Within 30 days of the Challenge Process completion (including adjudication, NTIA approval, and public posting of the results), KOBD shall perform the final deduplication of BSLs and publish the list of unserved and underserved BSLs that are grant eligible, along with the identified CAIs for 1Gbps provisioning. Project Funding Areas will then be created using the process identified below. KOBD will not accept challenges on the Project Funding Areas or BSLs. The Challenge Process results, the grant eligible BSLs, and the Project Funding Areas will be posted for 14 calendar days prior to the grant application period opening.

KOBD will host a webinar to answer any questions on the posted information. Additionally, KOBD shall publish a .csv submission template format that must be utilized for location data submitted during the application process.

#### Project Funding Areas

Project Funding Areas will be defined by Unified School District (USD) borders in place June 1, 2023. In the case of USDs where at least 80% of the BSLs are unserved or underserved, the USD shall be identified as a Project Funding Area. For the USDs that are less than 80% unserved or underserved, KOBD will create a Project Funding Area (PFA) that combines this USD with a contiguous USD or neighboring census block groups that, when combined, meet the criteria of 80% unserved or underserved or will create a specific funding area to meet the 80% guidelines. To ensure that all USDs are covered in a designed Project Funding Areas, all BSLs and CAIs are appropriately considered based

on their most current served status, and that all PFAs are compliant with NTIA guidance, KOBD will not issue the final design of Project Funding Areas until final adjudication on the challenge process and final deduplications are complete. In addition, given the projected timing of the KOBD challenge process, a final review of the National Broadband Map will also be done to ensure that the most current BSL and CAI statuses are considered. All state grant agreements that may be completed during the challenge process will be submitted to NTIA for inclusion in the deduplication tool kit and will be deduplicated prior to finalizing Project Funding Areas. Lastly, KOBD will ensure that results from the EACAM program are included for final deduplication. After this final review, KOBD will again review all Project Funding Areas to ensure that no areas are more than 20% served. This review may require KOBD to segment USDs into smaller Project Funding Areas to remain compliant with BEAD guidance. Final Project Funding Areas will be published on the KOBD website at least 14 days before the BEAD grant process is opened.

Each application must propose to serve all unserved and underserved BSLs within at least one Project Funding Area and may include contiguous Project Funding Areas in the same application if all planning details are separately included for each area. Applicants must submit separate applications for any Project Funding Area that is non-contiguous. KOBD will not consider an application eligible for an award if it does not provide qualifying broadband service to all unserved and underserved BSLs and CAIs within least one entire Project Funding Area. All applications must segregate costs between unserved locations, underserved, and served locations within the entire Project Funding Area so that the incremental costs to provide complete universal service in each area can be compared to the cost to meet the priority unserved locations as required by BEAD guidance.

KOBD will make every effort to ensure that Project Funding Areas are extremely well-defined, properly represent BEAD NOFO guidance, and are publicly communicated prior to the grant process beginning.

#### Subgrantee Grant Application Process

KOBD will open the Subgrantee Application Process for BEAD Funding no less than 14 calendar days following the publishing of Project Funding Areas. Prior to and throughout this application period, KOBD will issue any required clarifying guidance outlined in this Initial Proposal, new or clarifying guidance from the NTIA, or in response to queries received during the application process itself to streamline project development and clarify requirements for applicants. All clarifications and updates will be posted to the KOBD website.

The BEAD Subgrantee Application Process will remain open for applications for 45 calendar days. No later than 10 business days following this submission deadline, KOBD will post all applications and submitted materials for each application on the KOBD webpage. All protections offered by the Kansas Open Records Act (KORA) to prevent disclosure will be applied. These exceptions can be found in K.S.A. 45-221 (1,12,20,30,32, and 45.) Individual Non-Disclosure Agreements (NDAs) may also be executed with the Kansas Department of Commerce if so desired. To prevent delays to any Subgrantee Application Process, any NDAs must be requested no less than 60 days prior to the beginning of the BEAD Subgrantee Application process or no later than February 1, 2024, whichever date is earlier. The responsibility to request an NDA and to seek completion of that NDA rests with the applicant seeking the Agreement.

Once the submission window has closed, KOBD will review the applications to ensure all required

documentation has been submitted. Any missing or incomplete information will be documented, and one written request will be sent to the applicant requesting cure within three calendar days. Failure to provide the required documentation will result in rejection.

Grant applications will be evaluated against the BEAD Scoring Rubric (i.e., 2.4.2.1-KOBD Scoring Rubric BEAD-Attachment.xlsx) by KOBD staff or their subcontractors. After initial reviews are completed for each Project Funding Area, the results shall be tabulated by KOBD and recommendations for each proposal shall be made. KOBD shall perform due diligence on every application to confirm the proposal, timelines, and service milestones are reasonable, and that the provider is capable of successful delivery. If an existing award commitment (i.e., from state general funds or another federal infrastructure program) is found within a Project Funding Area, or if a new award commitment from state general or another federal infrastructure program is made during the sub-grantee process, all applications for that Project Funding Area will be notified and given 14 calendar days to resubmit, withdraw, or attest that no BEAD funds will be used for BSLs covered by the previous commitment. This notice is critical to allow applicants to recast their applications to avoid duplicate funding based on other awarded funds and their impact on applications that may be pending in BEAD.

Based upon the availability of funding, if there is only one eligible application (i.e., if the technology solution provides qualifying broadband service and the applicant meets all subgrantee qualifications) for a Project Funding Area, it shall be awarded. These recommendations, along with a summary of the grant scoring and results for all subgrantees, will be provided to the Grant Review Committee. The Grant Review Committee shall consist of employees of multiple state agencies. This committee will review the scoring rubric results and recommendations presented by KOBD to produce the list of named awardees, awarded amount for each Project Funding Area, the unsuccessful applicants, and will describe their rationale for each award. Following approval of projects by the Grant Review Committee, all decisions and documentation will be shared with the Governor's office. After the executive leadership review, all grant round results will be submitted to NTIA through the BEAD-FP. Grant award winners and unsuccessful applicants will be notified by KOBD when allowed by the NTIA. Each applicant applying under BEAD will be required to complete a technical application narrative to satisfy the requirements outlined in this document and the BEAD NOFO that are specifically related to Project Funding Area design, technology commitments, redundancy and business continuity plans, speeds offered, latency expectations, equipment providers and inventory management, staffing and workforce readiness, service plans and pricing, service and billing commitments, and timelines for deployment by specific progress milestones. The technical components of applications are required for Project Funding Areas across Kansas and can be templated for the applicant unless the applicant wishes to change their narrative responses for different Project Funding Areas. This process avoids requiring applicants to complete application narratives for each unit of geography in or for each proposal. Along with the narrative component of the application, applicants must submit capital, operating cost, and revenue estimates to serve each specific Project Funding Area. KOBD will provide a template to streamline and coordinate this process. Applicants must outline the requested dollar amount to separately serve all unserved locations, underserved locations, and unserved or underserved Community Anchor Institutions in that Project Funding Area, as well as the matching funds to be contributed to the build.

KOBD will allow matching funds or in-kind benefits to be contributed to the applicants by non-applicant entities including state, local, and tribal government units, and not-for-profit organizations. These non-applicant matching funds are the responsibility of the applicant to secure, utilize, and report appropriately. In-kind benefits may include, but are not limited to, access to structures, ROWs, and easements; construction labor; or other types of benefits directly related to deployment of qualifying broadband service and must be quantifiable with documented value assessments. Valuation of any in-kind benefit classified as a matching fund on the application may be subject to adjustment or denial by KOBD. KOBD recognizes the combined cost in any Project Funding Area proposal may combine these costs for service locations as an additional presentation layer. This allows KOBD, in the case of an unexpected funding shortfall, to prioritize awards based on unserved locations without revisiting proposals.

KOBD does not have at its disposal nor intend to consider inducements such as state/territory funding towards the match or other funding requirements during the first round of BEAD grant program. Should these funds become available, consideration will be given to inducements required to attract BEAD grant applicants in service areas that are not addressed during the first round of BEAD grants. KOBD established a fair, open, equitable, and competitive subgrantee selection process with adequate safeguards to protect the integrity of the BEAD program, including measures against collusion, bias, and conflicts of interest.

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## **2.4 Deployment Projects Scoring Criteria**

### **02.04.02 Scoring Rubric and Prioritization**

Describe how the prioritization and scoring process will be conducted and is consistent with the BEAD NOFO requirements on pages 42 – 46.

KOBD adopts the scoring criteria and weight of each respective criterion laid out below to evaluate proposals for Priority Broadband Projects and Other Last-Mile Broadband Deployment Projects. Evaluation criteria, which are compliant with the guidelines set forth for project scoring in the BEAD NOFO, are outlined for each scoring category below.

#### **Selection Criteria for Project Category**

Applications that propose to construct end-to-end fiber-optic facilities to all unserved or underserved BSLs in a Project Funding Area will be defined as a “Priority Broadband Project.” Applications that do not propose to construct end-to-end fiber optic facilities to all unserved or underserved BSLs in a Project Funding Area will be defined as an “Other Last-Mile Broadband Project.”

#### **Scoring Process**

For all applications (i.e., Priority Broadband Projects and Other Last-Mile Broadband Projects), 100 points is the maximum allotment. The evaluation criteria are broken down into primary and secondary categories, with a maximum of 75 points for primary category and 25 points for secondary category. Each category consists of multiple items to be evaluated and for which points are awarded.

#### **Priority Broadband Projects**

Applications that propose to construct end-to-end fiber-optic facilities to all unserved and underserved BSLs in a Project Funding Area will be defined as a "Priority Broadband Project."

After Challenge Pre-Modifications and initial deduplication, the number of BSLs to be served via BEAD funding in Kansas dropped by more than one-third from 144,805 to 87,549. Because of this shift in locations requiring broadband coverage, KOBD expects to be able to cover 100% of unserved and underserved BSLs and CAIs with qualifying broadband service in all Project Funding Areas with its BEAD allocation, matching funds, and additional state grants (BAG and LINC) over the term of the BEAD program. However, to ensure that every BEAD dollar spent is optimized to ensure the strongest technical design that offers scalable, resilient technology, and to promote the speed of deployment and affordability, KOBD will prioritize scoring for subgrantee applications using the scoring rubric below.

**Minimal BEAD Program Outlay- 50 points**

Description: To meet the goals of the program, applicants will be awarded greater points by decreasing the total BEAD funding required to complete the project, by increasing their match beyond the 25% required, without a waiver, committing additional private funds, or identifying other investments which will reduce the amount of BEAD funds requested. The total amount of BEAD funding required (inclusive of the committed matching funds) to complete the project area in the application will compile the total projected cost for any Project Funding Area. Specific points will be awarded based on the total cost to serve a proposed funding area, assuming that qualifying technologies are applied in the design and that the subgrantee meets all requirements described in the grant program.

Scoring: The most cost-efficient applications determined by evaluating the total BEAD funding requested (inclusive of at least 25% matching funds) to provide broadband access to a defined Project Funding Area will receive maximum points under this section (50). The highest total BEAD funding requested to provide access to that same area will receive zero points. All applications that fall between the highest and lowest cost will receive points that are proportionately applied.

**Minimum BEAD Outlay**

Max Avail Pts. 50      Lowest total cost to serve

Min Avail Pts. 0      Highest total cost to serve

All applications falling between highest and lowest cost to serve will have points assigned proportionately

**Affordability- 15 points**

Description: An affordable price to subscribers for 1Gbps/1Gbps symmetrical service set at a \$90, or less, monthly rate, inclusive of all taxes, fees, and monthly charges billed to the customer.

Scoring: An application will receive 15 points if the cost of 1Gbps/1Gbps symmetrical service is less than or equal to \$90.00 per month, including all taxes, fees and monthly charges billed to the customer. A sliding scale will be used to score applications that provide 1Gbps/1Gbps symmetrical services for more than \$90.00 per month, including all taxes, fees, and monthly charges billed to the customer.

**Monthly Service Cost 1Gbps/1Gbps Points**

<\$90.00      15

\$90.01 - \$99.99	10
\$100.00 - \$109.99	6
\$110.00 - \$119.99	3
>\$120.00	0

#### Fair Labor Practices– 10 points

Description: KOBD will prioritize applicants who provide an attestation by an officer of the company or evidence of plans to comply with federal labor and employment laws and of plans to solicit, recruit, and retain minority-owned enterprises and women-owned enterprises (MBEs/WBEs). Additional consideration will be given to applicants that include plans or actual results that reflect their commitment to workplace safety and training.

Failure to provide these commitments and plans shall result in zero points applied to the application. Applicants without a verifiable record of compliance with labor and employment law may mitigate this fact by making specific, forward-looking commitments to strong labor and employment standards and protections with respect to BEAD-funded projects.

Scoring: Applications that provide all the required information and certify they will comply with existing labor requirements outlined in the BEAD Notice of Funding Opportunity (NOFO) will receive 10 points. Points will be allocated based on the information submitted for each element of the fair labor category. Applications that provide no response will receive 0 points.

Fair Labor Requirements	Points
Attestation or Evidence of compliance	5
Plans or results related to workplace safety	5

#### Secondary Criteria for Priority Broadband Projects

##### Speed to Deployment– 9 Points

Description: Applications that commit to the deployment of a network and provide services to each BSL within the Project Funding Area within four years from the date of the grant agreement with KOBD.

Scoring: Speed to deployment will be scored on a sliding scale based on the timeline(s) for completed deployment within a Project Funding area as demonstrated in the table below. Additionally, service milestone(s) must be committed within the applications and will measure progress made throughout the project period. These service milestones will be audited by KOBD quarterly and will be used to determine responses to requests for periodic disbursement payments by the subgrantee. Payments will not be authorized unless committed service milestones are met.

The uncertainty in supply chains, workforce challenges, and compliance with federal regulations imposed by the BEAD program are challenges yet are shared by all providers. Thus, each application has the same opportunity to prepare for them. To ensure fair and equitable assessments, projects shall be scored along the following timelines:

Time	Points
0-1 years contract award to project close out	9
>1 but <2 years contract award to project close out	8



>2 but < 3 years contract award to project close out 5  
 > 3 but < 4 years contract award to project close out 2  
 > 4 years 0

Speed of Network and Other Technical Capabilities- 9 points:

Description: Applications that propose to use technologies that exhibit scalability with lower future investment.

Scoring: Capital assets with longer usable lives, scalability, and resilience will score higher on this sliding scale, even if they have higher costs.

Technology Attribute	Maximum Points
Network Usable Life	3
Network Scalability	3
Network Resilience	3

Network Usable Life shall be applied to the expected lifespan of the physical facility. For example the network architecture: XG(S)PON would score more highly than GPON or EPON.

Network Scalability shall be applied to the capacity of the infrastructure being deployed (backhaul, last mile, and equipment) to ensure the ability to scale growth that may occur in the area without additional investment. Three points will be awarded to the applicant providing evidence of facilities for expanded growth based on number of fibers, placement of structures to accommodate future growth (handholds, fiber huts, interconnection points) and local sparing policies for all needed equipment. Any applicant not providing details on future capacity shall receive zero points. All other applicants shall receive one or two points based on their information provided between these two benchmarks.

Network Resilience shall be rated based on the committed capacity and design for network survivability as evidenced by diverse and redundant route designs. The applicant that provides evidence of fully diverse and survivable designs with automatic failover protections shall receive three points. Applicants that fail to address resilience (for example, a single fiber spur/lateral design) will receive zero points. All other applicants shall receive one or two points based on their information provided between these two benchmarks.

Local and Tribal Coordination- 7 Points

Definition: Local, regional, and tribal collaboration is required to ensure that applicants have properly engaged Kansans to determine their communities' needs.

Scoring: Applications that demonstrate meaningful community engagement and local planning, as described below, will receive seven points. Two points will be awarded if letters of support are the only evidence provided, and zero points if no documentation is provided.

- Community Engagement- 5 Points

Prospective subgrantees must demonstrate extensive community engagement and local planning. Understanding the infrastructure and service needs in the Project Funding Areas requires network planning, design, and the voice of the residents. Applications must include evidence of locally held meetings with residents and businesses from the Project Funding Areas where they are applying. This evidence must consist of meeting minutes, attendee lists, and discussion items like those contained in the NTIA Local Coordination Tracker. Furthermore, locally held discussions on permitting, rights of way,

pole attachments, or other easement needs are preferred. Lastly, KOBD expects applicants to share their rate plans, low-cost service plans, terms and conditions, service commitments, and billing formats to each Project Funding Area.

- Letter of Support- 2 Points

Applications with letters of support from local leaders (e.g., county commissioners, Tribal leaders, board of supervisors, city councils, unified school district boards, local businesses, or residents), but cannot demonstrate local planning as described above, may receive two points, depending on the number and quality of each formally authorized letter. Local and tribal governments may provide letters of support for one or more applicants for the same Project Funding Area.

#### Other Last-Mile Broadband Deployment Projects

Some Project Funding Areas may require deployment of other technology solutions (i.e., non-end-to-end fiber-optic facilities) for several reasons, including geography, topology, or cost considerations. Other Last-Mile Broadband Deployment Projects will use the same primary criteria as Priority Broadband Projects except for the affordability criteria.

#### Minimal BEAD Program Outlay- 50 points

Description: To meet the goals of the program, applicants will be awarded greater points by decreasing the total BEAD funding required to complete the project, by increasing their match beyond the 25% required, without a waiver, committing additional private funds, or identifying other investments which will reduce the amount of BEAD funds requested. The total amount of BEAD funding required (inclusive of the committed matching funds) to complete the project area in the application will compile the total projected cost for any Project Funding Area. Specific points will be awarded based on the total BEAD cost to serve a proposed funding area, assuming that qualifying technologies are applied in the design and that the subgrantee meets all requirements described in the grant program.

Scoring: The most cost-efficient applications determined by evaluating the total BEAD funding requested (inclusive of at least 25% matching funds) to provide broadband access to a defined Project Funding Area will receive maximum points under this section (50). The highest total BEAD funding requested to provide access to that same area will receive zero points. All applications that fall between the highest and lowest cost will receive points that are proportionately applied.

#### Minimum BEAD Outlay

Max Avail Pts.	50	Lowest total cost to serve
Min Avail Pts.	0	Highest total cost to serve

All applications falling between highest and lowest cost to serve will have points assigned proportionately

#### Affordability- 15 points

Description: An affordable price to subscribers for 100/20 Mbps service set at a \$60, or less, monthly rate, inclusive of all taxes, fees, and monthly charges billed to the customer.

Scoring: An application will receive 15 points if the cost of 100/20 Mbps service is less than or equal to \$60.00 per month, including all taxes, fees and monthly charges billed to the customer. A sliding scale for points will be used to score applications that provide 100/20 Mbps service at \$60.00 or more per month, including all taxes, fees, and charges to the customer.

Monthly Service Cost 100Mbps/20Mbps      Points

<\$60.00	15
\$60.01 - \$69.99	10
\$70.00 - \$79.99	6
\$80.00 - \$89.99	3
>\$90.00	0

#### Fair Labor Practices– 10 points

Description: KOBD will prioritize applicants who provide an attestation by an officer of the company or evidence of plans to comply with federal labor and employment laws and of plans to solicit, recruit, and retain minority-owned enterprises and women-owned enterprises (MBEs/WBEs). Additional consideration will be given to applicants that include plans or actual results that reflect their commitment to workplace safety and training.

Failure to provide these commitments and plans shall result in zero points applied to the application. Applicants without a verifiable record of compliance with labor and employment law may mitigate this fact by making specific, forward-looking commitments to strong labor and employment standards and protections with respect to BEAD-funded projects.

Scoring: Applications that provide all the required information and certify they will comply with existing labor requirements outlined in the BEAD Notice of Funding Opportunity (NOFO) will receive 10 points. Points will be allocated based on the information submitted for each element of the fair labor category. Applications that provide no response will receive 0 points.

Fair Labor Requirements	Points
Attestation or Evidence of compliance	5
Plans or results related to workplace safety	5

#### Secondary Criteria for Other Last-Mile Broadband Deployment Projects

##### Speed to Deployment– 9 Points

Description: Applications that commit to the deployment of a network and provide services to each BSL within the Project Funding Area within four years from the date of the grant agreement with KOBD.

Scoring: Speed to deployment will be scored on a sliding scale based on the timeline(s) for completed deployment within a Project Funding area as demonstrated in the table below. Additionally, service milestone(s) must be committed within the applications and will measure progress made throughout the project period. These service milestones will be audited by KOBD quarterly and will be used to determine responses to requests for periodic disbursement payments by the subgrantee. Payments will not be authorized unless committed service milestones are met.

The uncertainty in supply chains, workforce challenges, and compliance with federal regulations imposed by the BEAD program are challenges yet are shared by all providers. Thus, each application has the same opportunity to prepare for them. To ensure fair and equitable assessments, projects shall be scored along the following timelines:

Time	Points
0-1 years contract award to project close out	9
>1 but <2 years contract award to project close out	8
>2 but < 3 years contract award to project close out	5
> 3 but < 4 years contract award to project close out	2
> 4 years	0

### Speed of Network and Other Technical Capabilities- 9 points

Description: Applications that propose to use technologies that exhibit scalability with lower future investment.

Scoring: Capital assets with longer usable lives, scalability, and resilience will score higher on this sliding scale, even if they have higher costs.

#### Technology Attribute Maximum Points

Network Usable Life	3
Network Scalability	3
Network Resilience	3

Network Usable Life shall be applied to the expected lifespan of the physical facility: for example, fiber will receive three points, hybrid fiber coax facilities will receive two points, and fixed wireless will receive one point. Copper (DSL) will receive no points.

Network Scalability shall be applied to the capacity of the infrastructure being deployed (backhaul, last mile, and equipment) to ensure the ability to scale growth that may occur in the area without additional investment. Three points will be awarded to the applicant providing evidence of facilities for expanded growth based on number of fibers, placement of structures to accommodate future growth (handholds, fiber huts, interconnection points) and local sparing polices for all needed equipment. Any applicant not providing details on future capacity shall receive zero points. All other applicants shall receive one or two points based on their information provided between these two benchmarks.

Network Resilience shall be rated based on the committed capacity and design for network survivability as evidenced by diverse and redundant route designs. The applicant that provides evidence of fully diverse and survivable designs with automatic failover protections shall receive three points. Applicants that fail to address resilience (for example, a single fiber spur/lateral design) will receive zero points. All other applicants shall receive one or two points based on their information provided between these two benchmarks.

### Local and Tribal Coordination- 7 Points

Definition: Local, regional, and tribal collaboration is required to ensure that applicants have properly engaged Kansans to determine their communities' needs.

Scoring: Applications that demonstrate meaningful community engagement and local planning, as described below, will receive 5 points. Two points will be awarded if letters of support are the only evidence provided, and zero points if no documentation is provided.

- Community Engagement- 5 Points

Prospective subgrantees must demonstrate extensive community engagement and local planning to receive the full seven points for this category. Understanding the infrastructure and service needs in

the Project Funding Areas requires network planning, design, and the voice of the residents. Applications must include evidence of locally held meetings with residents and businesses from the Project Funding Areas where they are applying. This evidence must consist of meeting minutes, attendee lists, and discussion items like those contained in the NTIA Local Coordination Tracker. Furthermore, locally held discussions on permitting, rights of way, pole attachments, or other easement needs are preferred. Lastly, KOBD expects applicants to share their rate plans, low-cost service plans, terms and conditions, service commitments, and billing formats to each Project Funding Area.

- Letter of Support– 2 Points

Applications with letters of support from local leaders (e.g., county commissioners, Tribal leaders, board of supervisors, city councils, unified school district boards, local businesses, or residents), but cannot demonstrate local planning as described above, may receive two points, depending on the number and quality of each formally authorized letter. Local and tribal governments may provide letters of support for one or more applicants for the same Project Funding Area.

Some Project Funding Areas may be optimally served by a combination of fiber optic technology, hybrid fiber coaxial cable (HFC), or fixed wireless. Applications that include multiple technologies for qualifying broadband service will be considered for an award if they satisfy the qualifying broadband service requirements, the applicant meets all subgrantee qualifications, and can attain a lower cost per location within the applied-for Project Funding Area(s). For these projects, the scores for “Speed of Network and “Other Technical Capabilities” will be based on the technologies’ usable life, scalability, and resilience.

#### Waiver of Matching Funds

Per NTIA approval, KOBD may consider a waiver for the matching funds criteria. Determined on a case-by-case basis, a full or partial waiver may be granted after approval by NTIA.

If an application’s affordability offering could be improved (i.e., the cost of the match is offset by a higher cost to potential subscribers), a waiver may be granted. Those requesting a waiver must demonstrate the effect of affordability to potential subscribers by submitting pro forma financials with different capex assumptions based on different matching fund requirements, which shows the impact on subscriber rates to achieve average revenue per customer (ARPC). The appropriate Kansas affordability threshold will be determined by KOBD.

To the extent NTIA shall allow additional waivers, including the Extremely High Cost per Location threshold, KOBD reserves the right to consider all waivers for subgrantees. All waivers passing KOBD consideration will be submitted to NTIA for their sole review and approval.

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#### **02.04.02.01 Scoring Rubric and Prioritization**

As a required attachment, submit the scoring rubric to be used in the subgrantee selection process for deployment projects. Eligible Entities may use the template provided by NTIA, or use their own format for the scoring rubric.

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**02.04.03 Prioritization of Projects**

Describe how the proposed subgrantee selection process will prioritize Unserved Service Projects in a manner that ensures complete coverage of all unserved locations prior to prioritizing Underserved Service Projects followed by prioritization of eligible CAIs.

KOBD is committed to achieving universal service despite a lack of warranted high-cost designations in very low-density locations, and possible workforce shortages. KOBD will prioritize complete coverage of unserved locations prior to awarding underserved locations and eligible CAIs. KOBD understands that broadband networks do not discriminate between unserved, underserved, nor eligible CAI locations, and a mix of these location types may exist in any given proposal optimizing network design, minimizing BEAD outlay costs, and increasing speed to deployment. Construction of the BEAD funded projects require incorporation of 811 provisions and minimal community disruptions, which is consistent with supporting a mix of location types in any given proposal.

KOBD is electing to define Project Funding Areas as entire USDs, or combinations of USD and Census Block Groups, where needed, (See section 2.4.6 Project Areas). As such KOBD is requiring proposals to provide 100/20 Mbps to all unserved and underserved BSLs within a Project Area. KOBD will also require that 1Gbps/1Gbps symmetrical broadband service is made available to eligible CAIs.

As outlined in section 2.4.6, if unserved and underserved locations exist after proposals are received, KOBD will engage with prospective subgrantees to expand their proposed service area into contiguous areas for which a proposal was not received. To ensure universal service, this request may include the addition of partial USDs, Census Block Groups, or Project Funding Areas only if there are no proposals in the area. KOBD will allow applicants up to 14 calendar days to revise and expand their application to accommodate unserved or underserved locations. If multiple applicants are willing to revise their applications, all are allowed to revise their proposals within 14 calendar days with weighting of the revised proposals in the following order:

- Fiber versus fixed wireless solutions
- Total BEAD cost to serve the proposed area
- Number of unserved and underserved BSLs in the overlapping proposal

In the instance funding remains and there are unserved and underserved locations not being included in BEAD grant applications and negotiations with subgrantee applicants to expand their application areas have not been successful, KOBD will consider a second, or subsequent, grant round to address these remaining service locations. KOBD will consider the inducements required, and available, to make these newly constructed Project Funding Areas attractive to ensure applicants in the second ground of BEAD grants. Additionally, KOBD will seek community and government engagement to seek help with the cost of tower placements, permitting, rights of way, or other costs. Engaging with the community and local government officials during the tower siting process is critical to avoid deployment delays and minimize BEAD outlay costs. Access to alternative municipal tower structures

such as water towers, public safety radio towers, etc. will minimize construction costs of new towers and speed deployment. Access to infrastructure supporting fiber backhaul, including aerial poles and underground ROW to reach wireless towers, will be more difficult in the remote unserved locations. Engaging with communities and local government is critical to discovering unique opportunities to deploy universal service to all Kansans.

CAIs have only been identified for locations that are existing BSLs in Kansas. KOBD requires that all CAIs have service available at 1Gbps symmetrical service. Though a funding shortfall is not expected, if it becomes apparent that funding challenges exist, KOBD will only require 100/20 Mbps service to unserved and underserved CAI locations that are unserved or underserved must have access to qualifying broadband service of at least 100/20 Mbps service in the planned Project Funding Areas. 10 of 33 eligible Kansas providers accepted EACAM, estimated to cover 7,200 BSLs. These BSLs have been eliminated during deduplication process prior to the challenge process beginning, by utilizing the NTIA deduplication toolkit. KOBD continues to explore efficiencies in BEAD outlay, key enablers to broadband network deployment, and alternatives for additional funding to ensure universal service. Similarly, there are two programs currently pending award in the state (BAG3.0 and LINC). These programs are expected to have grant agreements in place prior to final deduplication and will be included at that time to ensure minimal BEAD outlay. The current estimate for those programs is an additional 6,000 unserved and underserved BSLs will be served with qualifying broadband service thereby further reducing the total BEAD outlay in Kansas.

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#### **02.04.04 Prioritization of CAIs**

If proposing to use BEAD funds to prioritize non-deployment projects prior to, or in lieu of the deployment of services to eligible CAIs, provide a strong rationale for doing so. If not applicable to plans, note "Not applicable."

Not applicable

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#### **02.04.05 Subgrantee EHP and BABA Requirements**

The proposed subgrantee selection process is expected to demonstrate to subgrantees how to comply with all applicable Environmental and Historic Preservation (EHP) and Build America, Buy America Act (BABA) requirements for their respective project or projects. Describe how the Eligible Entity will communicate EHP and BABA requirements to prospective subgrantees, and how EHP and BABA requirements will be incorporated into the subgrantee selection process.

KOBD understands the need to ensure taxpayer dollars are spent to procure products and supplies from American workers and businesses, while also minimizing the environmental impacts and maintaining historic preservation. KOBD will ensure adherence to the requirements of Build America, Buy America Act (BABA), the National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 et seq.), the

National Historic Preservation Act (NHPA) (54 U.S.C. § 300101 et seq.) and any subsequent NTIA waivers regarding these laws.

KOBD will communicate requirements stipulated in these laws and waivers to all prospective subgrantees prior to the selection process. This will be accomplished through outreach (i.e., webinars, in person meetings, etc.), providing notice of regulations on the website, and including grant application instructions and grant agreement terms, conditions, and monitoring program requirements. Specifically, KOBD will highlight the following:

Subrecipients must meet the requirement that all iron, steel, manufactured products (including fiber-optic communications facilities), and construction materials used in the proposed project or other eligible activities are produced in the United States unless a waiver is granted.

In determining whether a product is produced in America, subrecipients must comply with definitions included in Section 70912 of BABA, which stipulates a manufactured product is considered produced in the United States if the manufactured product was manufactured in the United States and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55% of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.

Subgrantees may not use BEAD funding 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).

IJJA expressly prohibits subgrantees from using 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.

Specific to NEPA and NHPA, KOBD will ensure the following key points are highlighted:

Projects or other eligible activities containing construction and/or ground-disturbing activities must submit all required environmental documentation, including compliance with applicable environmental and national historical preservation requirements, to NTIA with the Final Proposal.

Subgrantees must obtain all necessary federal, state, and local governmental permits and approvals for the proposed work to be conducted based on the timeline for implementation for project areas.

Projects and other eligible activities are expected to be designed so that they minimize the potential for adverse impacts on the environment.

Applications that do not show intent to abide to BABA, NEPA, NHPA, EHP, or approved waivers will be considered ineligible to receive BEAD funding. KOBD will formulate specific intake questions to



evaluate the viability and compliance of a proposed application. Prospective subgrantees shall provide plans that show compliance with the acts noted above and will only be eligible to participate in the subgrant process once compliance is determined.

As engagement with stakeholders is critical for success, KOBD will encourage prospective subgrantees to engage with federal, state, and local stakeholders, including:

Federal land and resource managing agencies, including but not limited to the National Park Service, the U.S. Fish and Wildlife Service, the Bureau of Land Management, the National Marine Fisheries Service, the U.S. Army Corps of Engineers, the U.S. Coast Guard, the U.S. Forest Service, and others, to understand any restrictions or special conditions that may apply to infrastructure proposed on federal land, or that may impact federally managed resources such as wetlands, threatened or endangered species, navigable waterways, and others

State and local agencies that may have a role in EHP requirements, such as the State or Local Historic Preservation Office, as well as state or local agencies that may need to issue their own permits for any proposed projects

KOBD recognizes the importance of compliance with BABA, NEPA, NHPA, EHP, and approved waivers, thus the need for ongoing monitoring of the subgrantees to ensure compliance. KOBD will ensure preparedness for compliance with NEPA and NHPA once NTIA finalizes the guidance, yet will take the following steps:

Review of available resources and requirements:

Familiarity with the EHP requirements and additional guidance in the BEAD NOFO

Understanding of the requirements of the NEPA and NHPA review processes.

Review NEPA, Historic Preservation, and Climate Resilience Webinar and presentation materials

Sourcing of EHP focused staff or contractors:

Demonstrate the readiness of their broadband team to analyze potential environmental impacts

If necessary, hire additional staff or contractor support to ensure the broadband team has the appropriate capacity and expertise to manage EHP activities

Designate certain individuals to be specifically responsible for EHP activities and outline their responsibilities associated with managing EHP and NEPA review activities

Invite collaborators or SMEs to support their team

Outline an approach for EHP activities:

Outline steps and activities necessary to ensure that the prospective subgrantees understand the requirements to comply with NEPA

Coordinate with other state offices that have experience administering federal grants, such as the Department of Transportation, to identify best practices and approaches for managing the NEPA review process

Identify subcontractors they may engage to support with potential environmental assessments

Share best practices for developing a project description that provides enough detail about the potential impacts to the environment to make a preliminary determination about the level of NEPA review required

Documentation related to the requirements above will be collected and reviewed by qualified personnel. KOBD will hire additional staff or contractors to ensure there is appropriate capacity and expertise to adequately review the documentation and provide a third-party perspective of the requirements noted above.

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#### **02.04.06 Project Area Definition**

Describe how the Eligible Entity will define project areas from which they will solicit proposals from prospective subgrantees. If prospective subgrantees will be given the option to define alternative proposed project areas, describe the mechanism for de-conflicting overlapping proposals to allow for like-to-like comparisons of competing proposals.

KOBD evaluated both the option of defining project areas and allowing prospective subgrantees the option to define alternative proposed projects areas. Given the obligation by the state to ensure universal coverage, KOBD elected to define Project Funding Areas. In evaluating the proposed definitions of project areas, KOBD evaluated regional; county; city/town; federal and state legislative districts; economic development regions; census tracts, census block groups, and census blocks; zip code areas; and school districts. Each was evaluated for advantages and disadvantages for optimizing BEAD outlay. Dispersion of unserved and underserved locations are ubiquitously spread throughout Kansas and particular attention was paid to how these locations correlated with centers of populations, middle mile availability, and the ability for applicants to generate adequate rates of return in any Project Funding Area. Based on this evaluation, KOBD primarily defines project areas for proposals based on Unified School District boundaries as found in attachment "2.4.6-Kansas Unified School Districts-Attachment.xlsx In cases where a USD is too large or the BSLs are too widely dispersed, or in

areas where a USD has few unserved or underserved locations, KOBD may elect to divide the USD into smaller sections or may elect to combine a USD with contiguous USDs or census block groups. The goal is to ensure that the Project Funding Area is 80% unserved or underserved as required by BEAD policy and guidance. Final Project Funding Areas will be defined after the final deduplication is performed and prior to the subgrantee process beginning.

See Map 2.4.6.a Unserved and underserved BSLs distributed by school districts in the “Kansas BEAD-IP Volume II Tables and Maps.pdf” attachment.

Kansas has 286 Unified School District (USDs) with boundaries covering the entire state. USDs do not follow political boundaries such as counties, city/towns, or federal or legislative districts but, instead, follow population centers. USDs are a cornerstone of educational, economic, social, and family activities in most Kansas communities. As Community Anchor Institutions, USDs and their education-based locations are critical to digital inclusion, equity, and workforce development opportunities for the future. KOBD feels strongly that USDs represent 100% of the Kansas population, offer strong natural communities of interest, and offer boundaries that focus on where and how Kansas residents live and conduct their daily lives, versus arbitrary boundaries based on latitude and longitudinal lines, voting districts or other artificial boundaries. These natural boundaries facilitate local planning and outreach required of applicants and make communications on Project Funding Areas simple and straightforward thereby promoting fairness and transparency for all involved. These characteristics make USD boundaries a natural choice in being the primary determinant of Project Funding Areas for BEAD funding.

KOBD will require proposals from prospective grantees to serve all unserved and underserved locations in a Project Funding Area. KOBD has analyzed the unserved and underserved locations by USD boundaries in Attachment “2.4.6-Kansas Unified School Districts-Attachment.xlsx,” finding: 5 of 286 USDs are 50% or greater unserved and 21 USDs are between 30% and 50% unserved. Kansas averages 4.7% unserved population in any school district across the entire state; 145 USDs exceed this Kansas average. 13 of 286 USDs are 30% or greater underserved and 37 USDs are between 15% and 30% underserved. Kansas averages 3.1% underserved locations in any school district across the entire state; 112 USDs exceed this Kansas average.

A prospective subgrantee may propose an alternative project area by combining contiguous USD Project Funding Areas. The requested project area must include all unserved and underserved locations and CAIs. In the case of Project Funding Areas that do not have applications filed, KOBD may make exceptions to the requirement to serve all broadband service locations, but that should not be assumed by the subgrantee. For overlapping proposals, the same Scoring Criteria for Priority Broadband Projects and Other Last-Mile Broadband Deployment Projects will be employed and only like-to-like comparisons will be made (i.e., Priority Broadband Projects will not be compared to Other Last-Mile Broadband Deployment Projects). If there are conflicting overlapping proposals that use the same technology, the first consideration will be the cost per location and the second consideration will be the match amount offered in alignment with the KOBD scoring rubric. This is consistent with the

minimal BEAD outlay approach. In this instance, prospective subgrantees shall breakdown costs between any primary and contiguous Project Funding Areas, including describing if any contiguous area represent an entire Project Funding Area to enable evaluation of overlapping proposals. All evaluations will follow the KOBD scoring rubric.

The primary goal for all subgrantee applications is for the total cost of service to be optimized while delivering qualifying broadband service to every BSL via the most scalable, resilient, and future-proofed technology available for the Project Funding Area.

Flexibility in the acceptance of consortium applications, applications with multiple technologies within a Project Funding Area, and those allowing for contiguous areas are viable and realistic options to help achieve universal service for Kansas. Each of these alternatives offers lower total costs while maintaining broader coverage.

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#### **02.04.07 Coverage for Locations with No Proposals**

If no proposals to serve a location or group of locations that are unserved, underserved, or a combination of both are received, describe how the Eligible Entity will engage with prospective subgrantees in subsequent funding rounds to find providers willing to expand their existing or proposed service areas or other actions that the Eligible Entity will take to ensure universal coverage.

If no proposals to serve a defined Project Area with locations that are unserved, underserved, or a combination of both are received, KOBD will employ a two-step process to engage with prospective subgrantees.

In the first funding round, KOBD will identify a location or group of locations without a proposal. KOBD will examine contiguous Project Funding Areas to determine if there are adjacent proposals and will contact the prospective subgrantee from the proximate area to expand their application area to include the identified locations without a proposal. If the prospective subgrantee agrees to expand their Project Area, the prospective subgrantee shall submit an amended proposal for the location or group of locations in the expanded Project Area within 14 calendar days. The prospective subgrantees will be asked, but not required, to serve the entire Project Area that has no applications.

In subsequent funding rounds, if applicable, KOBD will first target Project Funding Areas without awarded proposals from the first round and with the largest number of remaining unserved and underserved locations. Before the subsequent funding rounds are open for application proposals, KOBD will publish the remaining available service areas for 14 days and will contact all Eligible Entities via email to generate and assess interest in the location or group of locations. The remaining locations may be offered via the same Project Funding Areas or may be restructured to be more appealing to applicants. KOBD shall make the final decision on Project Funding Areas for the second round after an inventory assessment of available locations is made following first grant round decisions.

KOBD will evaluate its Scoring Rubric for subsequent funding rounds to target remaining unserved and underserved locations. KOBD may elect to employ an RFI or roundtable process prior to the subsequent funding rounds to engage applicants and stimulate interest in expanding their existing or proposed service area.

This process will be repeated for all subsequent funding rounds, including Priority Funding Project or Other Last-Mile Broadband Deployment projects, until funding is exhausted or universal service is achieved.

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#### **02.04.08 Deployment Project Tribal Consent**

Describe how the Eligible Entity intends to submit proof of Tribal Governments' consent to deployment if planned projects include any locations on Tribal Lands.

During the Subgrantee Selection Process, KOBD will require the applicant to provide a Tribal Government's consent to deployment if any planned projects include any locations on Tribal land. This barrier to deployment was identified in GAO report 22-104421, Tribal Broadband: National Strategy and Coordination Framework Needed to Increase Access (page 27). If the applicant is the Tribe or an internet service provider owned by the Tribe, consent to deployment is presumed. If a third-party applicant has a planned project on Tribal land, the applicant must secure a Letter of Consent from the Tribal Government and include the document in their application submission. KOBD will require all applicants to follow the Bureau of Indian Affairs ROW processes documented in 25 CFR § 169. In addition, the rule requires most owners of the interests in a tract must consent to the right-of-way, in accordance with the statutory requirement in 25 U.S.C. § 324 and specifies that Tribes and individual Indian landowners may negotiate the terms of their consent, which ultimately become the terms of the grant.

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#### **02.04.09 Extremely High Cost Per Location Threshold Identification**

Identify or outline a detailed process for identifying an Extremely High Cost Per Location Threshold to be utilized during the subgrantee selection process. The explanation must include a description of any cost models used and the parameters of those cost models, including whether they consider only capital expenditures or include operational costs for the lifespan of the network.

KOBD has performed location-based cost analysis through an evaluation of proposals submitted across three years of grant programs awarded and administered by KOBD. The programs were submitted in the Five-Year Action Plan and Initial Proposal, Volume 1. In addition, KOBD has reviewed the Extremely High-Cost (EHC) model in the NTIA Toolkit (version as of 9/8/2023) and performed a comparison between the cost model developed by KOBD and the preliminary results of the EHC.

The location-based cost analysis first classified each county in Kansas by density of unserved and unserved BSLs per square mile: Extremely Low Density, Low Density, Medium Density, and High Density. Density represents the most significant driver of Investment Cost and Net Present Value (subscription revenue) estimates. KOBD then evaluated all past last mile grants awarded in Kansas by county and extrapolated those cost per location of past grant awards, at the minimum 100/20 Mbps requirement, to each county density grouping. KOBD did not consider past grants providing service below the 100/20 Mbps standard. Using this process, KOBD initially estimated a significant shortfall in BEAD funding, including the match requirements and other funding sources, to realize universal service in Kansas of between \$240 million and \$340 million with a total universal service cost of between \$990 million and \$1.1 billion.

KOBD examined the Extremely High-Cost (EHC) application in the NTIA Toolkit (version as of 9/8/2023). KOBD finds that its location-based cost analysis and the Extremely High-Cost estimates are comparable and have continued to update the outlook for universal service based on the EHC application and the deduplication capabilities available in NTIA Toolkits. In the latest review for deduplication prior to entering the Challenge Process, KOBD utilized the NTIA data available on November 7, 2023. Based on the updated deduplication efforts, KOBD is projecting a surplus towards universal service attainment of slightly more than \$35 million. KOBD expects to continue to follow NTIA guidance for the analysis of these locations. In addition, KOBD will update its location-based Cost Analysis based on current and future federal, state, and local grants to further refine the projected cost per location based on the costs provided by applicants to maintain the most current view possible of equipment costs and costs per BSL passing. In all cases, the KOBD Cost Model will be used to calculate expected costs in each Project Funding Area for comparison to all applications. KOBD will then use the NTIA EHC to compare all BEAD subgrantee submitted applications to the EHC threshold set for determining next steps.

KOBD has elected to use the NTIA EHC toolkit for Extremely High-Cost and understands that performing analysis on NPV models will require KOBD to require that prospective subgrantees provide an operations budget starting with the first subproject area within a Project Area and ending five years after the last subproject is opened for subscription. This budget would include revenue and subscriber projections and a financial evaluation of the operation's long-term viability to complete the NPV picture. This operational budget is required to ensure operational sustainability by the applicants.

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#### **02.04.10 Extremely High Cost Per Location Threshold Process**

Outline a plan for how the Extremely High Cost Per Location Threshold will be utilized in the subgrantee selection process to maximize the use of the best available technology while ensuring that the program can meet the prioritization and scoring requirements set forth in Section IV.B.6.b of the BEAD NOFO. The response must describe:

- a. The process for declining a subgrantee proposal that exceeds the threshold where an alternative technology is less expensive.

b. The plan for engaging subgrantees to revise their proposals and ensure locations do not require a subsidy that exceeds the threshold.

c. The process for selecting a proposal that involves a less costly technology and may not meet the definition of Reliable Broadband.

#### 2.4.10.a

After defining the Extremely High-Cost Threshold value based on the process in 2.4.9 above, KOBD will review all prospective subgrantee applications with an average per-location cost exceeding that threshold value to assess the cost-reasonableness of the award and to determine the cost drivers. KOBD will utilize its Cost Analysis Model and the CQA per-location cost data for Greenfield NPV and total investment, as provided by NTIA in the Eligible Entity Planning Tool. However, KOBD specifically anticipates certain priority projects with a per-location value above the threshold will still be funded if it is the best, or only, priority project in the area and sufficient BEAD funding remains available.

In the case of a single application for a Project Funding Area, KOBD may request the prospective subgrantee to revise their proposal to serve the identical project area more efficiently with their proposed technology, use a hybrid of technologies, or with a completely different technology. The subgrantee application will only be declined if, after KOBD revision requests are made, the subgrantee applicant no longer meets BEAD qualifications.

#### 2.4.10.b

Notwithstanding revisions in 2.4.10.a above, KOBD does not anticipate unserved and underserved locations above the Extremely High-Cost Threshold that do not require a subsidy to provide the location with access to broadband. These areas should be addressed in the challenge process where broadband providers can demonstrate that additional areas are served beyond those identified in the most recent version of the FCC National Broadband Map. The KOBD assumption is that all BSLs that remain in KOBD Project Funding Areas post the challenge process, will require a subsidy to fulfill the universal service obligation.

#### 2.4.10.c

KOBD will not select a proposal that involves less costly technology for a location that does not meet the definition of Reliable and Qualifying Broadband Service but otherwise satisfies the Program's technical requirements deployable for a subsidy less than the Extremely High Cost Per Location Threshold. Selecting a less costly technology that does not meet the definition and Reliable and Qualifying Broadband Service would not achieve the Universal Service goals and objectives of Kansas. KOBD will require all subgrantee proposals to utilize technologies recognized by the NTIA as capable of

qualifying broadband service. Under current guidance, KOBD will not consider satellite or unlicensed wireless for last mile interconnection to a subscriber. In addition, expansion of DSL technology is not considered reliable nor qualifying broadband service.

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#### **02.04.11 Deployment Subgrantee Qualifications: Financial Capability**

Describe how the Eligible Entity will ensure prospective subgrantees deploying network facilities meet the minimum qualifications for financial capability as outlined on pages 72 – 73 of the BEAD NOFO. If the Eligible Entity opts to provide application materials related to the BEAD subgrantee selection process, the Eligible Entity response may reference those to outline alignment with requirements for this section. The response must:

- a. Detail how the Eligible Entity will require prospective subgrantees to certify that they are qualified to meet the obligations associated with a Project, that prospective subgrantees will have available funds for all project costs that exceed the amount of the grant, and that prospective subgrantees will comply with all Program requirements, including service milestones. To the extent the Eligible Entity disburses funding to subgrantees only upon completion of the associated tasks, the Eligible Entity will require each prospective subgrantee to certify that it has and will continue to have sufficient financial resources to cover its eligible costs for the Project until such time as the Eligible Entity authorizes additional disbursements.
- b. Detail how the Eligible Entity plans to establish a model letter of credit substantially similar to the model letter of credit established by the FCC in connection with the Rural Digital Opportunity Fund (RDOF).
- c. Detail how the Eligible Entity will require prospective subgrantees to submit audited financial statements.
- d. Detail how the Eligible Entity will require prospective subgrantees to submit business plans and related analyses that substantiate the sustainability of the proposed project.

##### 2.4.11.a.

KOBD will require prospective subgrantees to certify by an authorized officer of the prospective subgrantee and be approved by their governing board that the Prospective Subgrantee:

Is qualified to meet all obligations associated with a project

Has available funds for all project costs that exceed the amount of the grant

Will comply with all program requirements including service milestones



KOBD will only disburse funds to a prospective subgrantee when they complete service milestones and their associated tasks for each Project Funding Area. KOBD will require, prior to disbursements, the prospective subgrantee to certify by an authorized officer of the prospective subgrantee and approved by their governing board that the:

Prospective Subgrantee has available funds to cover its eligible costs until KOBD authorizes additional disbursements upon completion of service milestones and their associated tasks

KOBD will follow federal and state requirements for disbursement of funds. KOBD anticipates using the forms and processes for disbursement it has utilized in previous grants including the Capital Project Fund (CPF) familiar to both KOBD and prospective subgrantees.

#### 2.4.11.b.

KOBD will require a letter of credit or any acceptable alternative approved by NTIA supporting each proposed project application. Once the appropriate administrative information is released by NTIA, KOBD, with advice from the Kansas Attorney General Department of Commerce counsel, will draft a letter of credit or the acceptable alternative to be used by all prospective subgrantees. KOBD will discourage any substantive edits, additions, or changes to the approved document by prospective applicants by requiring acceptance in the application process. Substitutions to the letter of credit, including internal funding commitments or third party, non-prospective subgrantee funding are not allowed unless approved by the NTIA, but may be used to secure a letter of credit. Only a letter of credit or an alternative as prescribed by the NTIA in the BEAD Letter of Credit Waiver (found at <https://broadbandusa.ntia.gov/funding-programs/policies-waivers/BEAD-Letter-of-Credit-Waiver>) will be acceptable.

KOBD used the RDOF-Sample-Letter-of-Credit-Evergreen as the example for developing its BEAD letter of credit (see "2.4.11.1.b.-Letter of Credit Draft-Attachment.docx"). This example will be updated after final guidance is received from NTIA.

All documents related to letters of credit or an approved NTIA alternative to satisfy this requirement will be treated confidentially to KOBD and its contractors and secured.

#### 2.4.11.c.

KOBD will require prospective subgrantees to submit audited financial statements for the most recent two (2) years and must include their fiscal year 2023. Financial statements must include income statement, balance sheet, cash flow statements, auditor's opinion, management letter, and any other statements, schedules, disclosures, or representations made. For public, tribal, and non-profit entities, it is allowable to use the appropriate and requisite financial statement, auditor's opinion, management letter, and any other statements, schedules, disclosures, or representations. KOBD will encourage prospective subgrantees to provide Kansas specific financial statements, schedules, or disclosures to

enable reasonable comparison among subgrantees. All financial information will be required in PDF form as an attachment supporting the narrative in the subgrantee application. For newly formed entities, no waiver is available for this requirement.

Audits must be conducted based on AICPA standards for Generally Accepted Audit Standards (GAAS), General Accounting Office (GAO) standards for Government Auditing Standards for prospective government subgrantees, or the cash-basis accounting as defined in Kansas Statute 10-1102 for municipalities that opt-out of GAO standards.

All documents related to financial statements and other documents received by KOBD to satisfy this Requirement will be treated as confidential.

#### 2.4.11.d.

KOBD will require prospective grantees to submit business plans and related analysis to demonstrate the sustainability of each proposed project. The business plan and related analysis must include, but is not limited to, the following elements:

A marketing plan to stimulate and retain subscriptions including the implications of the ACP, Middle Class Affordability, and Low-Cost Option

Pricing plans which commit to not raising rates for at least five years from the date of infrastructure deployment

A customer service plan ensuring installation of qualified broadband service within 10 days of any request

A customer service plan ensuring repair of qualified broadband service within 24 hours.

A customer complaint process ensuring response within five days and resolution within 30 days unless a longer period is mutually agreed with the subscriber

Network monitoring and outage reporting procedures including public transparency.

Staffing of personnel to support network and customer operational sustainability after construction

Location(s) of field personnel involved in installation and repair of the proposed project network and estimated "windshield" time for response (to demonstrate adequate operational support)

A business continuity and disaster recovery plan for the project area

Redundancy, diversity, and fault points of the proposed project network

Use of shared infrastructure owned or controlled by a third party

The network technology to be deployed and its long-term stability indicated by possible capital investments required within five years—if required, the engineering plan, procurement process and evidence of funding must be included

Business plan relative to CAI locations classified as unserved or underserved

Consumer support plans for sustainable digital equity, training, and technical support

Network standards employed to determine augments or expansion of middle mile, lateral, or backhaul facilities for network congestion and the ability to expand

KOBD will require prospective grantees to complete a post-construction business operations budget for the five years following the end of construction. The business operations budget must include revenues based on subscription and pricing including subsidies to all locations in the project area, direct cost of operations, administrative and selling costs in a financial statement pro forma including depreciation of the subgrantee match. The budget submitted will be measured against semiannual reporting post completion of the project.

Documentation related application materials related to the BEAD subgrantee selection process will include many items. Representative examples include the items below:

2.4.11.1.a.-Enforceable Commitment Draft Attachment.docx

2.4.11.1.b.-Letter of Credit Draft-Attachment.docx

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#### **02.04.11.01 Deployment Subgrantee Qualifications: Financial Capability**

Submit application materials related to the BEAD subgrantee selection process, such as drafts of the Requests for Proposals for deployment projects, and narrative to crosswalk against requirements in the Deployment Subgrantee Qualifications section.

2.4.6-Kansas Unified School Districts-Attachm-11-27-2023 12-29-Commerce, Kansas Department of-GRN-000172.pdf

2.4.13.b-PE Letter Draft Attachment (1)-11-27-2023 12-00-Commerce, Kansas Department of-GRN-000172.pdf

2.4.11.1a-Enforceable Commitment Draft Attach-11-20-2023 09-02-Commerce, Kansas Department of-GRN-000172.pdf

2.4.11.1b-Letter of Credit Draft-Attachment-11-20-2023 09-02-Commerce, Kansas Department of-GRN-000172.pdf

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## **02.04.12 Deployment Subgrantee Qualifications: Managerial Capability**

Describe how the Eligible Entity will ensure any prospective subgrantee deploying network facilities meets the minimum qualifications for managerial capability as outlined on pages 73 – 74 of the BEAD NOFO. If the Eligible Entity opts to provide application materials related to the BEAD subgrantee selection process, the Eligible Entity response may reference those to outline alignment with requirements for this section. The response must:

- a. Detail how the Eligible Entity will require prospective subgrantees to submit resumes for key management personnel.
- b. Detail how it will require prospective subgrantees to provide a narrative describing their readiness to manage their proposed project and ongoing services provided.

### 2.4.12.a.

KOBD will require prospective subgrantees to submit resumes of key management personnel involved in and responsible for BEAD funded infrastructure projects. The prospective subgrantee shall provide organization charts for all parent, subsidiaries, and affiliates involved in and responsible for BEAD funded infrastructure projects that include all levels of management including direct reports to the key management personnel and upward through the chain of command to the CEO/President. A separate organization chart with the Board of Directors or the appropriate governmental or non-profit board reflecting the relationship to the CEO/President. An organization chart clearly demonstrating the relationship between the parent and its affiliates and subsidiaries is required only if they exist and are involved and responsible for BEAD funded infrastructure projects.

Applicants must identify key management personnel functions for planning, deployment, and ongoing sustainability and adoption of BEAD funded infrastructure to include, but not be limited to:

Procurement (Materials, Labor, Vendor Management)

Marketing (Pricing Plans including Low-Cost Option and Middle-Class Affordability, Advertising)

Construction

Engineering (Design, Environmental/Historical Studies, Permits)

Network Operations (Network Monitoring, Circuit Deployment, Reliability)

Customer Service (Call Center, Installation and Repair Technicians, Outage Reporting, Customer Credits)

Finance (Budget, Reporting, Financing, Billing, Payables)

If a key management personnel position is currently vacant, the prospective subgrantee must include a staffing plan and projected date of hire. Any key management position staffed by a contractor/subcontractor individual or firm must be identified as such, and disclosure of the duration and renewal clauses is required.

2.4.12.b.

KOBD, for each of the key management personnel identified, requires a narrative describing their experience and qualifications for undertaking this project and their experience undertaking projects of comparable size and scope, especially in Kansas. Key management personnel must disclose recent and upcoming organizational changes. The prospective subgrantee must also submit a narrative describing the subgrantee organization including mergers and acquisitions, bankruptcy, legal actions, and relevant organizational policies. Relevant organization policies include, but are not limited to:

Equal Opportunity Employment

Labor Standards and Protection

Workforce Development of a skilled and credentialed workforce

Compliance with employment law and union contracts

As a summary, prospective subgrantees will be required to provide a narrative describing the prospective subgrantee's readiness to manage a broadband services network. Each functional area identified above must describe the functional organizations' readiness to deploy, manage, and sustain a broadband services network. If additional staffing is required in a functional area, staffing plans including a timeline must be described with a percentage mix of employees and contractor/subcontractor headcount.

KOBD shall not approve BEAD funded infrastructure grants for the deployment or upgrading of network facilities unless it determines that the documents submitted to it demonstrate the prospective subgrantee's managerial capability with respect to the proposed project. KOBD may contact the prospective subgrantee if KOBD finds the documents to be incomplete or inadequate for their revisions.

KOBD may require a prospective subgrantee to agree to special grant conditions relating to maintaining the validity of representations a prospective subgrantee has made regarding its organizational structure and key personnel. Special grant conditions may include, but are not limited to:

Newly formed organizations who are prospective grantees

Notification and approval of changes/additions to key personnel

Pending legal actions and other violations of state, federal, and local laws

Pending mergers, acquisitions, or bankruptcy

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#### **02.04.13 Deployment Subgrantee Qualifications: Technical Capability**

Describe how the Eligible Entity will ensure any prospective subgrantee deploying network facilities meets the minimum qualifications for technical capability as outlined on page 74 of the BEAD NOFO. If the Eligible Entity opts to provide application materials related to the BEAD subgrantee selection process, the Eligible Entity response may reference those to outline alignment with requirements for this section. The response must:

- a. Detail how the Eligible Entity will require prospective subgrantees to certify that they are technically qualified to complete and operate the Project and that it is capable of carrying out the funded activities in a competent manner, including that it will use an appropriately skilled and credentialed workforce.
  
- b. Detail how the Eligible Entity will require prospective subgrantees to submit a network design, diagram, project costs, build-out timeline and milestones for project implementation, and a capital investment schedule evidencing complete build-out and the initiation of service within four years of the date on which the entity receives the subgrant, all certified by a professional engineer, stating that the proposed network can deliver broadband service that meets the requisite performance requirements to all locations served by the Project.

#### 2.4.13.a.

Each prospective subgrantee seeking funding to deploy or upgrade a broadband network must certify to KOBD that it is technically qualified to complete and operate the Project and that it is capable of carrying out the funded activities in a competent manner, including that it will use an appropriately skilled and credentialed workforce. KOBD will require prospective subgrantees to submit extensive documentation (examples below) for project implementation and their technical solution and capability. Prospective subgrantees will be required to provide documentation for both FTTx and fixed wireless service to all locations with qualified broadband service. This documentation will include, but is not limited to:

Network Design:

Identify all fiber routes; last mile, lateral, middle, long haul, and interconnection points to include technology used. Fiber routes to be constructed and existing fiber routes to be utilized, regardless of whether owned or leased, with number of fiber strands constructed, strands to be utilized, and available strands.

Infrastructure supporting the fiber: Aerial poles, direct buried, conduit, vaults, handhold, manholes, etc. including whether the infrastructure is owned or leased

Identify land routes for fiber placement with evidence of rights of way or easements required

Location of components to determine ease of provisioning:

Power supplies, electronics, lasers, etc.

Cabling, vaults, etc.

Any needed central office equipment, remote huts, etc.

Survivability:

Redundancy and diversity of fiber routes

On-hand inventory of spare parts and components

Identify potential single points of failure fault points in the network design

Network Diagram (Map):

All network design elements above must be easily identifiable and readable

A legend of the coloration, line size, point data, etc. of the network design elements

The entire project area must be diagramed and out-of-project area network design elements supporting the project area to the interconnection point

Network build-cost timeline

Network Deployment Milestones, known as Service Milestones in this document

Network Capital Schedule including the type, quantity and unit cost of materials and labor required for deployment versus operation.

Use of Middle Mile facilities

In addition, any prospective subgrantee utilizing fixed wireless technology to serve locations with qualified broadband service must provide the above listed information plus:

Network design to include towers in place to be used or those to be built

Back-haul availability (owned or leased)

Network diagrams

Timelines for back-haul construction, if needed

2.4.13.b.

KOBD will require prospective subgrantees to submit a network design, diagram, project costs, build-out timeline and milestones, and a capital investment schedule for project implementation to initiate broadband service to customers within four (4) years of the award of the subgrant.

All documentation submitted by the prospective subgrantee must be certified by a professional engineer licensed by the Kansas State Board of Technical Professions with active status. The engineer must also have demonstrated experience in broadband and/or telecommunications engineering on projects of similar scope to the prospective subgrantee project. The professional engineer that certifies the BEAD grant application can be an employee of the subgrantee. KOBD has drafted an example of a professional engineer certification letter for prospective subgrantee use (see "2.4.13.b.-PE Letter Draft Attachment.docx").

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#### **02.04.14 Deployment Subgrantee Qualifications: Compliance with Laws**

Describe how the Eligible Entity will ensure any prospective subgrantee deploying network facilities meets the minimum qualifications for compliance with applicable laws as outlined on page 74 of the BEAD NOFO. If the Eligible Entity opts to provide application materials related to the BEAD subgrantee selection process, the Eligible Entity response may reference those to outline alignment with requirements for this section. The response must:

- a. Detail how the Eligible Entity will require prospective subgrantees to demonstrate that they are capable of carrying out funded activities in a competent manner in compliance with all applicable Federal, State, Territorial, and local laws.
  
- b. Detail how the Eligible Entity will require prospective subgrantees to permit workers to create worker-led health and safety committees that management will meet with upon reasonable request.



#### 2.4.14.a.

KOBD will require prospective subgrantees to demonstrate capability of fulfilling funded activities competently complying with all applicable federal, state, territorial, and local laws. The prospective subgrantee will be required to demonstrate compliance, including but not limited to the following legal topics:

Employment

Safety and Health (OSHA)

Underground Plant Protection (Kansas 811)

Siting of wireless infrastructure

Use of Public ROW

Consumer Privacy

Cybersecurity (data breach notification)

FCC (ACP participation)

Kansas Corporation Commission

Subgrantee Registrations with regulatory agencies

Truth in Billing

Deceptive Trade Practices

Nondiscrimination in service areas

Building on Tribal lands

Lobby laws

Prospective subgrantees may provide written internal procedures, required compliance reports, reports of violations and their remedies, audit reports etc. as evidence of demonstrated compliance with all applicable laws. In addition, the prospective subgrantee must identify the key management personnel responsible for legal compliance, i.e., Chief Compliance Officer. Any legal actions taken against the subgrantee resulting from non-compliance with any federal, state, territorial, or local laws resulting in judgment or are pending litigation against the prospective subgrantee in the three (3) years prior to the submission of an application must be disclosed and documented. If the prospective

subgrantee operations are unionized, any union actions reaching the Chief Compliance Officer or key management personnel level must be disclosed and documented.

#### 2.4.14.b.

KOBD will require prospective grantees to permit workers to create worker-led health and safety committees that key management personnel will meet upon reasonable request. KOBD requires the prospective subgrantee to describe their process for promoting worker-led health and safety committees for each functional area described in Text Box 2.4.12.

A prospective subgrantee with existing worker-led health and safety programs must describe the program and document past meetings with key management personnel. Prospective subgrantees with union contracts must disclose terms and conditions in the contract applying to worker-led health and safety committees.

A prospective subgrantee must document the reasonable time provided for during working hours for the worker-led health and safety committees to meet independently of key management personnel on prospective subgrantee premise. Key management personnel of the prospective subgrantee must respond to a reasonable request to meet with the worker-led health and safety committees within 10 business days of the request. No retaliation by the prospective subgrantee is permitted to the worker-led health and safety committee or its members.

Under no circumstances does a worker-led health and safety committee mitigate compliance with all applicable federal, state, territorial, and local laws.

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#### **02.04.15 Deployment Subgrantee Qualifications: Operational Capability**

Describe how the Eligible Entity will ensure any prospective subgrantee deploying network facilities meets the minimum qualifications for operational capability as outlined on pages 74 – 75 of the BEAD NOFO. If the Eligible Entity opts to provide application materials related to the BEAD subgrantee selection process, the Eligible Entity response may reference those to outline alignment with requirements for this section. The response must:

- a. Detail how the Eligible Entity will require prospective subgrantees to certify that they possess the operational capability to qualify to complete and operate the Project.
  
- b. Detail how the Eligible Entity will require prospective subgrantees to submit a certification that they have provided a voice, broadband, and/or electric transmission or distribution service for at least the two (2) consecutive years prior to the date of their application submission or that they are a wholly owned subsidiary of such an entity and attest to and specify the number of years the prospective subgrantee or its parent company has been operating.

c. Detail how the Eligible Entity will require prospective subgrantees that have provided a voice and/or broadband service, to certify that it has timely filed Commission Form 477s and the Broadband DATA Act submission, if applicable, as required during this time period, and otherwise has complied with the Commission's rules and regulations.

d. Detail how the Eligible Entity will require prospective subgrantees that have operated only an electric transmission or distribution service, to submit qualified operating or financial reports, that it has filed with the relevant financial institution for the relevant time period along with a certification that the submission is a true and accurate copy of the reports that were provided to the relevant financial institution.

e. In reference to new entrants to the broadband market, detail how the Eligible Entity will require prospective subgrantees to provide evidence sufficient to demonstrate that the newly formed entity has obtained, through internal or external resources, sufficient operational capabilities.

#### 2.4.15.a

All prospective subgrantees must certify to KOBD that they possess the operational capability to qualify to complete and operate the Project. A prospective subgrantee that has provided a voice, broadband, and/or electric transmission or distribution service for at least the two (2) consecutive years prior to the date of its application submission or that it is a wholly owned subsidiary of such an entity, must submit a certification to KOBD that attests to these facts and specifies the number of years the prospective subgrantee or its parent company has been operating. KOBD will require prospective subgrantees to provide the following details outlining their operational capabilities including, but not limited to:

Years providing internet service

Current households, businesses, and community anchor institutions subscribing to internet service

Network monitoring and restoration capabilities

Any quality-of-service metrics and/or reports

Completed federal or state funded deployment projects, with their source of funding and timeliness of completion or non-completion; any awards turned back or clawed back to any agency

Penalties paid by the prospective subgrantee, a subsidiary or affiliate of the prospective subgrantee or the holding company of the prospective subgrantee relative to deployment projects

The number of times prospective subgrantee has ever been a defendant in any federal or state criminal proceeding or civil litigation along with final rulings, details on any penalties assessed or

provisions against future service

#### 2.4.15.b

KOBD will require prospective subgrantees, including their wholly owned subsidiaries, to submit certification and supporting evidence supporting the certifications that they have provided voice, broadband, and/or electric transmission or distribution service for at least two years prior to the date of its application submission. The certification must be signed by an officer of the prospective subgrantee (President, CEO, etc.) and a draft certification form will be provided by KOBD. Evidence supporting the certification may include, but not be limited to:

Financial Statements

Form 477 filings

Certification(s) by the Kansas Corporation Commission

Federal and/or USF Filings and Disbursements

Board Meeting Minutes and Resolutions

Count of Broadband subscribers in Kansas including ACP

#### 2.4.15.c

KOBD will require prospective subgrantees that have provided a voice and/or broadband service to certify that it has timely filed Commission Form 477s and the Broadband DATA Act submission, if applicable, as required during the two years prior to the date of its application submission, and otherwise has complied with the Commission's rules and regulations. The certification must be signed by an officer of the prospective subgrantee (President, CEO, etc.) and a draft certification form will be provided by KOBD. Evidence supporting the certification may include, but not be limited to:

Bi-annual Submission Acknowledgements by the FCC of Form 477 filing

A narrative If the prospective subgrantee has not reported Form 477

In addition, the prospective subgrantee must disclose any Form 477 issues, corrections, or other actions requested by the FCC to the prospective subgrantee including data irregularities, missed filings, and any other inquiry. A prospective subgrantee must disclose any pending or completed enforcement action, civil litigation, or other matter in which it failed to comply or was alleged to have failed to comply with Commission rules or regulations.

#### 2.4.15.d

KOBD will require prospective subgrantees that have operated only an electric transmission or distribution service to submit qualified operating or financial reports, that it has filed with the relevant financial institution or regulatory agency during the two years prior to the date of its application submission, along with a certification that the submission is a true and accurate copy of the reports that were provided to the relevant financial institution. The certification must be signed by an officer of the prospective subgrantee (President, CEO, etc.) and a draft certification form will be provided by KOBD. Audited financial statements including the auditor's opinion are preferred. In addition, KOBD will require the electric transmission or distribution service prospective subgrantee to describe its proposed organizational structure separating the electric transmission or distribution service from its broadband operations to prevent any cross subsidization of electric transmission or distribution operations by broadband operations.

#### 2.4.15.e

KOBD will require prospective subgrantees who are new entrants into Kansas to provide evidence sufficient to demonstrate that the newly formed entity has obtained, through internal or external resources, sufficient operational capabilities. Any evidence provided must be certified and signed by an officer of the prospective subgrantee (President, CEO, etc.) and a draft certification form will be provided by KOBD. Sufficient evidence may include resumes from key personnel, project descriptions and narratives from contractors, subcontractors, or other partners with relevant operational experience, or other comparable evidence. Operational capabilities must demonstrate experience in operating a broadband network.

Documentation related to all 2.4.15 requirements above will be collected and reviewed by qualified personnel. If necessary, KOBD will hire additional staff or source contractor support to ensure there is appropriate capacity and expertise to adequately ensure correct methods of implementation. KOBD will communicate requirements stipulated above to all prospective subgrantees prior to the selection process. This communication will be completed by conducting outreach efforts to participating stakeholders (webinars, in-person meetings, etc.), posting a list of regulations on the KOBD website, and including the requirements in grant application instructions and grant agreement terms, conditions, and monitoring program requirements.

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#### **02.04.16 Deployment Subgrantee Qualifications: Ownership**

Describe how the Eligible Entity will ensure that any prospective subgrantee deploying network facilities meets the minimum qualifications for providing information on ownership as outlined on page 75 of the BEAD NOFO. If the Eligible Entity opts to provide application materials related to the BEAD subgrantee selection process, the Eligible Entity response may reference those to outline alignment with requirements for this section. The response must:

a. Detail how the Eligible Entity will require prospective subgrantees to provide ownership information consistent with the requirements set forth in 47 C.F.R. § 1.2112(a)(1)-(7).

#### 2.4.16.a

KOBD will ensure that any prospective subgrantee deploying network facilities meets ownership disclosure requirements outlined in 47 C.F.R. § 1.2112(a)(1)-(7). These requirements include:

List the real party or parties in interest in the applicant or application, including a complete disclosure of the identity and relationship of those persons or entities directly or indirectly owning or controlling (or both) the applicant.

List the name, address, and citizenship of any party holding 10% or more of stock in the applicant, whether voting or nonvoting, common, or preferred, including the specific amount of the interest or percentage held.

List, in the case of a limited partnership, the name, address and citizenship of each limited partner whose interest in the applicant is 10% or greater (as calculated according to the percentage of equity paid in or the percentage of distribution of profits and losses).

List, in the case of a general partnership, the name, address and citizenship of each partner, and the share or interest participation in the partnership.

List, in the case of a limited liability company, the name, address, and citizenship of each of its members whose interest in the applicant is 10% or greater.

List all parties holding indirect ownership interests in the applicant as determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain, that equals 10% or more of the applicant, except that if the ownership percentage for an interest in any link in the chain exceeds 50% or represents actual control, it shall be treated and reported as if it were a 100% interest.

List any FCC-regulated entity or applicant for an FCC license, in which the applicant or any of the parties identified in paragraphs (a)(1) through (a)(5) of this section, owns 10% or more of stock, whether voting or nonvoting, common, or preferred. This list must include a description of each such entity's principal business and a description of each such entity's relationship to the applicant (e.g., Company A owns 10% of Company B [the applicant] and 10% of Company C, then Companies A and C must be listed on Company B's application, where C is an FCC licensee and/or license applicant).

KOBD will require subgrantees to provide disclosure of ownership based on (1) through (7) in their grant application. KOBD will validate disclosures of ownership through various sources of information including SEC filings, FCC filings, State Corporate Registrations, and other regulatory bodies. In

addition, public record services such as Dun and Bradstreet or audited financial statements may be considered if proper disclosures are made regarding ownership.

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**02.04.17 Deployment Subgrantee Qualifications: Public Funding**

Describe how the Eligible Entity will ensure any prospective subgrantee deploying network facilities meets the minimum qualifications for providing information on other public funding as outlined on pages 75 – 76 of the BEAD NOFO. If the Eligible Entity opts to provide application materials related to the BEAD subgrantee selection process, the Eligible Entity response may reference those to outline alignment with requirements for this section. The response must:

- a. Detail how it will require prospective subgrantees to disclose for itself and for its affiliates, any application the subgrantee or its affiliates have submitted or plan to submit, and every broadband deployment project that the subgrantee or its affiliates are undertaking or have committed to undertake at the time of the application using public funds.
  
- b. At a minimum, the Eligible Entity shall require the disclosure, for each broadband deployment project, of:
  - (a) the speed and latency of the broadband service to be provided (as measured and/or reported under the applicable rules),
  
  - (b) the geographic area to be covered,
  
  - (c) the number of unserved and underserved locations committed to serve (or, if the commitment is to serve a percentage of locations within the specified geographic area, the relevant percentage),
  
  - (d) the amount of public funding to be used,
  
  - (e) the cost of service to the consumer, and
  
  - (f) the matching commitment, if any, provided by the subgrantee or its affiliates.

2.4.17.a

KOBD will require a prospective grantee and its affiliates to disclose any application it has submitted or plans to submit and every broadband deployment project that the subgrantee or its affiliates are undertaking or have committed to undertake using public funds at the time of the application. KOBD will use publicly available information for validation of the broadband deployment projects being undertaken or committed to undertake at the time of the application using public funds and resolve

any discrepancies with the applicant. Many of the federal and state publicly funded programs are listed in KOBD's Initial Proposal, Volume 1, Requirement 3 and KOBD has identified the potential applicants receiving these public funds. In addition, KOBD will survey local government entities for any broadband deployment projects funded for any locally funded broadband projects.

#### 2.4.17.b

KOBD will require every prospective grantee for each broadband deployment project to disclose the following information, along with any supplemental information requested:

The speed and latency of the broadband service to be provided (as measured and/or reported under the applicable rules)

The geographic area to be covered

The number of unserved and underserved locations committed to serve (or, if the commitment is to serve a percentage of locations within the specified geographic area, the relevant percentage)

The amount of public funding to be used

The cost of service to the consumer

The matching commitment, if any, provided by the subgrantee or its affiliates

The number of CAIs to serve and speed available

If the CAI served is participating in the FCC E-rate or Rural Health Care programs.

The technology being used

The timeline to project completion

KOBD will require prospective grantees to certify disclosure of the use of public funds by an appropriate officer of the company (i.e., CEO, CFO, President). Failure to disclose may result in rejection of the application or forfeiting of all awarded funds. In addition to BEAD quarterly subgrantee reporting requirements, KOBD will require subgrantees to report progress and completion, including but not limited to (a) through (j) above, of every broadband deployment project funded by a federal or state program not named BEAD.

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#### **02.05.01 Non-Deployment Subgrantee Selection Process Integrity**



Describe a fair, open, and competitive subgrantee selection process for eligible non-deployment activities. Responses must include the objective means, or process, by which objective means will be developed, for selecting subgrantees for eligible non-deployment activities. If the Eligible Entity does not intend to subgrant for non-deployment activities, indicate such.

Based on the results of deduplication and the challenge process, the number of unserved, underserved, and CAI locations eligible for funding under BEAD in Kansas was reduced by more than one-third. KOBD will realize the BEAD requirement for universal service and allocate monies to non-deployment funds to support workforce development and readiness throughout the state. KOBD does not anticipate using the subgrant process for workforce development and readiness activities. These activities will be conducted by KOBD and other state agencies including the Department of Education, Kansas Board of Regents, and the Department of Commerce – Workforce Services via Memorandum of Understanding (MOU).

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#### **02.05.02 Non-Deployment Initiative Preferences**

Describe the Eligible Entity's plan for the following:

- a. How the Eligible Entity will employ preferences in selecting the type of non-deployment initiatives it intends to support using BEAD Program fund;
- b. How the non-deployment initiatives will address the needs of residents within the jurisdiction;
- c. The ways in which engagement with localities and stakeholders will inform the selection of eligible non-deployment activities;
- d. How the Eligible Entity will determine whether other uses of the funds might be more effective in achieving the BEAD Program's equity, access, and deployment goals.

##### 2.5.2.a.

KOBD intends to only use non-deployment funds in support of workforce development and readiness initiatives that are considered urgent and necessary due to workforce shortfalls identified in the state by KOBD, NTIA, and industry providers. KOBD has developed a comprehensive workforce development and readiness plan that will launch immediately upon obligation of funds.

In the "Workforce Development and Readiness" initiative, in which KOBD will develop an overarching, strategic, and statewide workforce development structure, there will be no broadband adoption activities.

In Kansas, an available, diverse, and highly skilled workforce is a critical barrier to universal service. The current workforce is not sufficient for the timely deployment of networks that could provide qualified

broadband service to all unserved, underserved, and CAI locations. Kansas providers will also be challenged to perform the ongoing operation and maintenance of these networks, including the demands of servicing customers. Entities were surveyed to assess their hiring needs, recruitment, workforce plans, and training capabilities. Their responses helped KOBD determine the need for a cohesive, statewide workforce development program. This work must begin as soon as possible to allow time for curriculum development, recruiting, and training to create a pipeline of well-trained resources needed for broadband planning, deployment, and maintenance.

Pursuant to NTIA guidance for "Eligible Entity Deployment Activities," KOBD intends to use 1.5% of the total BEAD allocation for workforce development and readiness efforts as detailed in Requirement 12 and 17. These efforts are considered non-deployment activities, as they are in support of broadband deployment but will not actually deploy facilities. These efforts will ensure ISPs have an available, diverse, and highly skilled workforce that can be sustained throughout the program. The strategies and tactics KOBD will use to develop a cohesive, statewide workforce development program are as follows:

- Develop an MOU with KBOR to address (i) the creation of technical training pilot program(s) at regional college(s)/university(ies), and (ii) equipment support for existing technical training programs.
- Develop an MOU with KDC's Workforce Services to cover the expansion and collaboration of workforce centers throughout the state to ensure that workforce centers can reach rural locations, Sovereign Tribal Nation lands, and other areas with significant numbers of covered populations (i.e., as these will be key locations for new workforce entrants to be drawn).
- Local outreach and planning with educational facilities, local community leaders, correctional facilities, Sovereign Tribal Nation leaders, and non-profit organizations involved in digital and technical education to understand any ongoing efforts, local needs, and to encourage active participation
- Marketing and advertising of workforce programs
- Develop career pathways and training access for all parts of the state, especially for covered populations (the entire lifecycle of technical training, broadband education, and digital literacy will be considered)
- Support of locally based digital navigators who can support Kansans as they participate in the digital economy
- Support of registered apprenticeships
- Mobile training units that can provide training access to those with limited mobility or resources
- Re-entry training for "justice involved" individuals to create pathways to well-paying jobs as they re-enter society, thereby reducing the likelihood of recidivism
- K-12 education and training modules to guide students in digital skills and digital career pathways
- Adult education and workforce centers for digital upskilling focusing on digital opportunities found in remote working, healthcare, access to social services, and other areas
- Coordination efforts between BEAD and DEA personnel to ensure that plans remain highly integrated both in timing of efforts and in communications
- Educational tracking tools to inventory and monitor the success of broadband and digital skillset curriculum
- Creation and matches of sponsorships to help fund members of covered populations to

participate in training and apprenticeships

- Reimbursement and stipends for childcare and transportation expenses to enable those requiring assistance to attend training

2.5.2.b. These non-deployment activities will benefit the residents throughout Kansas by increasing the speed by which grantees can deploy and maintain broadband infrastructure and service subscribers by recruiting, training, and maintaining a credentialed and skilled expanded workforce available to realize universal service.

2.5.2.c. KOBD is informing all stakeholders about the workforce development efforts via a series of local townhall meetings held throughout the state wherein BEAD opportunities are discussed that include efforts for workforce expansion, digital literacy efforts alongside BEAD deployment plans. Additional information about the workforce development effort will be housed on the KOBD website and will be included in KOBD newsletters.

2.5.2.d. KOBD is fully funded to achieve universal service for all unserved, underserved and CAI locations in the state. Two major risks have been identified by stakeholders to date: workforce availability and readiness and materials availability. Given that the procurement of materials is the sole responsibility of the subgrantee, KOBD minimizes the workforce risks by a concerted effort to expand the available workforce and readiness in support of rapidly achieving universal broadband service.

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### **02.05.03 Ensure Coverage Prior to Non-Deployment Projects**

Describe the Eligible Entity's plan to ensure coverage to all unserved and underserved locations prior to allocating funding to non-deployment activities.

Through the Subgrantee Selection Process, KOBD will create Project Funding Areas covering all unserved, underserved BSL, and CAI locations in Kansas. Until all unserved and underserved BSLs are served — through BEAD or other funding sources— KOBD will not award subgrants to any non-deployment activities.

KOBD will track every BSL in Kansas with the National Broadband Map and include changes to the location status from the challenge process and deduplication of each BSL. This process will ensure the unserved and underserved BSLs are the priority for BEAD funds, especially when compared to non-deployment activities.

Through the Subgrantee Selection Process, KOBD will create funding areas to include every unserved and underserved BSL and CAI in Kansas. KOBD anticipates two (2) rounds of grant cycles with selections in 2024. The first round will prioritize unserved and underserved BSL and CAI funding areas. KOBD expects most of the funding areas developed will be awarded in the first round. Yet, to ensure universal service in Kansas, the second round will “redraw” unserved and underserved funding areas if there were no qualified applicants in the first round. All funding sources will be incorporated during the first and second round of grant applications to ensure minimal BEAD outlay.

Before any grants are awarded, KOBD will map the included BSLs and CAIs from both grant rounds to ensure every BSL and CAI in the state is covered by a grant award. If any BSL or CAI is left unaddressed, KOBD will contact all qualified applicants, beginning with those offering applications in Project Funding Areas continuous to those with unserved BSLs, to discuss the possible extension and expansion of their project area to serve any unaddressed BSL. If this effort fails, KOBD will consider a reverse auction process to incent provider expansion to any unaddressed BSL or CAI.

#### **02.05.04 Non-Deployment Subgrantee Qualifications**

Describe how the Eligible Entity will ensure prospective subgrantees meet the general qualifications outlined on pages 71 – 72 of the BEAD NOFO.

If BEAD funds exist after all unserved and underserved BSLs are served, and CAIs having access to 1Gbps symmetrical service are adequately provisioned, KOBD may consider awards for other non-deployment activities beyond the workforce efforts described for urgent implementation. Similar to the Subgrantee Selection Process, KOBD shall ensure any prospective subgrantee:

1. Can carry out activities funded by the subgrant in a competent manner and in compliance with all applicable federal, state, and local laws
2. Has the financial and managerial capacity to meet the commitments of the subgrant, program requirements, and any other requirements prescribed by the Assistant Secretary or the Eligible Entity
3. Has the technical and operations capability to provide the services committed to in the subgrant and award. To be eligible for an award, KOBD will require prospective subgrantees for non-deployment activities to:
  - a. Provide two (2) years of acceptable historical performance in similar projects
  - b. Certify their operational and technical capabilities to hit service milestones, compete and operate the project in a competent manner, and use an appropriately skilled and credentialed workforce
  - c. Provide a verifiable plan to cure any shortfall to the proposed project plan
  - d. Certify enough funds are available to cover the entire grant amount or the eligible reimbursable costs for the project, whichever is greater
  - e. Acquire a letter of credit, like the model letter of credit established by the FCC (Federal Communications Commission) for the Rural Digital Opportunity Fund (RDOF)
  - f. Submit resumes for key management personnel for the project
  - g. Provide a narrative of the entity's readiness to manage the proposed project and any ongoing services provided
  - h. Submit two (2) years of audited financial statements
  - i. Submit a business plan, and related financial analyses, to substantiate the long-term sustainability of the proposed project
4. Disbursement of funds for any non-deployment activities beyond workforce development and readiness will only occur upon verified completion of milestones and tasks laid out in the subgrant award for service to all unserved and underserved BSL and CAI locations.

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### **02.06.01 Eligible Entity Implementation Activities**

Describe any initiatives the Eligible Entity proposes to implement as the recipient without making a subgrant, and why it proposes that approach.

2.6.1 Text Box: Describe any initiatives the Eligible Entity proposes to implement as the recipient without making a subgrant, and why it proposes that approach.

KOBD proposes to implement BEAD Implementation and Deployment Activities (i.e., without making a subgrant), in which KOBD will conduct further BEAD planning, mapping, data collection, and other activities required for the successful implementation of BEAD in Kansas

With these initiatives, KOBD will not perform any broadband adoption activities.

#### BEAD Implementation and Deployment Activities

With the aggressive timelines of the BEAD program, additional implementation resources are required to process, evaluate, and complete the program to achieve qualified broadband to all unserved, underserved, and CAI locations. These resources include a combination of KOBD employees and necessary third parties to oversee and manage the successful selection, deployment, and reporting of subgrantee awards. Therefore, KOBD intends to use 2% of the total allocation for the following activities in support of BEAD implementation and deployment activities:

- Development and implementation of the subgrantee selection process, including prequalification, selection, challenge, rebuttal, and adjudicative processes
- Deduplication (post-Challenge process)
- Grant development, administration, management, reporting, monitoring, and compliance specific to BEAD funds
- Development and refinement of cost models for the Extremely High Cost (EHC) threshold and BEAD minimal outlay calculations
- Local coordination focused on infrastructure planning with local, regional, covered populations, and Sovereign Tribal Nation entities
- Monitoring subgrantee performance through grant agreements and enforceable commitments
- Mapping including funding areas, public facing maps, and dashboards
- Data collection to support mapping, analysis, and program development
- Successful disbursement of funds and fiscal management processes
- Field audits of deployment projects, as needed
- Engagement with public and private partners to augment matching funds or infrastructure investment

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### **02.07.01 Labor Standards and Protection: Subgrantees Compliance with Federal Labor and Employment Laws**

Describe the specific information that prospective subgrantees will be required to provide in their applications and how the Eligible Entity will weigh that information in its competitive subgrantee selection processes. Information from prospective subgrantees must demonstrate the following and must include information about contractors and subcontractors:

a. Prospective subgrantees' record of past compliance with federal labor and employment laws, which:

i. Must address information on these entities' compliance with federal labor and employment laws on broadband deployment projects in the last three years;

ii. Should include a certification from an Officer/Director- level employee (or equivalent) of the prospective subgrantee evidencing consistent past compliance with federal labor and employment laws by the subgrantee, as well as all contractors and subcontractors; and

iii. Should include written confirmation that the prospective subgrantee discloses and instances in which it or its contractors or subcontractors have been found to have violated laws such as the Occupational Safety and Health Act, the Fair Labor Standards Act, or any other applicable labor and employment laws for the preceding three years.

b. Prospective subgrantees' plans for ensuring compliance with federal labor and employment laws, which must address the following:

i. How the prospective subgrantee will ensure compliance in its own labor and employment practices, as well as that of its contractors and subcontractors, including:

1. Information on applicable wage scales and wage and overtime payment practices for each class of employees expected to be involved directly in the physical construction of the broadband network; and

2. How the subgrantee will ensure the implementation of workplace safety committees that are authorized to raise health and safety concerns in connection with the delivery of deployment projects.

KOBD maintains a strong history of requiring fair labor standards in prior grant programs. KOBD commits to continuing integration of fair labor standards, especially in relation to BEAD funding, and working with the Kansas Department of Labor and US Department of Labor and their district offices in Kansas City and Wichita to ensure compliance by the subgrantees.

KOBD will evaluate projects based on a prospective subgrantee's demonstrated record of, and plans to

continue, compliance with federal labor and employment laws for the preceding three years. Requiring a three-year compliance record will help KOBD ensure a prospective subgrantee can complete a deployment and infrastructure project in a competent manner. Moreover, compliance with federal labor and employment laws will promote the effective and efficient completion of high-quality infrastructure projects by creating a reliable supply of skilled workers and minimizing disruptive and costly delays.

#### 2.7.1.a.

Specifically, KOBD will require the following information from prospective subgrantees to evaluate within the selection process:

A certification from an Officer/Director-level employee (or equivalent) of the prospective subgrantee evidencing consistent past compliance with federal labor and employment laws by the subgrantee, as well as all contractors and subcontractors, of the laws outlined in the table below for the preceding three years

Written confirmation that the prospective subgrantee discloses any instances in which it or its contractors or subcontractors have been found to have violated laws such as the Occupational Safety and Health Act, the Fair Labor Standards Act, or any other applicable labor and employment laws in the table below for the preceding three years

New entrants without a three-year record of federal labor and employment law compliance will be permitted to make binding legal commitments to strong labor and employment standards and protections regarding BEAD-funded projects.

If prospective subgrantee, including new entrants, fails to provide certification, confirmation, and/or a binding commitment, the application will be denied.

See applicable Labor Standards and Protections Acts below:

Fair Labor Practices

Fair Labor Standards Act: Establishment of minimum wage, overtime pay, recordkeeping, and child labor standards affecting full-time and part-time workers across private and public sectors

Occupational Safety and Health Act: Establishment of safe and healthy workplace standards

Service Contract Act: Establishment of standards for contractors and subcontractors performing services on prime contracts in excess of 2,500

Civil Rights and Nondiscrimination

Title VI of the Civil Rights Act of 1964 (See also 15 C.F.R. Part 8): Prohibition on discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance, including from the Department of Commerce

Title IX of the Education Amendments of 1972: Prohibition of discrimination on the basis of sex under federally assisted education programs or activities

The Americans with Disabilities Act of 1990: Prohibition of discrimination on the basis of disability under programs, activities, and services provided or made available by Eligible Entities and local governments or instrumentalities or agencies thereto, as well as public or private entities that provide transportation

Section 504 of the Rehabilitation Act of 1973: Prohibition of discrimination on the basis of handicap under any program or activity receiving or benefiting from federal assistance

The Age Discrimination Act of 1975: Prohibition of discrimination on the basis of age in programs or activities receiving federal financial assistance

#### Additional Authorities

Parts II and III of Executive Order 11246. Equal Employment Opportunity: Requires that federally assisted construction contracts incorporate and fulfill the nondiscrimination provisions of §§ 202 and 203 of E.O. 11246 and Department of Labor regulations implementing E.O. 11246 (41 C.F.R. § 60-1.4(b))

Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency: Requires federal agencies to examine the services that they provide, identify any need for services to those with limited English proficiency (LEP), and develop and implement a system to provide those services so LEP persons can have meaningful access to them

Executive Order 13798, Promoting Free Speech, and Religious Liberty (see also OMB M-20-09 Guidance Regarding Federal Grants and Executive Order 13798): States or other public grantees may not condition sub-awards of federal grant money in a manner that would disadvantage grant applicants based on their religious character

#### 2.7.1.b.

For an application to be deemed eligible for evaluation scoring and a potential grant award, KOBD will require a prospective subgrantee to provide a plan for ensuring consistent compliance with federal labor and employment laws. Evidence supporting the plan must include historical documents including subcontracting arrangements, staffing plans, etc. from similar past projects. An effective plan for



consistent compliance with federal labor and employment laws will include the following:

How the prospective subgrantee will ensure organizational compliance with its own labor and employment practices, and that of its contractors and subcontractors, including:

Information on applicable wage scales and wage and overtime payment practices for each class of employees expected to be involved directly in the physical construction of the broadband network

How the subgrantee and its contractors and subcontractors, if applicable will ensure the implementation of workplace safety committees that are authorized to raise health and safety concerns in connection with the delivery of deployment projects

Information on applicable wage scales and wage and overtime payment practices can be satisfied by presenting union contracts in effect at the time of application submittal. All information on applicable wage scales and wage and overtime payment practices will be treated confidential and not published publicly. Supervisory, managerial, and executive wage scales and wage and overtime practices should not be provided.

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#### **02.07.02 Labor Standards and Protection: Additional Measures**

Describe in detail whether the Eligible Entity will make mandatory for all subgrantees (including contractors and subcontractors) any of the following and, if required, how it will incorporate them into binding legal commitments in the subgrants it makes:

- a. Using a directly employed workforce, as opposed to a subcontracted workforce;
- b. Paying prevailing wages and benefits to workers, including compliance with Davis-Bacon and Service Contract Act requirements, where applicable, and collecting the required certified payrolls;
- c. Using project labor agreements (i.e., pre-hire collective bargaining agreements between unions and contractors that govern terms and conditions of employment for all workers on a construction project);
- d. Use of local hire provisions;
- e. Commitments to union neutrality;
- f. Use of labor peace agreements;
- g. Use of an appropriately skilled workforce (e.g., through Registered Apprenticeships or other joint labor-management training programs that serve all workers, particularly those

underrepresented or historically excluded);

h. Use of an appropriately credentialed workforce (i.e., satisfying requirements for appropriate and relevant pre-existing occupational training, certification, and licensure); and

i. Taking steps to prevent the misclassification of workers.

KOBD will make it mandatory for all subgrantees (including contractors and subcontractors) to detail the following information as it applies to their company policies or resources (to include employees, contractors, and subcontractors). These required details will be included in the grant program and will be incorporated, as applicable, into any binding commitment the subgrantee may make in the acceptance of a grant award:

Using a directly employed workforce, as opposed to a subcontracted workforce

Paying prevailing wages and benefits to workers, including compliance with Davis-Bacon and Service Contract Act requirements, where applicable, and collecting the required certified payrolls

Using project labor agreements (i.e., pre-hire collective bargaining agreements between unions and contractors that govern terms and conditions of employment for all workers on a construction project)

Use of local hire provisions

Commitments to union neutrality

Use of labor peace agreements

Use of an appropriately skilled workforce (e.g., through Registered Apprenticeships or other labor-management training programs that serve all workers, particularly those underrepresented or historically excluded)

Use of an appropriately credentialed workforce (i.e., satisfying requirements for appropriate and relevant pre-existing occupational training, certification, and licensure) and

Taking steps to prevent the misclassification of workers

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### **02.08.01 Prospective Subgrantees' Workforce Plan**

Describe how the Eligible Entity and their subgrantees will advance equitable workforce development and job quality objectives to develop a skilled, diverse workforce. At a minimum, this response should clearly provide each of the following, as outlined on page 59 of the BEAD NOFO:

- a. A description of how the Eligible Entity will ensure that subgrantees support the development and use of a highly skilled workforce capable of carrying out work in a manner that is safe and effective;
- b. A description of how the Eligible Entity will develop and promote sector-based partnerships among employers, education and training providers, the public workforce system, unions and worker organizations, and community-based organizations that provide relevant training and wrap-around services to support workers to access and complete training (such as child care, transportation, mentorship, etc.), to attract, train, retain, or transition to meet local workforce needs and increase high-quality job opportunities;
- c. A description of how the Eligible Entity will plan to create equitable on-ramps into broadband-related jobs, maintain job quality for new and incumbent workers engaged in the sector; and continually engage with labor organizations and community-based organizations to maintain worker voice throughout the planning and implementation process; and
- d. A description of how the Eligible Entity will ensure that the job opportunities created by the BEAD Program and other broadband funding programs are available to a diverse pool of workers.

Kansas has an extremely low unemployment rate of 2.8%, no labor surplus in areas identified by the US Department of Labor, and a labor gap (as determined by NTIA) of 14,500 FTEs identified as a cross-industry deficit. Furthermore, these identified shortfalls do not address non-technical roles like administrative support, customer service, or marketing. When considered in total, the need for KOBD to collaborate with partners to develop and execute a creative and timely workforce solution is confirmed. The adjacent states of Nebraska, Missouri, and Oklahoma have an unemployment rate of 2.0%, 2.8%, and 2.8%, respectively, representing an equally constrained regional labor market and the need for trained workforce expansion.

Thus, to begin the work on the initiatives and strategies highlighted throughout this section, KOBD proposes to utilize \$6.765 million of BEAD funding as a non-deployment activity to create an overarching, strategic, and statewide workforce structure. This structure shall involve the Kansas Department of Labor, Kansas Board of Regents (KBOR), KDC's Workforce Services, and the Kansas Department of Education (KDOE). The ability for KOBD to directly invest BEAD funds into workforce readiness and development activities is a condition precedent to effective and efficient deployment of networks throughout Kansas. Moreover, the increase of speed to deployment by having an available, diverse, and highly skilled workforce cannot be overstated.

The ability of the state to collectively respond to the increased workforce needs resulting from BEAD activities requires a strategic focus, documented plan, and execution strategy to ensure success. KOBD shall develop Memorandums of Understanding (MOU) with KBOR, KDC's Workforce Services, and KDOE

to collaborate on holistic solutions to the workforce shortfall anticipated in the state.

The macro goal of this overarching structure is to ensure Kansas can find, train, employ, and build career pathways for Kansans as BEAD funding and deployments occur. In partnership with the Kansas Department of Labor, KOBD estimated the total jobs needed per year for the next five years (over a 2022 telecommunications jobs base) to keep pace with BEAD funding. In 2024, over sixteen (16) thousand new jobs will be needed for a total of one hundred and twenty-two (122) thousand jobs. In 2025, almost thirty (30) thousand new jobs will be needed for a total of one hundred and thirty-five (135) thousand jobs. In 2026, over forty-three (43) thousand new jobs will be needed for a total of one hundred and fifty (150) thousand jobs. See Table 2.8.1.a Kansas Department of Labor (DOL) Jobs Projections 2024-2028 in the "Kansas BEAD-IP Volume II Tables and Maps.pdf" attachment. While many of these jobs will be sourced by the subgrantees through their normal course of business and BEAD funded projects, KOBD recognizes the state must address and create a cohesive infrastructure of learning, recruiting, and hiring that supports the entire broadband lifecycle. This infrastructure and overarching structure will ensure Kansans can support the timelines required in the BEAD program and the sustainability and adoption of universal broadband.

With the \$6.765 million of BEAD funding, KOBD shall:

Develop an MOU with KBOR to address (i) the creation of technical training pilot program(s) at regional college(s)/university(ies), and (ii) equipment support for existing technical training programs. KOBD anticipates funding this MOU to initiate work in two technical training centers with the goal to build scalable capabilities in multiple locations throughout the state that can support ongoing technical trainings. This MOU and investment will increase the speed of deployment, support the sustained needs of BEAD funded networks, and may expand to support cross-agency shortfalls in related industries. KOBD expects to invest up to 25% of its workforce readiness and development allocation in this effort.

Develop an MOU with KDC's Workforce Services to cover the expansion and collaboration of workforce centers throughout the state to ensure rural locations with significant numbers of covered populations (i.e., as these will be key locations for new workforce entrants to be drawn). KOBD anticipates funding this MOU with up to 25% of the total workforce readiness and development allocation with the final amount to be determined based on recommended locations by KOBD to best recruit for new entrants and jobs placement for an immediate impact on resource availability.

Conduct work with KDC's Workforce Services to develop workforce reentry programs for "justice involved" individuals, returning military personnel, and those currently in low-skill roles that could translate into broadband career pathways. KOBD expects to spend as much as 12% of its workforce development and readiness allocation on this effort.

Develop an MOU with KDOE to cover the development of K-12 curriculum for career pathways within the telecommunications and broadband industry. While digital skills are being offered in some school

districts, there is no common, uniform, or structured learning curriculum that can help encourage a broadband pipeline of new entrants. This effort would aim to create this curriculum. KOBD anticipates funding this MOU with as much as 15% of its workforce readiness and development allocation on this effort.

Work with the Kansas Apprenticeship Council for an apprenticeship program focused on broadband skills ranging from installation technician to back-office support, digital navigation, and ongoing subscriber technical support. While funding for these programs may be found in existing state funding, research to document the opportunities, structure, and volume of apprenticeships that will be required is needed. KOBD anticipates funding this effort with at least 10% of its workforce readiness and development allocation to conduct this research via surveys, interviews, and labor research undertaken by KOBDs or its third-party resources.,

Use of the remaining funds will be used to partner with KBOR to enhance existing training and tracking tools held by the state. This effort would establish detailed tracking of all broadband and digital skills training programs, job openings and opportunities, course schedules, attendees, and class results to monitor the effectiveness of the curriculum developed based on attendee pass rates and future job placement.

#### 2.8.1.a.

To achieve universal service, Kansas must create a workforce readiness development plan with job quality objectives that address market demands. Beyond the statewide workforce structure, KOBD will ensure an available, diverse, and highly skilled workforce to support the BEAD program by holding subgrantees accountable against these objectives by requiring applicants to detail their staffing plans, technical certification requirements, and their forward-looking plans for sustainability in support of broadband adoption and technical support of their subscribers. Prospective subgrantees must detail operational and technical capability to plan and execute as committed. Furthermore, KOBD will provide clear process and instruction clarity to prospective subgrantees to meet the federal labor and employment requirements of the NOFO.

KOBD will continue to partner with state agencies, non-profits, and subject matter experts throughout the state to research existing plans and new opportunities to design unique programs to attract new workforce entrants, secure and retain talent within the state, and establish Kansas as the premier place to live, work, and flourish.

When provider entities assessed their hiring needs, recruitment, workforce plans, and training capabilities, workforce shortages within the broadband and telecommunications industry were cited as a major concern. KOBD received a public comment from the International Brotherhood of Electrical Workers (IBEW) that stated, "with such a widespread available workforce, the IBEW has the

membership depth to complete the state of Kansas buildout, indeed addressing one of the biggest challenges states report in accomplishing the goals of BEAD: the shortage of trained and skilled workers.”

Despite this feedback, data gathered on cross-industry workforce challenges from KBOR, NTIA, University of Kansas, and multiple state agencies include shortfalls (current and projected) in lesser skilled jobs that require broadband knowledge like administrative roles, customer support, billing, and managerial leadership. This combined feedback confirmed the need for a cohesive, statewide workforce development program.

A key element to any technical plan is the safety training and compliance measures. Any workforce training created by or supported by KOBD (or training that will meet the requirements of subgrantee applications) shall include, but be limited to: OSHA training, bucket truck certifications, safety training for work around electric utilities, proper grounding techniques, pole climbing and vault descension techniques certifications, parking and traffic management safety, and compliance with all 811/Dig Once policies. KOBD will encourage subgrantees to provide laptops and electronics required for training programs and the provisioning of personal protective equipment for onsite activities such as hard hats, safety glasses, boots (available in all sizes for both men and women), and gloves. These activities reduce the financial barriers for individuals seeking to join trades and workforce development programs.

Strategies to hold subgrantees accountable against our workforce readiness and development objectives include, but are not limited to, the following:

KOBD will require subgrantees, via their narrative response, to document their outreach, labor standards, and investment requirements, to make documented and measured efforts to hire and retain workers from underrepresented and historically disadvantaged groups, which could include women, people of color, veterans, candidates for whom English is not their first language, and people with disabilities.

KOBD will require subgrantees, via their narrative response, to document their efforts to cultivate an inclusive environment that does not tolerate harassment or discrimination. This could include promoting anti-harassment policies, offering equitable training opportunities, and providing employee benefits such as childcare and pregnancy and parental support.

KOBD will require subgrantees, via their narrative response, to demonstrate the project workforce is appropriately trained, certified, and credentialed, including pre-existing occupational training, certification, and licensure. Moreover, subgrantees will need to make documented and measured efforts to support and implement training, certification, and credentialing standards for the industry.

KOBD will encourage subgrantees to offer jobs that exceed the local prevailing wage in the region, offer benefits, and that help the employee develop skills for career growth.

#### 2.8.1.b.

The identification of job titles, sectors, and skillsets needed to achieve universal service is critical for the creation of a highly skilled workforce. KOBD must clearly understand the functional needs of the “broadband lifecycle” (e.g., broadband education, access, adoption, and support) to holistically create effective workforce readiness and development plans. To define the missing or lacking resources by specific functional role, training requirement, location, or business priority is a critical step in this process. We must know where there are needs, what skillsets fill those needs, and how we can train Kansans with those skills.

For instance, the most urgent role and skillset needed are broadband technicians. These roles are needed for both installation and maintenance of broadband networks. Due to a current lack of available and qualified candidates, a technician shortage exists. Additional shortfalls exist in administrative roles like customer service, billing, marketing, finance, or grant management.

These workforce shortages are exacerbated by the low unemployment rate in the state. A recent study by the University of Kansas, titled Jobs, and Degree Requirements 2030, examined a net-negative flow of recent graduates from state universities in Kansas to surrounding states due to higher wages being offered elsewhere. When this negative graduate variance is coupled with the forecasted workforce shortfall in labor-intensive roles, the urgency to find new and creative ways to source and retain talent becomes paramount. To strengthen, or even create candidate pools to fill these roles represents its own challenge. Thus, under the MOU with KBOR, we will look to create broadband technical training pilot programs in regional and rural areas of the state.

KOBD shall outline strategic programs to identify, attract, and prepare new workforce entrants throughout the state. There are several categories of potential new workforce entrants to pursue. For example, justice-involved individuals are not reflected in the workforce numbers of the state. Thus, for every person nearing re-entry who has acceptable training, a new candidate can be added to the workforce pool. This is also true of active members of the armed forces. Targeted partnerships with military programs, such as the Technology Assistance Program (TAP), can assist those transitioning to civilian life to enter a career pathway that complements their existing skillsets. Additionally, thousands of immigrants and lower-income workers associated with industrial and labor-intensive roles are an underutilized workforce asset. These workers by can be “upskilled.” For instance, for individuals with a language barrier, investing in English as a Second Language (ESL) trainings can create new opportunities for these individuals as they remain in their existing roles.

Registered apprenticeships, with attached commitments, are powerful avenues to attract and retain possible new workforce entrants. While KBOR develops training curriculum, structure, and administration of training programs, registered apprenticeships that target specific needs can be effectively created by subgrantees. Under the MOU with KDC’s Workforce Services, “wrap around”

support and services, such as stipends for childcare, transportation, language translation, can be provided to support these provider-led programs. KOBD considers these additional stressors as real-life barriers to entering the workforce, thus the need for a cohesive, statewide workforce development program.

Under the MOU with KDC's Workforce Services, KOBD shall seek to develop partnerships with in-state broadband providers to leverage in-house, industry-created content and training programs. KOBD will aim to extend the reach and level of provider recruiting efforts via cooperation with state workforce agencies and direct marketing efforts. Furthermore, the MOU shall stipulate support for local workforce boards for marketing needs, local scholarships, and equipment purchases. With marketing funds, local workforce boards could widely advertise identified jobs, training programs, and certifications for the various occupations needed, including fiber optics, manufacturing, and general construction support jobs, especially in the areas of Kansas where training programs are not currently available. These boards could also offer scholarships to individuals interested in training on identified opportunities, particularly for high demand and low supply opportunities.

Through the overarching, strategic, and statewide workforce structure, KOBD will develop and promote sector-based partnerships among key stakeholders throughout the state to attract, train, retain, and transition the local workforce needed to deploy and operate broadband service networks. Thus, KOBD will use various strategies to ensure prospective subgrantees support the development and use of a highly skilled workforce to deploy and operate broadband networks throughout the state. Those strategies include, but are not limited to, the following:

Subgrantees shall describe their use of "wrap-around services" such as on-site childcare or stipends for childcare, learning materials, and transportation to training programs in their narrative responses

Subgrantees shall establish and promote strong and clear career pathways through job training and workforce development programs such as registered apprenticeships, pre-apprenticeships, joint labor management training programs, or other high-quality on-the-job training opportunities. These programs can create a pathway to advancement and increased wages through career progression either with the same employer or prepare workers for other jobs. Subgrantee applicants must include their plans and commitments for these activities in the narrative portion of their application in support of their operational and technical capabilities.

KOBD will help facilitate contacts amongst providers who have similar training needs to collaborate on solutions by regularly attending local career fairs, incentivizing employee referrals, and creating scholarships for a fiber and splicing apprenticeship program and other targeted functional areas like broadband network architects, surveyors/locators, or digital navigators. KOBD will collaborate with our workforce partners to identify appropriate curriculum partners so that trainees may qualify for certifications and apprenticeships most needed by entities that hire. This work will be conducted via limited use of available initial planning funds unless programmatic expenses for workforce development and readiness are allowed.



KOBD will seek feedback from employers, education and training providers, the public workforce system, unions and worker organizations, and community-based organizations that may have relevant data or provide existing programs that could benefit KOBD or our partners in the development of workforce programs.

KOBD commits to transparency and accountability through consistent communication with various partners on the state's workforce goals and values, including all state agencies, associations, educational facilities, and broadband providers. KOBD, along with these partners, will publish aggregated workforce data, including information on demonstrating good faith efforts to hire women, people of color, and other underserved groups, demographics of subgrantees, and information on "feeder occupations" with adjacent or relevant skills sets to better understand potential paths for workers. Data will be collected and reported frequently enough to permit course correction and deployment of new strategies as needed to ensure employment opportunities are available to historically underserved workers in the communities in which projects are contemplated.

KOBD will create a feedback loop with providers, local and regional governments, Sovereign Tribal Nations, state agencies, and non-profit organizations to proactively solicit input to develop workforce plans and to report on progress, workforce growth, and the economic opportunities created via these efforts.

One purpose of the MOU with KBOR is to develop a sustainable partnership through Kansas' network of 26 community and technical colleges, whereby workforce training and degree program(s) are developed, especially within our rural communities. As part of our strategy to expand telecommunications curriculum across Kansas, KOBD has worked with KBOR, Kansas Association of Community College Trustees, the Kansas Association of Technical Colleges, the Kansas Independent College Associations, and other partners to promulgate broadband curriculums across the state.

For example, KOBD works with two community colleges – Butler Community College and North Central Kansas Technical College (NCKTC) – to support their broadband and fiber training programs that are showing impressive results. For community colleges with existing training programs, KOBD will explore opportunities to provide funds for classroom equipment and other support costs that might help them grow, advertise, and expand enrollment. For those communities where training programs are needed, KOBD will explore the opportunity to provide funds to school districts that may be interested in developing Connected Telecommunications Equipment (CTE) courses in fiber optics, project management, engineering, operations, et. al., curriculum development, and the creation of industry partnerships. This is the work KOBD wants to support and augment with the MOU with KBOR.

Another example of an opportunity to support through the MOU with KBOR is the establishment of a pilot program, featuring partnerships with two key community and technical colleges, to implement a plan to deliver workforce training to ensure subgrantees have access to the necessary skilled, diverse workforce. An additional opportunity to explore is the establishment of new training centers in western

Kansas and Sovereign Tribal Nation lands for broadband related training and certifications. With these training centers, new certifications can be developed, new registered apprentices created, and industry-relevant job training provided.

#### 2.8.1.c.

KOBD will require subgrantees to detail how they will develop and create equitable on-ramps into broadband-related jobs by removing barriers to entry while maintaining job quality and worker voice. This feedback will be key in their narrative descriptions of their technical and operational capabilities.

Those strategies include, but are not limited to, the following:

KOBD will require subgrantees, via their narrative response, to document their efforts to engage with labor organizations to prioritize local workers and the development of robust plans to recruit historically underrepresented populations facing labor market barriers and ensure reasonable access to the job opportunities created by subgrantees.

KOBD will require subgrantees, via their narrative response, to show their active support of job skills development and Diversity, Equity, Inclusion, and Accessibility (DEIA) efforts in the workplace as detailed in their narrative responses.

KOBD will require subgrantees, via their narrative responses, to describe their programs to provide a pipeline for women, people of color, formerly incarcerated individuals, people with disabilities, and other historically marginalized groups to enter the telecommunications workforce more easily. These programs should include utilization goals for apprenticeships to support BEAD projects.

KOBD will require subgrantees, via their narrative response, to document their efforts to remove barriers to entry, such as limitations on hiring people who have previously been incarcerated and unneeded degree requirements, provide roles where those with physical disabilities or limitations can safely perform, and promote pre-apprenticeship programs that will encourage underrepresented youth to seek early education in this space.

With innovative training programs, outreach, and continual collaboration among all mentioned partners, KOBD will ensure BEAD-funded projects balance worker competence, training, and certifications with a competitive and attractive environment for workers in local and regional markets.

#### 2.8.1.d.

KOBD will utilize the narrative responses related to operational and technical capabilities to ensure that job opportunities created by the BEAD program are available to a diverse pool of workers by requiring the subgrantees to describe their policies, programs, and measurable objectives to achieve and sustain universal service via the utilization of diverse workers and innovative strategies. Equitable training and workforce development initiatives by the subgrantees should create and retain a local and

regional telecommunications workforce and provide critical pathways for improving geographical, cultural, and economic diversity to the telecommunications workforce. This work, coupled with KOBD efforts and MOUs, will ensure the Kansas job market is enriched by new entrants from diverse populations.

These strategies include, but are not limited to, the following:

Through the MOU with KBOR, a sponsor entity shall be found to lead the technical training pilots and curriculum in multiple community colleges and adult education centers on Sovereign Tribal Nation lands.

Through the MOU with KBOR, a sponsor entity shall be found to lead the website and aggregation of the detailed tracking of all broadband and digital skills training programs, job openings and opportunities, course schedules, attendees, and class results to monitor the effectiveness of the curriculum developed based on attendee pass rates and future job placement.

KOBD will require subgrantees, via their narrative response, to document efforts for equitable and targeted recruitment efforts, training and education initiatives, and workforce retention and up-skilling initiatives via their narrative responses in support of operational and technical capabilities.

KOBD will encourage subgrantees via industry roundtable meetings and collaborative workforce discussions to promote flexible, tailored training opportunities, such as virtual and onsite training, tuition assistance, childcare and transportation assistance, and sponsorships for relevant coursework. Such activities can help remove barriers and make these opportunities more accessible for workers looking to take advantage of the training.

KOBD will require subgrantees, via their narrative response, to demonstrate that Diversity, Equity, Inclusion, and Accessibility (DEIA) training programs are available to all workers and are aligned to the organization's approach, values, and understanding of what constitutes acceptable behavior.

KOBD will encourage subgrantees to offer targeted mentorship programs to recruit, advance, and retain women, people of color, formerly incarcerated individuals, people with disabilities, and other historically marginalized groups and describe these activities in their narrative responses

Through the MOU with KDC's Workforce Services, KOBD will create mobile training units to provide training access to those with limited resources or mobility.

Through the MOU with KDC's Workforce Services, KOBD will draft a strategy for re-entry training for "justice involved" individuals to create pathways to well-paying jobs as they re-enter society; thereby reducing the likelihood of recidivism. This strategy will be shared with state agencies and association partners to seek funding for this program.

Beyond the overarching, strategic, and statewide workforce structure, these activities will require

outreach and coordination with workforce-related partners across business sectors, agencies, associations, and private investors. KOBD will engage, activate, and create regional initiatives like the Sumner County Broadband Consortium (SCBC). SCBC's high-level goal is to deploy broadband infrastructure to increase access and adoption throughout Sumner County. Specifically, an enumerated goal of the SCBC's strategic plan is "promote economic growth and development through enhanced broadband infrastructure," along with the strategies of "public-private partnerships" and "outreach and education." Therefore, there is the opportunity to engage in workforce development and readiness efforts with SCBC, and other similar regional initiatives that can be created if there is adequate funding to sponsor these efforts.

As part of our BEAD planning and workforce development efforts, KOBD held meetings, and will continue to have conversations, with industry organizations like the Communications Coalition of Kansas, the Kansas Cable Telecommunications Association, individual ISPs, Sovereign Nation Tribal entities, labor unions, and others who have the need for a highly skilled workforce. The Kansas Department of Commerce (KDC) is responsible for workforce development; therefore, KOBD works closely with KDC's Workforce Services division and the Office of Registered Apprenticeships. KOBD also collaborates, and will continue to do so, with the following entities regarding to workforce development:

Kansas Board of Regents

Kansas Department of Education

Community and Technical Colleges

Research and Extension Campuses

Adult Education Providers

K-12 institutions

Employers and industry leaders, such as those from Internet Service Providers (ISPs), construction contractors, electric and utility companies, and local manufacturers

Employers' associations

Trade and labor associations

Civil-rights and equity-focused organizations

Unions and other organized labor and worker groups

State and local educational agencies

Kansas Department of Corrections

Libraries

Public colleges and universities that support workforce development programs

Economic development organizations, such as local Chambers of Commerce

Community-based organizations that support local populations in accessing training and employment opportunities

Tribal nations

State and local government high-speed Internet and workforce agencies

Regional and Local workforce development boards and agencies

Workforce intermediaries

The goal of these outreach efforts is to gather needs, inventory assets, research funding, and encourage collaboration towards the greater goals of the state to respond to the workforce needs to achieve universal access and sustain the adoption of available broadband services. KOBD intends to lead these discussions, conduct this research, facilitate these programs, and improve the workforce readiness in support of BEAD.

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### **02.08.02 Prospective Subgrantees' Highly Skilled Workforce**

Describe the specific information that will be required of prospective subgrantees to demonstrate a plan for ensuring that the project workforce (including contractors and subcontractors) will be an appropriately skilled and credentialed workforce. These plans should include the following:

- a. The ways in which the prospective subgrantee will ensure the use of an appropriately skilled workforce, e.g., through Registered Apprenticeships or other joint labor-management training programs that serve all workers;
- b. The steps that will be taken to ensure that all members of the project workforce will have appropriate credentials, e.g., appropriate and pre-existing occupational training, certification, and licensure;
- c. Whether the workforce is unionized;

d. Whether the workforce will be directly employed or whether work will be performed by a subcontracted workforce; and

e. The entities that the proposed subcontractor plans to contract and subcontract with in carrying out the proposed work.

If the project workforce or any subgrantee's, contractor's, or subcontractor's workforce is not unionized, the subgrantee must also provide with respect to the non-union workforce:

a. The job titles and size of the workforce (FTE positions, including for contractors and subcontractors) required to carry out the proposed work over the course of the project and the entity that will employ each portion of the workforce;

b. For each job title required to carry out the proposed work (including contractors and subcontractors), a description of:

i. Safety training, certification, and/or licensure requirements (e.g., OSHA 10, OSHA 30, confined space, traffic control, or other training as relevant depending on title and work), including whether there is a robust in-house training program with established requirements tied to certifications, titles; and

ii. Information on the professional certifications and/or in-house training in place to ensure that deployment is done at a high standard.

For an application to be deemed eligible for an award, KOBD will require a prospective subgrantee to submit details outlining evidence that their project workforce will be an appropriately skilled and credentialed workforce in their narrative response, specifically including:

KOBD will require subgrantees to demonstrate how they will ensure an appropriately skilled workforce, e.g., through Registered Apprenticeships, existing training, or other joint labor-management training programs that serve all workers

KOBD will require subgrantees to demonstrate that all members of the project workforce will have appropriate credentials, e.g., appropriate, and relevant pre-existing occupational training, certification, and licensure

KOBD will require subgrantees to declare whether the project workforce will be unionized or not

KOBD will require subgrantees to declare whether the workforce will be directly employed or whether work will be performed by a subcontracted workforce

KOBD will require subgrantees to identify the entities that the proposed subgrantee plans to contract and subcontract with in carrying out the proposed work

In the event the project workforce or any subgrantee's, contractor's, or subcontractor's workforce is not unionized, KOBD will require the subgrantee to provide the following with respect to the non-union workforce:

The job titles and size of the workforce (FTE positions, including for contractors and subcontractors) required to carry out the proposed work over the course of the project and the entity that will employ each portion of the workforce

For each job title required to carry out the proposed work (including contractors and subcontractors), a description of:

Safety training, certification, and/or licensure requirements (e.g., OSHA 10, OSHA 30, confined space, traffic control, or other training as relevant depending on title and work), including whether there is a robust in-house training program with established requirements tied to certifications, titles

Information on the professional certifications and/or in-house training in place to ensure deployment activities meet a high standard

As a result, KOBD will ensure subgrantees have the technical and operational capacity to carry out the subgrant.

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### **02.09.01 Minority Business Enterprises (MBEs), Women's Business Enterprises (WBEs), and Labor Surplus Firms Inclusion Strategy**

Describe the process, strategy, and the data tracking method(s) the Eligible Entity will implement to ensure that minority businesses, women-owned business enterprises, and labor surplus area firms are recruited, used, and retained when possible.

The Kansas Office of Minority and Women Business Development (OMWBD) works to connect with vendors, contractors, and communities while creating and harnessing opportunities for minority business and women-owned business enterprises (MBE/WBEs) where they traditionally have been absent. OMWBD uses the term Disadvantaged Business Enterprises (DBE) for all designations, i.e., minority, women, airport concessions, and/or disadvantaged. Participation of DBEs, especially in high-demand areas of our economy, requires a coordinated strategy throughout the entire BEAD program.

KOBD, along with OMWBD and the Kansas Small Business Development Center, will ensure all relevant DBEs are involved, contacted, and engaged to maximize opportunities. Moreover, KOBD will promote business development opportunities through procurement, contracting, subcontracting, business management, and financing referrals, especially for DBEs.

The opportunity for DBEs to be solicited on and receive contracts and subcontracts is to be certified by OMWBD in the Kansas Statewide Certification Program (KSCP). KSCP is a joint effort between the OMWBD, the Office of Civil Rights Compliance, and the Department of Transportation. This certification acts as the entry point to the procurement processes for government agencies (federal, state, city, and county), school districts and universities, private corporations, prime contractors, and other contracting entities. KSCP requires the DBEs to identify a NAICS code for the industries they participate in. The NAICS codes will be used to identify DBEs as relevant sources for BEAD activities and subtasks. These processes include solicitations, bidding, contract awards, and execution. To date, KSCP has certified over 650 DBEs in Kansas.

Once certified, the DBE will be listed in the state DBE/MBE/WBE/ACDBE directory, making it easier for contracting entities to find them; this directory maximizes exposure for DBEs,

KOBD identified over a dozen organizations who can assist eligible entities with the KSCP process, including groups such as:

Asian Chamber of Commerce of Kansas City

Kansas City Kansas Women's Chamber of Commerce

Mid-America LGBT Chamber of Commerce

Hispanic Chamber of Commerce

Heartland Black Chamber of Commerce

Kansas City Women's Business Center

National Association of Women Business Owners (NAWBD-KS)

Minority Contractors Association

Kansas Department of Commerce's Office of Minority and Women Business Development (OMWBD)

Kansas Chamber of Commerce

Black Entrepreneurs of the Flint Hills

IBSA

KOBD shall collaborate with these stakeholders to identify both large and small opportunities for DBEs, including businesses that provide services such as: customer service, equipment operators,



technicians, engineering, management, administrative, and equipment maintenance. Moreover, certified DBEs will have access to KOBD webinars and newsletters, local networking events, eligibility for certain tax credits, and expansion of marketing and business relationships.

As part of the subgrantee selection process, KOBD will require potential subgrantees to document their historical commitment to recruit and retain DBEs. KOBD has proposed to define Project Areas by Unified School District (USDs). There are 286 USDs in Kansas blanketing the entire state with widely varying degrees of unserved, underserved, and CAI locations. This Project Area approach enables both small and large opportunities for DBEs, who are often very localized to their geography. In addition, KOBD will require potential subgrantees to provide an DBE utilization plan. This plan must outline the affirmative steps a potential subgrantee will take to:

Assure qualified DBEs are on their solicitation lists for services and contracting

Divide project solicitations into smaller subtasks when economically feasible for qualified DBEs

Establish project timelines to encourage participation by DBEs

Work with the Small Business Administration, the Kansas Office of Minority and Women Business Development, and the Kansas Small Business Development Center

KOBD will ensure a diverse and highly skilled workforce exists that supports DBEs. This involves plans to leverage existing in-house skills training programs, unions and worker organizations, community colleges, and public-school districts. This is particularly important for Kansas, according to the U.S. Department of Labor, does not have a "Labor Surplus Area" (out of a total of 330 areas listed) and is one (1) of eighteen (18) states without a "Labor Surplus Area" greater than 8.05%. Thus, KOBD will leverage the expertise from the following organizations to involve DBEs:

Kansas Office of Minority and Women Business Development

Kansas Small Business Development Center

U.S. Department of Labor's Employment and Training Administration

U.S. Department of Education's Office of Career, Technical, and Adult Education

Kansas Board of Regents Workforce Development Unit

Kansas Department of Labor

Kansas Department of Education

Kansas Workforce Centers

Kansas State University Technology Development Institute

Kansas Economic Development Alliance

National Association of State Liaisons for Workforce Development Partnerships

Warriors4Wireless

While the state does not currently utilize any data tracking methods, KOBD plans to implement a data tracking system via the Kansas Department of Commerce's Kansas Office of Minority and Women Business Development for BEAD funding distributed to all grantees for measuring DBE engagement, recruitment, utilization, and retainment. All BEAD subgrantees will be specifically monitored in this tracking to be developed. This reporting will be required in their quarterly monitoring reports due to KOBD from the subgrantees.

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### **02.09.02 MBEs, WBEs, and Labor Supplus Firms Inclusion Affirmative Steps**

Certify that the Eligible Entity will take all necessary affirmative steps to ensure minority businesses, women's business enterprises, and labor surplus area firms are used when possible, including the following outlined on pages 88 – 89 of the BEAD NOFO:

- a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- f. Requiring subgrantees to take the affirmative steps listed above as it relates to subcontractors.

Yes

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**02.10.01 Cost and Barrier Reduction Steps**

Identify steps that the Eligible Entity has taken or will take to reduce costs and barriers to deployment. Responses may include but not be limited to the following:

- a. Promoting the use of existing infrastructure;
- b. Promoting and adopting dig-once policies;
- c. Streamlining permitting processes;
- d. Streamlining cost-effective access to poles, conduits, easements; and
- e. Streamlining rights of way, including the imposition of reasonable access requirements.

2.10.1.a

To deliver universal broadband service to Kansas, KOBD must incorporate, map, and leverage all existing infrastructure, including the reuse of middle mile facilities, where available. Applicants are expected to depict all elements of their network design to reflect their work to achieve the lowest cost per location for any Project Funding Area. KOBD will also evaluate the reuse of infrastructure assets, where possible, as evidence of an applicant's ability to achieve the short interval for deployment.

KOBD will require prospective subgrantees to submit the capital costs of existing infrastructure used for the proposed project. These capital costs shall include, but are not limited to:

Make-Ready costs for pole attachments

Upgrades or changes needed for power sources

Overlashing of aerial facilities

Acquisition costs and fees for rights of way (ROW) access

Upgrades or changes needed for cabinet and pedestal configurations

Conduit in place

To augment this effort, KOBD received a \$42.5 million NTIA EMMBI grant to construct a robust middle-

mile broadband network with interconnection points for last-mile BEAD subgrantees in eastern and southern Kansas.

#### 2.10.1.b

The Kansas Corporation Commission and Kansas 811 are the primary administrators and adjudicators of underground plant excavations, which is codified in Kansas Statute Section 66-1801 - Kansas Underground Utility Damage Prevention Act. To be compliant with this act, KOBD supports locator and "call before you dig" policies by requiring BEAD applicants to document their processes to engage in Kansas 811 practices and approvals for excavation activities.

#### 2.10.1.c

After a review of permitting processes, KOBD finds local and state ROW access permits are simple and fees are reasonable. The time to secure a state permit, however, can be excessive and efforts must be made to reduce permit approvals. KOBD will work with KDOT and local communities to review and consider ways to streamline permitting processes specifically for the turnaround time for permit issuance for BEAD-funded projects will ensuring that state and local guidelines, National Environmental Protection Agency (NEPA) and Section 106 (NEPA) are followed.

KOBD encourages federal, state, and local agencies to work with NTIA and all relevant entities to promote expeditious and streamlined approvals for all permitting required for the successful and timely completion of BEAD activities. Federally, Kansas strongly encourages NTIA to work with the other relevant federal entities to issue coordination and permitting guidelines to promote expeditious and streamlined approvals. Reasonable maximum approval periods (I.e., where permits will be automatically granted if no action has been taken) are critically important for federal permits needed for BEAD-funded projects.

KOBD does not support variable fees based on distance (i.e., per foot or per mile).

#### 2.10.1.d

In Kansas, there are three (3) key challenges to obtain access to poles, conduits, and easements: (1) third-party approvals, (2) unregulated rates, and (3) make-ready work and associated costs.

Providers must obtain approval from landowners, local municipalities, and counties (via franchise agreements) for permission to deploy broadband infrastructure on their assets. In Kansas alone, these entities include over 35 different utility pole owners, 12 railroad companies, and numerous governmental entities. Adding to the labyrinth of approvals, many utility easements are specific to the originally approved use and do not allow for the reuse of other utility uses, such as broadband. KOBD will work on policies to the extent possible to place broadband infrastructure in existing easements to streamline acquisition of private easements. Given that private easements are held by single entities, KOBD cannot require this change but can facilitate discussions to encourage cooperation.

Some utility pole owners allow the attachment of broadband infrastructure for a monthly lease fee. The Federal Communications Commission (FCC) is the regulatory body for telecommunications pole attachment rates in Kansas. We also continue to struggle with reasonable pole attachment access. As noted in the Kansas Broadband report, we ask for support of the legislature to encourage public utilities, cooperatives, and municipal pole owners to be more accommodating in support of Kansas' mission to deploy broadband. The lack of willingness to accommodate attachment requests can delay expansion efforts into needed areas and drive cost increases. KOBD will work with electric distribution companies and electric co-ops to encourage reasonable rates for broadband provider use.

Compliance with pole owner loads, line separation requirements, and minimum height standards is required before permit approval. Pole owners can choose to require the requesting company to replace the pole before granting a permit (i.e., "Make-Ready"). The make-ready work can add significant costs and time delays for broadband deployment. KOBD will work with electric distribution companies and electric co-ops to encourage reasonable processes and rates for broadband provider use.

As an example of how these challenges can overlap and compound with each other, railroad companies do allow broadband infrastructure to cross their facilities in the public ROW. Reviews and approvals are lengthy, often extending six to 12 months. Additionally, "processing fees" are expensive, exceeding \$1,000, and must be requested for every crossing. Given that there are no laws in Kansas governing railroad right of way access, KOBD will work with railroads to encourage reasonable access and rates for broadband provider use.

#### 2.10.1.e

KOBD will require prospective subgrantees to issue permit requests for the entire proposed Project Funding Area, rather than piecemealing permit requests by construction subtasks. This requirement should streamline the permitting process and give a clear path to construction, including identifying conflicts with other ROW occupants.

KDOT is an active partner in the installation of broadband facilities in the state ROW through permits issued by KDOT land use offices. Furthermore, KDOT effectively implements the new FHWA requirements. On December 3, 2021, FHWA published a Broadband Infrastructure Deployment rule (§ 645.307(a)) which added four requirements to Section 607 of the MOBILE NOW Act. These requirements mandated the following:

Identify a broadband utility coordinator responsible for facilitating the infrastructure.

ROW efforts within the State

Establish a registration process for broadband infrastructure entities interested in installing facilities with roadway projects

Notify broadband infrastructure companies identified under (2), on an annual basis, of the State Transportation Improvement Program (STIP) and provide other notifications as necessary

Coordinate these initiatives with other statewide telecommunication and broadband plans, state and local transportation plans and land use plans.

KOBD continues to work with KDOT to coordinate efforts across KDOT land use offices to accelerate the process of approving permits.

KOBD has drafted Broadband Ready Communities (BRC) guidance to promote reasonable access requirements to local ROW by establishing a single point of contact for ROW and permit requests and capping permit fees at \$100. This guidance will be introduced throughout the state prior to the BEAD grant process to encourage communities to facilitate the streamlining of permit issuance where possible.

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### **02.11.01 Climate Risks Assessment**

Describe the Eligible Entity's assessment of climate threats and proposed mitigation methods. If an Eligible Entity chooses to reference reports conducted within the past five years to meet this requirement, it may attach this report and must provide a crosswalk narrative, with reference to page numbers, to demonstrate that the report meets the five requirements below. If the report does not specifically address broadband infrastructure, provide additional narrative to address how the report relates to broadband infrastructure.

At a minimum, this response should clearly do each of the following, as outlined on pages 62 – 63 of the BEAD NOFO:

- a. Identify the geographic areas that should be subject to an initial hazard screening for current and projected future weather and climate-related risks and the time scales for performing such screenings;
- b. Characterize which projected weather and climate hazards may be most important to account for and respond to in these areas and over the relevant time horizons;
- c. Characterize any weather and climate risks to new infrastructure deployed using BEAD Program funds for the 20 years following deployment;
- d. Identify how the proposed plan will avoid and/or mitigate weather and climate risks identified; and
- e. Describe plans for periodically repeating this process over the life of the Program to ensure that evolving risks are understood, characterized, and addressed, and that the most up-to-date

tools and information resources are utilized.

#### 2.11.1.a.

The Kansas Biological Survey categorized 20 ecological regions of Kansas, divided based on landscape, landforms, rock type and age, which are officially recognized by the Kansas Climate Office (See Report 1 in section 2.11.1.1. below). These ecological regions fall into three high-level categories: (1) river lowlands, (2) high plains, and (3) hills. The high plains and hills regions cover more than four-fifths of the land in the state.

KOBD reviewed regional, statewide, and national climate analysis reports to focus our initial hazard screening on the appropriate areas of Kansas. Most reports showed that the climate change risk level is comparatively low for Kansans. While the threats appear mild compared to other states that fall on fault lines or are in the path of multiple hurricanes per year, the broadband industry must remain vigilant and prepared for climate threats.

From 1980 to 2023, there were 63 severe storms, 18 droughts, two winter storms, six floods, and two freezes that cost \$1 billion or more (See Report 2 in section 2.11.1.1. below) per event. The locations of these billion-dollar weather events were spread evenly across the state. Due to the geographic diversity and randomness, narrowing down the hazard screening for severe storms is exceedingly difficult. However, the river lowlands areas, which are susceptible to flooding, are small thereby making them obvious targets for an initial hazard screening.

KOBD will work with the state climatologist to identify other specific area(s) of the state that will require an initial hazard screening for current and projected future climate-related risks. The initial hazard screening will begin in 2024 and be completed before grant funding applications open.

#### 2.11.1.b.

According to the FEMA National Risk Index (Risk Index), there is no risk for avalanches, coastal flooding, hurricanes, tsunamis, or volcanic activity (see Report 3 in section 2.11.1.1. below). However, there are multiple geographic areas in which Kansas does face significant climate threats. According to the Risk Index, the hills and high plains are susceptible to cold waves, hail, ice storms, lightning, strong wind, tornadoes, and winter weather.

The river lowlands are less susceptible to active weather threats, such as tornadoes and ice storms, yet these areas have an increased risk of river flooding. Historically, Kansas receives significant moisture evidenced by the short bouts of drought over the past 150 years (see Report 4 in section 2.11.1.1. below). Thus, FEMA categorizes the wildfire risk as "Very Low" throughout Kansas. However, there is conflicting data presented from the Climate Check (see Report 5 in section 2.11.1.1. below), which considered drought a minimal risk while ranking Kansas the seventh worst state in the nation for fire

risk.

As we look to the future, KOBD analyzed reports that stated the climate hazards will increase with time. For instance, due to climate change, the Climate Check expects the risk for wildfires in Kansas to remain high through 2050 and beyond. A recent study by the Mid-America Regional Council (MARC) stated climate change will amplify existing climate-related risks to people, ecosystems, and infrastructure throughout the Midwest (see Report 6 in section 2.11.1.1. below). The report, coupled with FEMA's Flood Map Service Center (see Report 7 in section 2.11.1.1. below), aids KOBD in understanding long-term potential climate changes in extreme weather between 2060 and 2100.

While recent changes in temperatures have been modest for Kansas, the MARC report predicted temperatures and precipitation will increase over the rest of this century. Specifically, it estimated the number of days with more than 1.5 inches of rain will increase from five to over nine by century's end and the days over 105°F will increase from one to over 20, with nighttime temperatures going from 80 degrees to over 90 degrees, by the end of the century. Thus, heat waves will become more frequent, and overnight summer lows will become hotter. Moreover, in 2022, NOAA's National Centers for Environmental Information created the State Climate Studies (see Report 8 in section 2.11.1.1. below), which estimated the average temperature to increase between eight and 15 degrees. With increased precipitation and temperatures, an increase in flooding risk, extreme heat, thunderstorm severity, and tornado number can be expected.

Tornadoes were a key topic discussed at the 2023 Kansas Environmental Conference titled "Current Weather and Tornado trends in Kansas" put on by the Kansas Division of the Environment. The number of tornadoes can dramatically swing from one year to another. While there were 12 tornadoes in 2023, there were 218 in 2008. According to the Topeka Capital Journal (see Report 9 in section 2.11.1.1. below), since 1950, the average number of tornadoes per year is 65.

KOBD shall collaborate with broadband providers throughout Kansas to design reliable networks to stay operational during cold waves, hailstorms, lightning, ice storms, high winds, winter weather, and tornadoes.

In the cases of above ground outside plant facilities such as cable and poles, KOBD will work with provider network designs to maximize the use of below ground cable and conduit to minimize the exposure to hailstorms, lightning, ice storms, high winds, and tornados. For cold waves and winter weather, KOBD will ensure providers have the necessary protections for both technicians and their vehicles including winter weather clothing, safe driving instructions, and protective tents and proper vehicle inspections including hydraulics for bucket trucks.

2.11.1.c.

The Risk Index (see Report 3 in section 2.11.1.1. below) ranks Kansas "Very High" or "Relatively High" for cold waves, hail, ice storms, lightning, strong wind, tornadoes, and winter weather. These climate risks



have the potential to negatively impact broadband networks.

As the Climate Check (see Report 4 in section 2.11.1.1. below) report showed, the predicted wildfire risk for Kansas is the seventh highest in the nation. Fires have the potential to devastate broad swaths of land and the existing infrastructure, as high winds, grasslands, and dry conditions are a potent mixture.

“Tornado Alley” is an area across the center of the United States that includes portions of the states of Texas, Oklahoma, Kansas, and Nebraska where tornadoes occur often. The number and severity of tornadoes varies from year to year and season to season. When deploying broadband infrastructure provided through the BEAD Program, KOBD shall ensure providers consider weather and climate risks in their design plans.

Weather and climate risks to new infrastructure deployed using BEAD Program funds for the 20 years following deployment faces increases in temperatures and droughts. KOBD believes the impact on outside plant facilities such as cable, poles, conduit, etc. will be minimal. However, inside plant facilities such as power supplies, routers, lasers, etc. will require additional cooling capacity to offset increases in temperature. In addition, structured housing inside plant facilities needs to be constructed to ensure proper foundations to support the housing structure as the ground compresses as droughts are experienced. KOBD will require subgrantee applicants to use their narrative response to detail how their proposals acknowledge climate risks being faced in the 20 years following deployment and what protections they have incorporated into their designs and costs.

#### 2.11.1.d.

In 2022, according to NOAA’s climate.gov (see Report 10 in section 2.11.1.1. below), severe weather events resulted in over \$2.2 billion in damage to physical assets in the US. These events pose significant risks to Kansans, along with the infrastructure deployed as part of the BEAD program.

Outside of river flooding, climate risks remain consistent from one part of Kansas to the other, thus climate risks do not impact a preferred choice of technology for KOBD. However, the climate risk of flooding, tornadoes, and wildfires does create a preference for underground infrastructure, versus aerial and on poles. This preference for underground facilities does significantly increase the construction costs of a network but provides significantly improved protection from most climate elements.

KOBD will prioritize infrastructure projects that maximize protection against climate events, including tornadoes, floods, and wildfires. This will encourage providers to harden areas of network aggregation, protect areas where providers access power supplies, harden existing infrastructure critical to BEAD-funded projects, and incent providers to consider diverse routing and network redundancies to prevent potential points of failure.

With the flood plain plan, KOBD will require potential subgrantees to review the FEMA Flood Map Service Center Search Tool to check for flood risk from a statistically valid sample of addresses and supporting infrastructure. Specifically, if there is a 0.2% or greater annual chance of flood hazard or areas of future conditions with one percent (1%) annual chance of flood hazard, potential subgrantees must include risk mitigation steps.

With the wildfire mitigation plan, potential subgrantees should focus on vegetation management and other preventive management policies that should contemplate the following:

“Red-Flag Warnings” issued by the National Weather Service for fire weather zones

Wind speeds, humidity, temperature, fuel moisture, fuel loading, and other data from weather stations

Awareness of mandatory or voluntary evacuation orders

Restoration and coordination activities with other adjacent facility owners in the event of a wildfire or environmental emergency

Expected shutdowns of essential services

Potential impacts to communities and members

During fires and natural disasters, the two biggest impacts to internet providers and their networks are commercial power outages and direct damage to the network. Thus, potential subgrantees must consistently inspect the infrastructure for the removal of potential flammable materials, ensure batteries are in good working order, and backup generators maintain the proper fuel levels. Using fire and heat resistant blankets to cover critical vault locations and equipment is a preventive step providers should consider.

2.11.1.e.

Partnering with the state climatologist, KOBD shall conduct a five-year review of the climate provisions of the program to maintain awareness of the ever-shifting climate risk landscape. During this review, KOBD and the state climatologist shall assure the office has sufficiently accounted for the current and future climate risk status and predictions.

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#### **02.11.01.01 Climate Reports**

As an optional attachment, submit any relevant reports conducted within the past five years that may be relevant for this requirement and will be referenced in the text narrative above.

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**02.12.01 Low-Cost Broadband Service Option**

Describe the low-cost broadband service option(s) that must be offered by subgrantees as selected by the Eligible Entity, including why the outlined option(s) best services the needs of residents within the Eligible Entity's jurisdiction. At a minimum, this response must include a definition of low-cost broadband service option that clearly addresses the following, as outlined on page 67 of the BEAD NOFO:

- a. All recurring charges to the subscriber, as well as any non-recurring costs or fees to the subscriber (e.g., service initiation costs);
- b. The plan's basic service characteristics (download and upload speeds, latency, any limits on usage or availability, and any material network management practices);
- c. Whether a subscriber may use any Affordable Connectivity Benefit subsidy toward the plan's rate; and
- d. Any provisions regarding the subscriber's ability to upgrade to any new low-cost service plans offering more advantageous technical specifications.

Adoption and affordability efforts are vital aspects of the success of BEAD projects. Applicants shall demonstrate the affordability of the products and services within the Proposed Funding Areas, addressing current barriers to broadband access in their project proposal. Applicants are encouraged to partner with housing agencies to leverage programs benefiting residents in multi-dwelling units. Applicants are required to participate in the FCC's Affordable Connectivity Program (ACP). An applicant must be a registered ACP participant or have an ACP application submitted prior to the closure of the BEAD application window. Applicants must include the following in their narrative:

Describe any activities planned to increase adoption awareness,

Describe resources the applicant will be contributing to the adoption efforts, such as digital literacy training, marketing campaigns, surveys, and low-cost service options, and

Provide supporting documentation demonstrating the organization's participation in subsidy programs to optimize digital inclusivity and adoption including partnering with school districts and colleges to raise awareness of subsidy programs such as Lifeline, Affordable Connectivity Program, or the

Emergency Connectivity Fund.

Subgrantees are required to participate in the Affordable Connectivity Program or any successor program, and Eligible Subscribers that are eligible for a broadband service subsidy can apply the subsidy to the proposed service option.

For the BEAD program, KOBD defines Low-Cost Option broadband services as a plan that is \$30 per month or less. All recurring fees include monthly subscription, Wi-Fi router or modem fees, and any taxes or surcharges applied. No charges for repair or maintenance of qualified broadband service will be allowed. No charges will be allowed for installation. For ACP participants, the net end-user cost would be zero dollars (\$0) and therefore the barrier for affordability is eliminated and adoption of qualifying broadband service for participation in the digital world is stimulated.

KOBD supports rural broadband service rates and urban rates should be reasonably comparable. For defining the \$30 per month Low-Cost Option, KOBD examined the 2023 FCC Urban Rate Study (<https://www.fcc.gov/economics-analytics/industry-analysis-division/urban-rate-survey-data-resources>). For broadband service (excluding DSL) at 100 Mbps, Kansas has advertised prices ranging from \$9.95 to \$94.95. The Urban Rate Study uses a sample of census blocks to collect rate information. Of the 25 urban census blocks sampled in Kansas, 17 census blocks are \$30 per month or less and 11 census blocks were \$30 exactly; only 8 census blocks exceeded the \$30 per month rate. Cable, FTTH, and fixed wireless technologies were identified as being utilized to provide \$30 or less broadband service.

The Low-Cost broadband service option best serves the needs of eligible Kansans by providing affordable and reliable qualifying broadband service in some cases at zero (\$0) monthly cost. According to US Telecom, broadband services from 2015 to 2023 have dropped 80% per megabit for the most popular and fastest speed offerings. From 2022 to 2023, the most popular speed tier pricing dropped by 18.1%.

The proposed low-cost service option plan shall include the following:

Costs \$30 per month or less, inclusive of all taxes, fees, and charges if the subscriber does not reside on Tribal Lands, or \$75 per month or less, inclusive of all taxes, fees, and charges if the subscriber resides on Tribal Lands, with no additional non-recurring costs or fees to the consumer;

Allows the end user to apply the Affordable Connectivity Benefit or successor subsidy to the service price;

Provides the greater of (a) typical download speeds of at least 100 Mbps and typical upload speeds of at least 20 Mbps, or the fastest speeds the infrastructure is capable of if less than 100 Mbps/20 Mbps or (b) the performance benchmark for fixed terrestrial broadband service established by the Federal Communications Commission pursuant to Section 706(b) of the Communications Act of 1934, as

amended;

Provides typical latency measurements of no more than 100 milliseconds;

Is not subject to data caps, surcharges, or usage-based throttling, and is subject only to the same acceptable use policies to which subscribers to all other broadband internet access service plans offered to home subscribers by the participating subgrantee must adhere; and

In the event the provider later offers a low-cost plan with higher speeds downstream and/or upstream, permits Eligible Subscribers that are subscribed to a low-cost broadband service option to upgrade to the new low-cost offering at no cost;

In addition to the NOFO requirements listed above, KOBD believes that reliable qualifying broadband must include quality of service and pricing commitments to maximize adoption and affordability. These requirements include:

1. Service installed within 10 calendar days of a service request consistent with evidence for Availability challenges;
2. Provide service outage credits, measured at 1/30 of the monthly rate per day for an outage of over 12 hours;
3. Enforceable commitment not to raise the \$30 per month for the 100/20 Mbps service for 2 years from the infrastructure deployment date for each BSL and may only increase annually for the next 3 years at a rate no greater than the Consumer Price Index for All Urban Consumers (CPI-U) for the Midwest Region;
4. The plan is well-marketed, publicly available, and easily accessible

The low-cost option, as well as all other offered plans, must be available for any ACP subsidy toward the plan's rate where the subscriber qualifies for the subsidy. In High-Cost areas, as defined by the FCC, where the maximum ACP subsidy is \$75, assuming a \$30 per month plan, a refundable credit to the subscriber will not be allowed. The low-cost option and ACP subsidy description and subscriber application must be offered in all contacts with potential subscribers including monthly bills, calls or emails to customer service representatives and prominently displayed on the provider website for online inquiry.

If ACP should fail to be renewed or replaced with a federal (FCC) successor program, there would be no changes to the Low-Cost option requirements. KOBD will explore options to subsidize subscriber costs with state, local, or non-for-profit funding to continue to support adoption and affordability. Providers will be required to continue the \$30 Low-Cost Option for the life of the project regardless of whether ACP fails to be renewed or is replaced.

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## **02.12.02 Affordable Connectivity Program Participation**

Certify that all subgrantees will be required to participate in the Affordable Connectivity Program or any successor program.

Yes

\_\_\_\_\_

## **02.13.01 Middle-Class Affordability Plan Description**

Describe a middle-class affordability plan that details how high-quality broadband services will be made available to all middle-class families in the BEAD-funded network's service area at reasonable prices. This response must clearly provide a reasonable explanation of how high-quality broadband services will be made available to all middle-class families in the BEAD-funded network's service area at reasonable prices.

Affordability of broadband services is a priority for KOBD, which includes middle-class households amongst many other categories of individuals. Plans for middle class affordability is addressed by the following program elements:

### **BEAD Subgrantee Selection Scoring Criteria**

The points assigned to affordability in the scoring criteria established in the Subgrantee Selection Scoring are the primary means to ensure high-quality broadband services will be made available to all middle-class families in the BEAD-funded network's service area at reasonable prices. Affordability will form 15% of the total available scoring to prospective subgrantees. Specifically, for each Project Funding Area, each applicant offering symmetrical gigabit service for \$90, or less, per month, inclusive of all taxes, fees, and monthly charges billed to the customer, will receive the full 15% scoring, while other applications will receive a percentage of points reflective of the distance from the target price of \$90. Considering that all subscribers may not require 1Gbps service, maximum scoring in this category will also apply if applicants offer 100/20 Mbps service for \$60, or less, per month inclusive of all taxes, fees, and monthly charges billed to the customer.

### **Recommended Service Plan**

To be eligible to receive maximum points for affordability, the prospective subgrantees must provide the recommended service plan to the entire proposed Project Funding Area and all prospective customers within.

The recommended service plan must meet, at a minimum, the following criteria:

Total package costs \$90 per month or less, inclusive of all taxes, fees, and charges billed to the

customer, for 1Gbps service that consistently, verifiably, and reliably provides 1Gbps download and upload speeds

Enforceable commitment not to raise the \$90 per month for the 1 Gbps symmetrical service for 2 years from the infrastructure deployment date for each BSL and then, may only increase annually for the next 3 years at a rate no greater than the Consumer Price Index for All Urban Consumers (CPI-U) for the Midwest Region

Total package costs \$60 per month or less, inclusive of all taxes, fees, and charges billed to the customer, for 100/20 Mbps service that consistently, verifiably, and reliably provides 100 Mbps download and 20 Mbps upload speeds

Enforceable commitment to not raise the \$60 per month for the 100/20 Mbps service for 2 years from the infrastructure deployment date for each BSL and then, may only increase annually for the next 3 years at a rate no greater than the Consumer Price Index for All Urban Consumers (CPI-U) for the Midwest Region

Must provide service installation within 10 calendar days of service request

Provides latency measurements of no more than 100 milliseconds

Is not subject to data caps, surcharges, or usage-based throttling, and is subject to the same acceptable use policies offered to other home subscribers of other internet access service plans

Provide service outage credits, measured at 1/30 of the monthly rate per day for an outage of over 12 hours

Will waive installation charges for any service installation that exceeds the 10-calendar day commitment

The plan is well-marketed, publicly available, and easily accessible

This recommended service plan applies to Priority Broadband Projects, Other Broadband Deployment Projects, and Hybrid Broadband Deployment Projects.

#### Continuous Monitoring

KOBD will establish a regime of continued monitoring through grantee and public reporting to ensure high-speed Internet connections are maintaining or improving the rates required in this KOBD proposal as outlined in the BEAD NOFO Reporting Requirements-Subgrantees; Item 7, page 90.

#### Multi-Dwelling Units Promotion

KOBD will work with Education Superhighway, the Kansas Housing Resources Corporation (KHRC), public housing commissions, neighborhood associations, and HUD affiliates to promote middle-class and low-cost affordability options to the tenants, owners, and renters of MDU structures. In addition, free Wi-Fi access should be provided to communal areas in MDUs, along with basic digital and cybersecurity training opportunities.

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#### **02.14.01 20 Percent of Funds Usage**

Describe the Eligible Entity's planned use of any funds being requested, which must address the following:

- a. If the Eligible Entity does not wish to request for Initial Proposal funds, it must indicate no funding requested and provide the rationale for not requesting funds.
- b. If the Eligible Entity is requesting less than or equal to 20 percent of funding allocation during the Initial Proposal round, it must detail the amount of funding requested for use upon approval of the Initial Proposal, the intended use of funds, and how the proposed use of funds achieves the statutory objective of serving all unserved / underserved locations.
- c. If the Eligible Entity is requesting more than 20 percent (up to 100 percent) of funding allocation during the Initial Proposal round, it must detail the amount of funding requested for use upon approval of the Initial Proposal, the intended use of funds, how the proposed use of funds achieves the statutory objective of serving all unserved / underserved locations, and provide rationale for requesting funds greater than 20 percent of the funding allocation.

##### 2.14.1.c

KOBD requests 100% of its funding allocation to be obligated, of which no more than \$24,500,000 will be used before approval of Kansas' Final Proposal for the following activities:

- Capital Administrative activities listed below
- Programmatic activities listed below
- Non-Deployment Workforce Development and Readiness activities listed below

KOBD believes approval of its full allocation best enables the state to satisfy the requirements of the BEAD-FP and the statutory objectives of the BEAD program. Having access to the full allocation creates greater certainty for prospective subgrantees, will maximize subgrantee and stakeholder participation needed for Kansas to meet our universal service goal. Put simply, approval of KOBD's request for the full allocation is the best route to closing the digital divide in Kansas.

In its Five-year Action Plan, KOBD forecasted a shortfall to achieve universal coverage of all unserved and underserved locations based on unserved and underserved locations identified at the time of 87,489 and 57,316, respectively for a total of 144,805 locations statewide (See Appendix 11 in the FYAP). These locations were based on the May 30, 2023, version of the FCC Broadband DATA Map.



KOBD has prepared its Publication of Eligible Locations pursuant to its Initial Proposal – Volume 1 including Pre-Modification elections for Module 2: Pre-Challenge DSL Modifications and Module 3 Pre-Challenge Speed Test Modifications.

KOBD worked with the NTIA to release the Deduplication Toolkit prior to Volume 1 being approved so that BEAD qualifying BSLs could be effectively identified. KOBD provided the NTIA with the BSLs awarded under State grant programs which were included in the deduplication toolkit. All federal grant programs and state programs contracted to date that were identified in Volume 1 – Requirement 3 were deduplicated.

KOBD utilized the November 11, 2023, version of the FCC Broadband Data Map for its deduplication work. The result of these deduplication processes reduced unserved and underserved locations to 52,887 and 34,662 respectively for 87,549 locations. This is a reduction of 39% across unserved, underserved, and CAI locations. In addition, KOBD will be performing post-Challenge deduplication for its BAG 3.0 and LINC programs currently being awarded and contracted and anticipates an additional 6,000 unserved and underserved locations. KOBD has requested all FCC awardees of census block awards including CAF and RDOF to verify coverage of all locations and the use of qualifying technologies on the census blocks awarded. KOBD anticipates the number of Eligible Locations will continue to decrease as KOBD prepares for the Sub-Grantee selection process and estimates a total of 85,000 locations, 52,000 unserved and 33,000 underserved after the Challenge process is complete. Post-Challenge results were submitted by KOBD to the NTIA on March 18, 2024, for review, curing, and approval. These post-challenge results indicate 37,779 unserved and 25,631 underserved locations. From KOBD’s FYAP estimates of 87,489 unserved and 57,316 underserved locations on which the funding shortfall was estimated, this is a reduction of 57% and 55%, respectively. Prior to sub-grantee selection process, additional private investment, local, state, and federal grant programs, and continued refinement of FCC BDC data will decrease the number of unserved, underserved, and CAI locations eligible for BEAD funding. BEAD funding is then enabled to provide the maximum number of locations with Priority Broadband Service and provide for non-deployment, administrative, and programmatic activities.

Based on the massive reduction in unserved and underserved locations due to the deployment of qualifying broadband service with federal and state grant assistance, KOBD reevaluated the ability to serve all unserved and underserved BSLs and CAI locations using the same model used to estimate the cost of universal service in its Five-Year Action Plan. The comparative results of the FYAP Universal Cost Estimate and the new Universal Cost Estimate based on the current known unserved and underserved location information is below:

	FYAP Estimate	IP Vol 2 Estimate
100% FTTH Model Cost	\$1,097,731,406	\$ 698,546,489
Less Reduction FTTH/Wireless Mix	\$ 102,488,723	\$ 43,665,332
FTTH/Wireless Model Cost	\$ 995,242,683	\$ 654,881,157
Known Funding Sources	\$ 768,863,621	\$ 694,657,498
Universal Service Surplus (Shortfall)	(\$ 236,379,062)	\$ 39,776,341

The 39% reduction in Eligible Locations due to Challenges Pre-Modifications and Deduplication resulted in a 34.2% reduction in the cost for Priority Broadband Funding (FTTH) and Other Deployment

Projects (Fixed Wireless). Known Funding Sources were reduced due to USDA Reconnect grants and FCC EACAM awards elections being made and the locations being deduplicated. Cost per location based on the density of locations in the County was left constant so only the reduction Model Cost is based solely on the reduction in Eligible Locations.

The Surplus enables Programmatic Deployment Expenses and the Workforce Development/Readiness program (Non-Deployment Expense) to be funded with KOBD's BEAD allocation.

Request of 2% for Eligible Entity BEAD Programmatic Expenses

Pursuant to NTIA guidance for "Eligible Entity Deployment Activities," KOBD is seeking an allocation of two (2) % of the total BEAD allocation to support programmatic activities in support of BEAD implementation and deployment. Examples of activities that will be supported by the programmatic funding include, but are not limited to, the following:

- Development, management, and implementation of the subgrantee selection process, including prequalification, selection, (planning)
- Deduplication (final post-Challenge process)
- Grant development and administration
- Management, reporting, monitoring, and compliance specific to BEAD funds and the subgrantee process
- Procurement and management of third-party resources to develop, administer and manage the BEAD subgrantee program to include application reviews and scoring
- Procurement and management of third-party resources to conduct Technical Field Audit and Compliance reviews
- Procurement and management of third-party resources to conduct Final Financial Reviews for BEAD project close-outs
- Monitoring subgrantee performance through grant agreements and enforceable commitments
  - o Planning documentation
  - o BSL Coverage verification via design plan assessments
  - o Local coordination and communication
  - o Timeline commitments
  - o Proper permitting
  - o Workforce compliance
  - o Safety compliance
  - o Grant commitment reporting
  - o Documented risk assessment and management
- Development and refinement of cost models for the Extremely High Cost (EHC) threshold and BEAD minimal outlay calculations
- Local coordination focused on infrastructure planning with local, regional, and Sovereign Tribal Nation entities to prepare for collaboration with subgrantees
- Develop and maintain mapping in support of the subgrantee process to include Project Funding Areas, funding decisions, infrastructure build plans and dashboards to reflect grant progress
- Data collection to support mapping, analysis, and program development
- Efficient disbursement of funds and fiscal management processes for subgrantees

- EHP verification against subgrantee plans and compliance Request of 1.5% for Workforce Development/Readiness

Request of 1.5% for Workforce Development and Readiness

Pursuant to NTIA guidance for “Eligible Entity Non-Deployment Activities,” KOBD intends to use 1.5% of the total BEAD allocation for workforce development and readiness efforts. These efforts are in direct support of deployment activities, as they will ensure ISPs have an available, diverse, and highly skilled workforce that can be sustained throughout the program. KOBD plans to develop MOUs with KBOR, KDC’s Workforce Strategies team, and KDOE to design and implement the work efforts listed below to fulfill the cohesive, statewide workforce development program that it will sponsor:

- Develop an MOU with KBOR to address (i) the creation of technical training pilot program(s) at regional college(s)/university(ies), and (ii) equipment support for existing technical training programs. The outcome of this trial is expected to be the initiation of at least two technical training centers to act as replicable models for other schools to follow. Each training center should offer technician certification programs for surveying, installation, and maintenance of broadband facilities.
- Develop an MOU with KDC’s Workforce Services to cover the expansion and collaboration of workforce centers throughout the state to ensure rural locations with significant numbers of covered populations, Sovereign Tribal Nation lands, and areas with predominantly low-skilled jobs have access (i.e., as these will be key locations for new workforce entrants to be drawn.) KOBD will map these locations to covered population locations to ensure that reasonable access is available to all.
- Develop an MOU with KDOE to cover the development of K-12 curriculum for career pathways within the telecommunications and broadband industry to ensure the sustainability of the value created by the BEAD investment
- Local outreach and planning with educational facilities, local community leaders, correctional facilities, Sovereign Tribal Nation leaders, and non-profit organizations involved in digital and technical education to understand any ongoing efforts, local needs, and to encourage active participation
- Marketing and advertising of workforce programs to aid in recruitment
- Develop career pathways and training access for all parts of the state, especially for covered populations (the entire lifecycle of technical training, broadband education, and digital literacy will be considered)
- Support of locally based digital navigators who can support Kansans as they participate in the digital economy
- Support of registered apprenticeships
- Mobile training units that can provide training access to those with limited mobility or resources
- Re-entry training for “justice involved” individuals to create pathways to well-paying jobs as they re-enter society, thereby reducing the likelihood of recidivism
- Adult education and workforce centers for digital upskilling focusing on digital opportunities found in remote working, healthcare, access to social services, and other areas
- Coordination efforts between BEAD and DEA personnel to ensure that plans remain highly integrated both in timing of efforts and in communications
- Educational tracking tools to inventory and monitor the success of broadband and digital skillset curriculum

- Creation and matches of sponsorships to help fund members of covered populations to participate in training and apprenticeships
- Reimbursement and stipends for childcare and transportation expenses to enable those requiring assistance to attend training

Request of 2% for Administrative Cap

Additional administrative resources are required to process, evaluate, and complete aggressive timelines of the BEAD program to achieve qualified broadband to all unserved, underserved, and CAI locations. These administrative resources include a combination of KOBD employees and necessary third parties to oversee and manage the successful selection, deployment, and reporting of subgrantee awards through the following activities:

- Staffing requirements
- Project management and administration
- Coordination with NTIA to ensure timelines, content, and funding guidelines are met
- Reporting requirements and coordination with other federal, state, and local programs that are qualified in deduplication and may be monitored to ensure that all BSLs are effectively covered via the grant program that they were awarded under
- Review of new state or federal programs to ensure coordination with the KOBD BEAD planning guidelines and requirements
- Procurement of and management of third-party resources for NTIA compliance reporting
- Travel associated with BEAD
- Execution and monitoring of enforceable commitment agreements for pre-BEAD grant awards to support deduplication
- BEAD Administrative reporting to NTIA or other governing bodies as required

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**02.14.02 Initial Proposal Funding Request Amount**

Enter the amount of the Initial Proposal Funding Request. If not requesting Initial Proposal funds, enter '\$0.00.'

\$446,726,055,.54

\_\_\_\_\_

**02.14.03 20 Percent of Funds Requirements**

Certify that the Eligible Entity will adhere to BEAD Program requirements regarding Initial Proposal funds usage. If the Eligible Entity is not requesting funds in the Initial Proposal round and will not submit the Initial Proposal Funding Request, note "Not applicable."

Yes

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## 02.15.01 Laws Related to Subgrant Competition

- a. Disclose whether the Eligible Entity will waive all laws of the Eligible Entity concerning broadband, utility services, or similar subjects, whether they predate or postdate enactment of the Infrastructure Act that either (a) preclude certain public sector providers from participation in the subgrant competition or (b) impose specific requirements on public sector entities, such as limitations on the sources of financing, the required imputation of costs not actually incurred by the public sector entity, or restrictions on the service a public sector entity can offer.
- b. If the Eligible Entity will not waive all such laws for BEAD Program project selection purposes, identify those that it will not waive (using the Excel attachment) and their date of enactment and describe how they will be applied in connection with the competition for subgrants. If there are no applicable laws, note such.

### 2.15.1.a.

In fulfilling KOBD's mission to provide universal access to quality, affordable, and reliable broadband, the state takes an "all of the above" approach to provider participation, meaning KOBD is open to all provider categories and technologies that meet the BEAD program standards. KOBD encourages cooperatives, non-profit organizations, public-private partnerships, private companies, public or private utilities, and local governments to submit grant applications. This "all of the above" approach allows each community to receive high-quality and affordable broadband of their own choosing.

After an initial review, there are no rules, procedures, or regulations that restrict, limit, or exclude public sector providers from being eligible and participating in the subgrantee selection process for BEAD funding.

KOBD completed an extensive analysis of state laws, regulations, rules, policies, and procedures that apply to telephone, cable television, or internet providers applicable to agencies and departments such as the Kansas Department of Commerce, Kansas Corporation Commission, and the Kansas Department of Transportation. KOBD found no barriers or hurdles to government entity participation in the deployment of broadband and their potential impact on deployment grant programs.

This analysis reviewed the existing statutory framework applicable to providers of telephone, cable television, internet, and telegraph services. KOBD found 19 chapters and dozens of articles in the Kansas statutes that were pertinent to these providers. KOBD did not find any that imposed specific requirements on public sector entities that limited their ability to participate in the subgrantee selection process. Nor did KOBD find any statutes that put limits on funding sources, imputation of costs, or that prevent a public sector entity from offering broadband service. More to the point, KOBD awarded several broadband grants from various programs (e.g., Connectivity Emergency Response Grant and Broadband Partnership Adoption Grants) to government entities including the City of

Chanute, KS; Garden City, KS; Marion, KS; Iola Public Library; and City of Ottawa, KS.

Thus, KOBD welcomes all public sector entities to help deliver universal service to Kansas.

2.15.1.b.

While Kansas does not require the waiver of any laws as outlined in this response, moving forward, KOBD will monitor the Kansas state legislature for bills pertaining to broadband service and government-owned networks.

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**02.15.01.01 Laws Related to Subgrant Competition List**

As a required attachment only if the Eligible Entity will not waive laws for BEAD Program project selection purposes, provide a list of the laws that the Eligible Entity will not waive for BEAD Program project selection purposes, using the Eligible Entity Regulatory Approach template provided.

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**02.16.01 Requirements Compliance Certification**

Certify the Eligible Entity's intent to comply with all applicable requirements of the BEAD Program, including the reporting requirements.

Yes

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**02.16.02 Subgrantee Accountability**

Describe subgrantee accountability procedures, including how the Eligible Entity will, at a minimum, employ the following practices outlined on page 51 of the BEAD NOFO:

- a. Distribution of funding to subgrantees for, at a minimum, all deployment projects on a reimbursable basis (which would allow the Eligible Entity to withhold funds if the subgrantee fails to take the actions the funds are meant to subsidize);
- b. The inclusion of clawback provisions (i.e., provisions allowing recoupment of funds previously disbursed) in agreements between the Eligible Entity and any subgrantee;
- c. Timely subgrantee reporting mandates; and
- d. Robust subgrantee monitoring practices.

#### 2.16.2.a.

KOBD will distribute funds to subgrantees on a reimbursable basis in alignment with service milestones as committed in subgrantee grant agreements that detail commitments on timelines, deployment progress by route and BSL passing as included in all enforceable commitment agreements. In accordance with K.S.A. § 75-5094, the Grantee will be compensated on a cost reimbursement basis. Grant Funds shall be distributed monthly to Grantee for actual, reasonable, and necessary Eligible Costs based upon Grantee's Budget, Prior to any reimbursement of Eligible Costs, Grantee shall submit a quarterly report that aligns with the percentage of the Project completed and provide all the necessary supporting documentation, which may include providing proof of payment. A final payment of 10% of the Grant Amount will be held until final completion of the Project and will be paid to Grantee upon final closeout reporting submission. KOBD approves the reimbursement requests and provides authorization to Kansas Procurement to disburse funds.

Remittance requests must be submitted for reimbursable expenses (i.e., funds will not be granted for future expenses). Subgrantees shall submit verifiable documentation to support each request.

10% of each grant award shall be retained until all contract obligations have been met. This 10% is in addition to any disbursements for service milestones outstanding due to similar timing or previous failure to properly submit for reimbursement. Final disbursement of the 10% retained shall occur only after KOBD has verified that all work has been completed, including the Final Financial review, physical verification, and other approved testing methods. The subgrantee must comply with their enforceable commitments to timelines, verified coverage areas, and technology mix to receive the final disbursement.

A report shall be made by the subgrantee, if requested by KOBD, describing disbursement decisions and methods for cure.

Verification of subgrantees' enforceable commitments will be made by the Technical Field Audit and Compliance team on behalf of KOBD, who will create reports of their findings. These verification reports shall be shared with the subgrantee promptly.

#### 2.16.2.b.

The grant agreement between KOBD and each subgrantee shall include claw back provisions for any failure to perform against timeline commitments, deployment progress, or failure to complete BSL passings as agreed at the time of the enforceable grant commitment. Each failure noted in the quarterly subgrantee report, or any ad hoc report requested by KOBD, shall be given a cure period of 90 days, unless a shorter period is mutually agreed upon by KOBD and the subgrantee. In the case of a subgrantee's failure to adequately cure, KOBD can: (i) reclaim previously disbursed funds, (ii) deny future fund disbursements, and (iii) reallocate awarded funding areas to another provider.

Subgrantees who fail to provide the minimum required connection speed or service plan cost committed in the enforceable grant commitment shall forfeit: (i) the entirety of their matching funds received through the BEAD program, and (ii) the amount of BEAD funds already disbursed plus interest. If a subgrantee fails to perform and return the full forfeited amount required, the ownership and use of the broadband infrastructure funded by the BEAD program shall revert to the State of Kansas.

KOBD may declare Grantee in default under this Agreement upon the following:

The failure by Grantee to apply the grant funds in accordance with this Agreement and the Program without the prior written consent of KOBD. KOBD reserves the right to reject any use of the grant funds which it reasonably determines, in its sole and exclusive discretion, does not meet the criteria of the Program.

The misrepresentation by Grantee of any information in either the Grantee's application for funds or in any report or subsequent information submitted to KOBD or released to the public or other third party related to the provisions of this Agreement or the Project.

The Grantee fails to timely provide reports required under Section VIII of this Agreement.

The failure of Grantee to complete construction of the Project and/or be operational by date committed.

In the event of a default under this section, KOBD shall provide Grantee with written notice of default and an opportunity to cure such default. If the default has not been resolved within thirty (30) days of the initial notice of default, then KOBD, at its option, may terminate this Agreement and require any or all the grant funds previously provided by KOBD be repaid by Grantee and Grantee shall have no further right to payments outstanding under this Agreement. Grantee may be required to return grant funds in the case of default or termination or in the case of payments made in excess of the total Eligible Costs. Grantee shall also be required to repay any grant funds granted under this Agreement for which no qualified expenditure have been made by committed date. Any Project costs incurred by the Grantee after the committed date are ineligible and will be subject to repayment to KOBD. KOBD may recover any payments made in error by deduction from any state contract or other appropriate means of collection.

#### 2.16.2.c.

Subgrantees shall be required to submit a quarterly progress report for each BEAD grant award to monitor performance and ensure that timely reporting is available to the NTIA as required. Reporting guidelines shall be documented and provided to subgrantees during the grant process. Specifically, KOBD will communicate requirements prior to the selection process through outreach efforts to participating stakeholders (i.e., webinars, in-person meetings, newsletter, etc.), posting of a list of



regulations on the KOBD website, and including the requirements in the grant application instructions and grant agreement terms, conditions, and monitoring program requirements. In addition, KOBD may request ad hoc reporting during the life of the grant award if performance concerns are noted and a cure commitment has been made.

Quarterly reports shall be reviewed by the Technical Field Audit and Compliance team. Each report will describe the several types of projects and/or other eligible activities carried out using the subgrant and the duration of the subgrant. The report will meet at least the minimum requirements as set forth in the BEAD NOFO, Reporting Requirements – Subgrantees, pg. 90. All subgrantee reports will be available to NTIA upon request.

Reports will be submitted through an electronic portal by the Subgrantee, and portal documentation retained will be maintained by KOBD. Subgrantees must maintain sufficient records to substantiate all information provided.

During reporting, should a subgrantee request to make changes to their BEAD proposal documented in the subgrantee enforceable commitment agreement, that request must be in writing to KOBD. KOBD will review the request and will allow the subgrantee 30 calendar days to fully document their requested changes to include new service milestones, costs, BSL passings, and local outreach plans. The request from the subgrantee will be reviewed for compliance by KOBD and, if approved, will be forwarded to NTIA for approval. NTIA decisions on the plan revision will be communicated back to KOBD for notice to be provided to the subgrantee. Any changes to the original grant award will be documented by an amended enforceable commitment agreement.

#### 2.16.2.d.

KOBD will utilize the Technical Field Audit and Compliance Team to perform, develop, and implement risk assessments and monitoring plans for each subgrantee that will be reviewed quarterly. Risk assessments are based on the quarterly progress reports measured against project service milestones and the projected ability for the grantee to continue to meet milestones for broadband deployment commitments in future quarters based on performance in the period. Risk assessment will include analysis of labor, materials, financial reporting, seasonal weather impacts forecasted, and permit constraints which delay completion of the project. KOBD will review and approve the monitoring plans, which will inform KOBD's decisions on the subgrantees' requests for reimbursement.

KOBD will also monitor projects through compliance reviews. These reviews will ensure the project complies with applicable state and federal regulations. Compliance reviews include:

Site Visits: KOBD shall conduct site visits to verify and document project construction and progress randomly to ensure compliance

Desk Reviews: KOBD will conduct desk reviews of all BEAD projects' service milestones each quarter to

ensure progress is made and reported as outlined in the subgrantee enforceable commitment agreement.

Internal Compliance Reviews: These reviews ensure compliance with 2 CFR 200 regulations and verify internal controls, fiscal management procedures, and project management plans

Final Financial Reviews: Upon project closeout, KOBD will conduct a Final Financial Review (FFR) of the project to ensure that the project's use of BEAD funds is compliant with NTIA standards and reporting

KOBD shall monitor subgrantee performance in areas to include, but not be limited to:

Planning documentation

Local coordination and communication

Timeline commitments

Proper permitting

Workforce compliance

Safety compliance

Grant commitment reporting

Documented risk assessment and management

KOBD has engaged a third-party firm to ensure appropriate support, capacity, and expertise to adequately review the documentation related to the requirements above and maintain records accordingly.

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**02.16.03 Subgrantee Civil Rights and Nondiscrimination**

Certify that the Eligible Entity will account for and satisfy authorities relating to civil rights and nondiscrimination in the selection of subgrantees.

Yes  
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**02.16.04 Subgrantee Cybersecurity and Supply Chain Risk Management Compliance**

Certify that the Eligible Entity will ensure subgrantee compliance with the cybersecurity and supply chain risk management requirements on pages 70 - 71 of the BEAD NOFO to require prospective

subgrantees to attest that:

### *Cybersecurity*

- 1) The prospective subgrantee has a cybersecurity risk management plan (the plan) in place that is either:
  - a. operational, if the prospective subgrantee is providing service prior to the award of the grant; or
  - b. ready to be operationalized upon providing service, if the prospective subgrantee is not yet providing service prior to the grant award;
- 2) The plan reflects the latest version of the National Institute of Standards and Technology (NIST) Framework for Improving Critical Infrastructure Cybersecurity (currently Version 1.1) and the standards and controls set forth in Executive Order 14028 and specifies the security and privacy controls being implemented;
- 3) The plan will be reevaluated and updated on a periodic basis and as events warrant; and
- 4) The plan will be submitted to the Eligible Entity prior to the allocation of funds. If the subgrantee makes any substantive changes to the plan, a new version will be submitted to the Eligible Entity within 30 days.

### *Supply Chain Risk Management*

- 1) The prospective subgrantee has a SCRM plan in place that is either:
  - a. operational, if the prospective subgrantee is already providing service at the time of the grant; or
  - b. ready to be operationalized, if the prospective subgrantee is not yet providing service at the time of grant award;
- 2) The plan is based upon the key practices discussed in the NIST publication NISTIR 8276, Key Practices in Cyber Supply Chain Risk Management: Observations from Industry and related SCRM guidance from NIST, including NIST 800-161, Cybersecurity Supply Chain Risk Management Practices for Systems and Organizations and specifies the supply chain risk management controls being implemented;
- 3) The plan will be reevaluated and updated on a periodic basis and as events warrant; and

4) The plan will be submitted to the Eligible Entity prior to the allocation of funds. If the subgrantee makes any substantive changes to the plan, a new version will be submitted to the Eligible Entity within 30 days. The Eligible Entity must provide a subgrantee's plan to NTIA upon NTIA's request.

Yes

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## **Volume II Waivers**

Upload an attachment(s) detailing the waiver request(s) for the requirements related to Volume II. Please draft the waiver request(s) using the Waiver Request Form template.

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### **02.17.01 Volume II Public Comment**

Describe the public comment period and provide a high-level summary of the comments received during the Volume II public comment period and how they were addressed by the Eligible Entity. The response must demonstrate:

- a. The public comment period was no less than 30 days; and
- b. Outreach and engagement activities were conducted to encourage feedback during the public comment period.

#### **2.17.1.c.**

The public comment period was open for 31 calendar days. KOBD opened public comment on October 12, 2023, accepting submissions through November 12, 2023. KOBD received 23 comments from individuals (2), Kansas ISPs (9), not-for-profit organizations (11), and an equipment manufacturer (1). Notable "national" commenters included the IBEW, Telecommunications Industry Association, US Telecom, CTIA, WISPA, EducationSuperHighway, The THINK Agency, and INCOMPAS. Substantive Comments included the size and construct of Project Funding Areas, Workforce Readiness, cybersecurity training, the price expectations for Low-Cost and Middle-Class affordability, the maintenance of price targets for Low-Cost, Middle-Class and Priority Project Areas, the treatment of MDUs as distinguishable units of reporting, and the use of wireless technologies.

KOBD incorporated multiple public comment feedback and changes into its Initial Proposal – Volume 2 submission to NTIA. Examples of these changes follow:

The outline of Project Funding Areas was altered to recognize the size and density of Eligible Locations in USD boundaries. (KOBD rejected the request to have subgrantee applicants create their own Project

Funding Areas.)

Comments concerning Workforce Readiness from the IBEW (Requirement 12) were incorporated.

Comments concerning financial ability and specifically Letters of Credit requirements were updated to reflect the latest NTIA guidance

Notations on the process for waivers were updated based on NTIA guidance

Additional specificity on MDU unit counts was added

Many of the comments could not be incorporated due to being outside of NTIA BEAD Program policy, guidance, and the NOFO. Examples include a request for funding for WIFI for MDU's in common and public areas a waiver for Professional Engineer certification of technical plans, and other that are NTIA requirements.

2.17.1.d.

KOBD solicited comments, provided reference to the public comment window, and requested participation by many stakeholders. KOBD promoted the comment period through multiple channels. The monthly KOBD newsletter, sent to the registered distribution list, includes eligible entities for challenges including local governments, ISPs, tribal governments, and not-for-profit organizations. Webinars were hosted on October 12 and 26 for local government, not-for-profits, and ISPs. Also, e-mails were sent on August 4, 2023, and August 31, 2023, to local and tribal governments, ISPs, and not-for-profit organizations to encourage their participation. KOBD's partners, the League of Kansas Municipalities, and the Kansas Association of Counties assisted with distribution to their members. In addition, the KOBD website contained updates and links to the public comment opportunities and KOBD staff posted notices on their LinkedIn social media pages.

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## **02.17.02 Volume II Supplemental Materials**

As an optional attachment, submit supplemental materials to the Volume II submission and provide references to the relevant requirements. Note that only content submitted via text boxes, certifications, and file uploads in sections aligned to Initial Proposal requirements in the NTIA Grants Portal will be reviewed, and supplemental materials submitted here are for reference only.

Kansas BEAD-IP Volume II Tables and Maps (1)-11-27-2023 12-27-Commerce, Kansas Department of-GRN-000172.pdf

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