

KOBD “NO-BEAD” LOCATION POLICY GUIDE

This policy guide provides an overview of the Kansas Office of Broadband Deployment’s framework for addressing BEAD-eligible locations that it does not propose to serve with BEAD funding, initially as part of its subgrantee selection. This policy guide is designed to help community leaders, service providers, and stakeholders understand the framework and take full advantage of recently announced NTIA guidance on how to proceed with “no-BEAD” locations.¹

As stated in the Final Proposal Guidance for Eligible Entities, KOBD now has the ability to determine that a BEAD-eligible location previously included on the final list of eligible locations approved by NTIA no longer needs to be served with BEAD funds, pending the submission of adequate evidence which demonstrates to a high degree of certainty that said location meets the criteria established by NTIA to classify a location as a “no-BEAD” location.²

NTIA has outlined the following reasons under which an eligible BEAD location may be considered a “no-BEAD” location:³

1	location should not have broadband service
2	location does not need mass-market broadband service
3	location has been removed from the Fabric by the FCC (or listed as BSL = FALSE)
4	location is already served by an enforceable commitment
5	location is already served by nonsubsidized service (privately funded network)
6	other
7	insufficient funds

¹ See NTIA, *Internet for All Broadband Equity, Access, and Deployment (BEAD) Program; Final Proposal Guidance for Eligible Entities* ver. 1.2 (Nov. 2024), https://www.ntia.gov/sites/default/files/2024-12/bead_final_proposal_guidance_v1.2.pdf (“Final Proposal Guidance for Eligible Entities”).

² “In any case where a BEAD-eligible location is identified as not being served through a BEAD project, an Eligible Entity will be required to explain the reason for not including these locations and maintain evidence that supports this explanation. Each Eligible Entity will be required to select from a list of reason codes for each BEAD-eligible location that will not be served through a BEAD project. Identifying each of those locations in the Final Proposal will allow each Eligible Entity to affirm it has met its universal coverage obligations (see BEAD NOFO Section IV.B.7.b), while efficiently using its BEAD allocation and preventing overbuilding. An Eligible Entity should only note a location will not be served through a BEAD project when it can affirm, through the appropriate evidence, that an unserved or underserved location meets the criteria of one of the reason codes. NTIA will assess each Eligible Entity’s explanation for non-service with the presumption that the reason codes should be applied in a narrow set of circumstances.” See Final Proposal Guidance for Eligible Entities, pg. 38.

³ Final Proposal Guidance for Eligible Entities at 89-90.

Furthermore, in its Final Proposal Guidance for Eligible Entities, NTIA established the following categories of evidence that can be used to support a “no-BEAD” location:⁴

Nature of evidence	Code	Applicable reasons <i>in the above list</i>
Attestation by unit of local or Tribal government	L	1
Attestation by government entity owning location	G	1, 2
Attestation by federal government agency	F	2
Photographic evidence	P	1, 2, 5
Subscription (service record)	S	5, 2
Network diagram	N	5
Attestation by private property owner	O	1, 2
Network speed test	T	5
Other evidence	X	1, 2, 4, 5

NTIA has granted Eligible Entities some discretion as to the types of evidence they may collect to determine the status of a “no-BEAD” location, consistent with the evidentiary objectives established for each Reason Code.⁵

KOBD has opted to adopt the following evidentiary standards to ensure an optimal balance of flexibility and evidential rigor. For Reason Codes 3, 4, 6, and 7, KOBD will not accept evidence from third parties but, rather, will perform its own evaluation of Fabric data, enforceable commitments and/or its financial capabilities, respectively, to determine whether locations will qualify as “no-BEAD” locations pursuant to these Reason Codes.

⁴ Final Proposal Guidance for Eligible Entities at 90-91; *see also id.* at 8 (“In its Final Proposal, an Eligible Entity may account for BEAD-eligible locations that it does not propose to serve with BEAD funding. These locations may only be excluded from a BEAD-funded subgrant for the reasons detailed in the guidance to Intake Question 7.9, and the Eligible Entity must maintain appropriate evidence to support the conclusion that those locations require no BEAD service. Evidence of no BEAD service is not provided to NTIA during Final Proposal submission, though NTIA may request evidence from the Eligible Entity at any point. [BEAD]-eligible locations not being served through a BEAD project will be reflected in “fp_no_BEAD_locations.csv” and are not subject to BEAD Program requirements.”).

⁵ Final Proposal Guidance for Eligible Entities at 41-42 (“In noting a location with a reason for not being served through a BEAD project, the Eligible Entity must maintain evidence that meets the objectives described below. If the Eligible Entity cannot produce evidence that maintains these standards, its identification of not serving such locations through a BEAD project will be denied. Examples of such evidence are provided, with recommended specifications for each evidence type provided below this table. If the example evidence is not available, the Eligible Entity should obtain the clearest and most compelling evidence possible that accomplishes the evidentiary objective, and be prepared to discuss those locations with NTIA prior to Final Proposal submission. The Eligible Entity does not have to collect all types of evidence listed for each reason code or sub-code. However, FCC location challenge IDs are required for each location where indicated by the reason code.”).

For reasons “1”, “2”, and “5”, applicants shall be provided the opportunity to identify locations that fall under these categories and provide evidence proving as such. A separate process (details forthcoming) shall be held to collect evidence, consistent with the general parameters set out below and herein.

For each location for which an applicant seeks to have designated as a “no-BEAD” location, the applicant shall provide to KOBD, at a minimum:

1. A signed affidavit confirming that the proposed location is no longer eligible for BEAD funding under one or more of the parameters established by NTIA regarding “no-BEAD” locations and attesting to having personal knowledge as to the accuracy and validity of the evidence submitted. One affidavit covering all applicable locations shall suffice, as long as all locations are identified within the affidavit.

And:

2. Documentary evidence as outlined below:
 - a. Only one (1) source of documentary evidence (in addition to the affidavit from item #1 above) shall be required if the source of evidence is one of the following two types of evidence:
 - i. An applicant provides a network design document that clearly delineates that the location already receives service.

Or:

- ii. An applicant provides evidence of a current subscriber at the location (in the form of a customer invoice or other service record).

Or:

- iii. Attestation by federal government agency, including FCC location challenge ID.

Or:

- b. Two (2) sources of documentary evidence (in addition to the affidavit from item #1 above) shall be required if the source of evidence is one of the following types of evidence:
 - i. Photographic evidence
 - ii. Network speed tests
 - iii. Attestation by unit of local or Tribal government
 - iv. Attestation by government entity owning location
 - v. Attestation by private property owner

By submitting evidence to establish “no-BEAD” locations, applicants agree that KOBD reserves the right to determine the merits of evidence provided based on the sole judgement of KOBD. KOBD shall review the evidence based on the materials provided at the time of request and shall not be required to collect additional evidence beyond the initial collection period, unless it deems it necessary based on its own determination of the facts.

EVIDENTIAL STANDARDS ARE DEFINED BELOW.

P – PHOTOGRAPHIC EVIDENCE

Applicable Reason(s): 1, 2, 5

- Photographs shall serve as a form of proof that broadband infrastructure exists at a specific site, such as the installation of fiber optic cables, wireless antennas, network nodes, or other photographic evidence of broadband service.. Photographs can also serve to demonstrate that broadband service cannot be brought to a location. Photographs can include aerial/satellite photography or site photography. Please note that, in line with NTIA final proposal guidance, aerial or satellite photography is only allowable if restrictions exist that would prevent terrestrial photography. If aerial or satellite photography is provided, justification will be required as to why non-terrestrial photography was provided. Please see pg. 46 of Final Proposal Guidance v1.2 for further information.

Photographic evidence must be a JPEG file, timestamped and geocoded with two decimal digits resolution for the seconds part of longitude and latitude. The photo should show a terrestrial (street-level) view.

S – SUBSCRIPTION (INVOICE OR OTHER SERVICE RECORD)

Applicable Reason(s): 1, 2

- Subscription records shall be used to prove that a location has an active broadband connection. Subscription must be a copy of a bill or service agreement showing a broadband connection to a specific residential or commercial address, listing the type of service (e.g., fiber, DSL, cable), the subscribed speed tier, and the service start date could be submitted as evidence of broadband availability and presence. For purposes of this category of evidence, the subscription record must be dated within 180 days from the date of submission to KOBD. Any personally identifiable information (“PII”) should be redacted.
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N – NETWORK DIAGRAM

Applicable Reason(s): 5

- Network diagrams shall be used to illustrate the technical architecture of broadband service delivery in a region or specific area. A diagram must demonstrate coverage area, the routing path of broadband signals from the core network to the customer location, and any intermediate devices such as switches, routers, or distribution nodes. Mere radius or linear distances from hubs, nodes, or other aggregation points will be insufficient to demonstrate service to specific locations.
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T – NETWORK SPEED TEST

Applicable Reason(s): 5

- Speed tests shall provide direct, quantitative evidence of the quality and performance of broadband service at a given location. By measuring the upload and download speeds, users or service providers can confirm whether the broadband service meets the expectations or requirements for a specific area. Speed tests must contain a date and time stamp and must be performed no earlier than one (1) month before the evidence was submitted. A speed test must show at minimum download speeds of 100 Mbps and upload speeds of 20 Mbps, and be performed using any of the applications named in the NTIA Model Challenge Process of KOBD's Initial Proposal Volume I.
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X – OTHER EVIDENCE

Applicable Reason(s): 1, 2,, 5

- The "Other" category encompasses miscellaneous types of evidence that may be useful or required in certain limited circumstances, but that do not fall under specific categories like attestation, photographic evidence, or subscription records. KOBD will set a high bar for acceptance of this category of evidence.
- We would expect that any forms of evidence other than the categories enumerated above would only be submitted in rare circumstances. We remind subgrantees that the evidentiary bar for classifying locations as "no-BEAD" locations is high, and failure to submit convincing evidence for why a previously qualified location should no longer be served using BEAD funds will result in an enforceable obligation by the subgrantee to provision service to the relevant location(s).