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BEA New Hampshire Department of BUSINESS AND ECONOMIC AFFAIRS

March 16, 2023

The Honorable Ken Weyler, Chairman
Fiscal Committee of the General Court
State House
Concord, New Hampshire 03301

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Pursuant to RSA 14:30-a, VI, authorize the Department of Business and Economic Affairs (BEA) to accept and expend $2,000,000 for the Broadband Equity, Access, and Deployment (BEAD) Planning Grant Funds for the purpose of hiring a contractor to write the state's five-year Broadband Plan as outlines in the BEAD Notice of Funding Opportunity, effective upon Fiscal Committee and Governor and Council approval through June 30, 2023. **100% Federal Funds**

Funds are to be budgeted in FY2023 in the following account:

03-22-22-221510-36360000 Department of Business and Economic Affairs
Broadband – IIJA BEAD Planning Grant

		FY 2023	FY 2023	FY 2023
Class	**Description**	**Current**	**Budget Request**	**Revised Budget**
Expenditures				
020 - 500200	CURRENT EXPENSES	$2,000	$0	$2,000
022 - 500248	RENTS-LEASES OTHER THAN STAT	$5,200	$0	$5,200
027 - 582703	TRANSFERS TO DOIT	$5,000	$0	$5,000
030 - 500301	EQUIPMENT NEW REPLACEMENT	$4,000	$0	$4,000
037 - 500172	TECHNOLOGY-HARDWARE	$5,000	$0	$5,000
038 - 500177	TECHNOLOGY-SOFTWARE	$1,500	$0	$1,500
039 - 500188	TELECOMMUNICATIONS	$1,821	$0	$1,821
040 - 500800	INDIRECT COSTS	$5,280	$1,650	$6,930
041 - 500801	AUDIT FUND SET ASIDE	$800	$2,000	$2,800

100 South Main Street, Suite100
Concord, New Hampshire 03301
603 271 2341
visitnh.gov nheconomy.com choosenh.com

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042 - 500620	ADDITIONAL FRINGE BENEFITS	$2,151	$0	$2,151
059 - 500117	TEMP FULL TIME	$26,891	$0	$26,891
060 - 500601	BENEFITS	$17,357	$0	$17,357
070 - 500704	IN STATE TRAVEL REIMBURSEMEN	$1,000	$0	$1,000
080 - 500717	OUT OF STATE TRAVEL REIMB	$2,000	$0	$2,000
102 - 500731	Contracts for Program Svcs	$0	$1,996,350	$1,996,350
	Total Expenditures	**$80,000**	**$2,000,000**	**$2,080,000**
Funding				
000-400338-16	FEDERAL FUNDS	$80,000	$2,000,000	$2,080,000
	Total Funds	**$80,000**	**$2,000,000**	**$2,080,000**

EXPLANATION

The State of New Hampshire has been awarded a $5 million BEAD Planning Grant through the United States Department of Commerce, National Telecommunications, and Information Administration. These funds are a part of the Bipartisan Infrastructure Investment and Jobs Act of 2021.

The Department of Business and Economic Affairs (BEA) seeks to accept and expend **$2,000,000** in BEAD Planning Grant Funds. BEA will use these funds to hire a third-party contractor, through the Request for Proposal, to write the states required Broadband five-year plan as specified in the BEAD Notice of Funding Opportunity.

The five-year plan is one of five steps that need to be taken by the state to be granted a minimum of $100 million in IIJA BEAD funds. The contract will be for not more than $1,996,350.

Funds are being budgeted as follows:

Class 040 - All agencies receiving outside funding from any source are required by RSA 21-I:75 to recover a proportional share of the outside funding source to alleviate agency indirect costs. BEA is budgeting with a rate of 6.6% using the Modified Total Direct Cost Base (MTDC) as defined in 2 CFR 200.1.

Class 041 – Audit Fund Set Aside – to comply with RSA 124:16 which requires all agencies which receive federal funds set aside a percentage (0.1%) of federal revenue amount received to pay for financial and compliance audits.

Class 102 - Contracts for Program Services - Contractor to write the State's Digital Equity Plan.

Respectfully submitted,

Taylor Caswell
Commissioner

Department of Business and Economic Affairs

GRANTS FISCAL SITUATION FISCAL YEAR 2023

03-022-022-221510-NEWXXXX Broadband – IIJA
Broadband Equity Access & Deployment

Total Federal Authorization	$5,000,000
Less Current FY23 Budget Authorization	$ 80,000
Total Available for Budgeting	$4,920,000
Available to Budget at a Later Date	$2,920,000
REQUESTED ACTION	$ 2,000,000

FORM CD-450 (REV. 10/18) U.S. DEPARTMENT OF COMMERCE	X GRANT COOPERATIVE AGREEMENT
FINANCIAL ASSISTANCE AWARD	**FEDERAL AWARD ID NUMBER** 33-20-B063
RECIPIENT NAME Business and Economic Affairs, New Hampshire Department of	**PERIOD OF PERFORMANCE** 12/01/2022 - 11/30/2027
STREET ADDRESS 100 N Main St Suite 100	**FEDERAL SHARE OF COST** $5,000,000.00
CITY, STATE ZIP Concord, NH 03301-5054	**RECIPIENT SHARE OF COST** $0.00
AUTHORITY Section 60102 of Public Law 117-58, 135 Stat. 429	**TOTAL ESTIMATED COST** $5,000,000.00
CFDA NO. AND NAME 11.035 Broadband Equity, Access, and Deployment Program	
PROJECT TITLE: New Hampshire BEAD Planning Funds Proposal	

This Award Document (Form CD-450) signed by the Grants Officer constitutes an obligation of Federal funding. By signing this Form CD-450, the Recipient agrees to comply with the Award provisions checked below and attached. Upon acceptance by the Recipient, the Form CD-450 must be signed by an authorized representative of the Recipient and returned to the Grants Officer. If not signed and returned without modifications by the Recipient within 30 days of receipt, the Grants Officer may unilaterally withdraw this Award offer and de-obligate the funds.

X DEPARTMENT OF COMMERCE FINANCIAL ASSISTANCE STANDARD TERMS AND CONDITIONS

R & D AWARD

FEDERAL-WIDE RESEARCH TERMS AND CONDITIONS, AS ADOPTED BY THE DEPT. OF COMMERCE

X SPECIFIC AWARD CONDITIONS

X LINE ITEM BUDGET

X 2 CFR PART 200, UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS, AS ADOPTED PURSUANT TO 2 CFR § 1327.101

48 CFR PART 31, CONTRACT COST PRINCIPLES AND PROCEDURES

X MULTI-YEAR AWARD. PLEASE SEE THE MULTI-YEAR SPECIFIC AWARD CONDITION.

X OTHER(S): Refer to Specific Award Condition #18 (Period of Performance and Funding Limitations) for the Multi-Year Specific Award Condition.

GENERAL TERMS AND CONDITIONS for the NTIA BROADBAND EQUITY, ACCESS & DEPLOYMENT PROGRAM (BEAD) INITIAL PLANNING FUNDS, July 2022 (see attached).

SIGNATURE OF DEPARTMENT OF COMMERCE GRANTS OFFICER	DATE
Darren Olson DARREN OLSON Digitally signed by DARREN OLSON Date: 2022.11.30 08:56:20 -07'00'	
PRINTED NAME, PRINTED TITLE, AND SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL	DATE
Mark Laliberte State Industrial Representative mh	8 december 2022

Award Number: 33-20-B063, Amendment Number 0

Federal Program Officer: Stuart Freiman

Requisition Number: BEA63

Employer Identification Number: 026000618

UEI Number: VZ8GBEALT588

Recipient ID: 3314641

Requestor ID: 3314641

Award ACCS Information

Bureau	FCFY	Project-Task	Organization	Object Class	Obligation Amount
61	2023	4700001-000	06-00-0000-00-00-00-00	41-19-00-00	$5,000,000.00

Award Contact Information

Contact Type	Contact Name	Email	Phone
Administrative	Mark J Laliberte	mark.j.laliberte@livefree.nh.gov	(603) 271-6351

NIST Grants Officer:

Darren Olson
325 Broadway, MS 670
Boulder, CO 80305-3337

NIST Grants Specialist:

Nicole Saulnier
100 Bureau Drive, MS 1650
Gaithersburg, MD 20899-1650

NIST Financial Assistance Award Number: 33-20-B063
Amendment: NEW
Recipient: Business and Economic Affairs, New Hampshire Department of

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY
BROADBAND EQUITY, ACCESS, AND DEPLOYMENT PROGRAM
FINANCIAL ASSISTANCE
SPECIFIC AWARD CONDITIONS

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1. **Introduction:**
The National Institute of Standards and Technology (NIST), servicing for the National Telecommunications and Information Administration (NTIA), hereby enters into this Grant number 33-20-B063 with Business and Economic Affairs, New Hampshire Department of, to support the work described in the proposal entitled "New Hampshire BEAD Planning Funds Proposal" dated 8/15/2022 AND any revisions received during the application review which are hereby incorporated into this award by reference. Where the terms of this award and the proposal differ, the terms of this award shall prevail.

2. **Recipient Contact Information:**

Administrative:
Mark Laliberte
Broadband Project Manager
New Hampshire Department of Business and Economic Affairs
100 N Main St, Suite 100
Concord, New Hampshire 03301-5054
Telephone: (603) 271-6351
Email: mark.j.laliberte@livefree.nh.gov

3. **NTIA Contact Information:**

Federal Program Officer:
Stuart Freiman
National Telecommunications and Information Administration
1401 Constitution Avenue, NW
Washington, DC 20230
Email: sfreiman@ntia.gov

4. **NIST Award Contact Information:**

Grants Officer:
Darren Olson
National Institute of Standards and Technology
325 Broadway, MS 670
Boulder, CO 80305-3337
Email: darren.olson@nist.gov

Grants Specialist:
Nicole Saulnier
National Institute of Standards and Technology
100 Bureau Drive, Mail Stop 1650
Gaithersburg, MD 20899-1650
Email: nicole.saulnier@nist.gov

5. Award Payments:

This award is hereby funded through advanced payments using the Department of Treasury's Automated Standard Application for Payments (ASAP) system. Payments will be issued in accordance with 2 CFR § 200.305 and the Department of Commerce Financial Assistance Standard Terms and Conditions, B.02, dated November 12, 2020.

Payments for allowable costs may be drawn down as needed by the Recipient enrolled in ASAP. Funds may be requested through ASAP by the authorized *Payment Requestor* who is the individual designated by the Recipient to access Federal funds.

This award has the following control or withdrawal limits set in ASAP:

_____ None
_____ Agency Review required for all withdrawals (see explanation below)
_____ Agency Review required for all withdrawal requests over
$_____ (see explanation below)
__X__ Maximum Draw Amount controls (see explanation below)
$_____ each month
$_____ each quarter
$__882,968__ Max drawdown amount

Explanation:
The Grants Office does not have adequate information to validate the costs requested for subawards/contracts. Additionally, Recipient is seeking a Negotiated Indirect Cost Rate Agreement (NICRA) and submitted an Indirect Cost Rate Proposal that shows an indirect cost rate of 6.60% that is to be applied to Modified Total Direct Costs (MTDC). However, in the submitted budget, the rate was applied to the first $25,000 of expenses, then multiplied by two employees, then multiplied by four years. The amount of $4,117,032 of federal funding, including $13,200 for indirect costs, is hereby withheld until the terms identified in Specific Award Condition #26 Budget Narrative and Justification and Specific Award Condition #27 Indirect Cost Calculation, below, are satisfied.

6. Return Payments for Funds Withdrawn through ASAP:

Funds that have been withdrawn through ASAP may be returned to ASAP via the Automated Clearing House (ACH) or via FEDWIRE. The ACH or FEDWIRE

transaction may only be completed by the Recipient's financial institution. Full or partial amounts of payments received by a Payment Requestor/Recipient Organization may be returned to ASAP. All funds returned to the ASAP system will be credited to the ASAP Suspense Account. The Suspense Account allows the Regional Financial Center to monitor returned items and ensure that funds are properly credited to the correct ASAP account. Returned funds that cannot be identified and classified to an ASAP account will be dishonored and returned to the originating depositary financial institution (ODFI). The Payment Requestor/Recipient Organization should notify the NIST Grants Office and provide a reason whenever return payments are made.

It is essential that the Payment Requestor/Recipient Organization provide its financial institution with ASAP account information (ALC, Recipient ID and Account ID) to which the return is to be credited. Additional detailed information is accessible at: https://www.fiscal.treasury.gov/asap/.

7. **Notice of Funding Opportunity - Broadband Equity, Access, and Deployment Program:**

The Department of Commerce, National Telecommunications and Information Administration (NTIA) Notice of Funding Opportunity (NOFO) No. NTIA-BEAD-2022 dated May 13, 2022, is incorporated by reference into this award.

It is accessible at: https://www.grants.gov/web/grants/view-opportunity.html?oppId=340304 (under the Related Documents tab). If the application period is closed, select "Closed" or "Archived" Opportunity Status to view the NOFO.

8. **Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements:**

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements as published in the *Federal Register* on December 30, 2014 (79 FR 78390), are incorporated by reference into this award.

They are accessible at: http://www.gpo.gov/fdsys/pkg/FR-2014-12-30/pdf/2014-30297.pdf.

9. **Department of Commerce Financial Assistance Standard Terms and Conditions:**

As indicated on the Form CD-450 for this award, the Department of Commerce Financial Assistance Standard Terms and Conditions (ST&C) issued November 12, 2020 are incorporated by reference into this award. The Department's ST&C, as well as a link to 2 CFR Part 200, are accessible at: https://www.commerce.gov/sites/default/files/2020-11/DOC Standard Terms and Conditions - 12 November 2020 PDF_0.pdf.

10. Uniform Administrative Requirements, Cost Principles and Audit Requirements:

As indicated on the Form CD-450 for this award, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. Part 200 are incorporated by reference into this award. Through 2 C.F.R. § 1327.101, the Department of Commerce adopted the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. Part 200, which apply to awards in this program. Refer to https://www.ecfr.gov/on/2022-01-19/title-2/subtitle-A/chapter-II/part-200 and https://www.ecfr.gov/on/2022-01-19/title-2/subtitle-B/chapter-XIII/part-1327. Awards issued pursuant to this program may be subject to specific award conditions as authorized by 2 C.F.R. § 200.208.

11. Department of Commerce Financial Assistance Standard Terms and Conditions Section B.06 Indirect or Facilities and Administrative Costs:

The Recipient will be reimbursed for indirect or F&A costs in accordance with 2 C.F.R. § 200.414 and Section B.06. of the Department of Commerce Financial Assistance Standard Terms and Conditions, dated November 12, 2020.

If an indirect cost rate has not been established, and the Department of Commerce is identified as the cognizant agency for indirect costs in accordance with 2 C.F.R. § 200.1, "Cognizant agency for indirect costs," within 90 calendar days of the award start date, the Recipient must electronically submit to gmdaudit@nist.gov the documentation (indirect cost rate proposal, cost allocation plan, etc.) necessary to allow the Department of Commerce (through NIST or through another Commerce agency) to perform an indirect cost rate proposal review. Organizations that have previously established indirect cost rates with the Department of Commerce, including with one of its agencies, must submit a new indirect cost rate proposal for indirect costs within six months after the end of the organization's fiscal year.

If your submission includes Personally Identifiable Information (PII) or Business Identifiable Information (BII), please send an email to gmdaudit@nist.gov to request a secure link.

The requirements for determining the relevant cognizant agency and for developing and submitting indirect (F&A) cost rate proposals and cost allocation plans are contained in 2 C.F.R. § 200.414 and in Appendices III-VII to 2 C.F.R. Part 200. For additional guidance on preparing indirect cost proposals, please review the Department of Labor's Guide for Indirect Cost Determination at: https://www.dol.gov/oasam/boc/dcd/np-comm-guide.htm. Section I.B and I.C lists the various types of indirect cost rates and the circumstances under which such rates would apply. The guide also addresses common indirect cost problems and contains useful FAQs.

12. Infrastructure Investment and Jobs Act:

The Recipient must comply with the terms of the Infrastructure Investment and Jobs Act (Infrastructure Act), Public Law 117-58 (Nov. 15, 2021), Division F, Title I – Broadband Grants for States, District of Columbia, Puerto Rico, and Territories, including the terms of section 60102 of that title, which establishes the BEAD Program. The text of the Infrastructure Act is available at: https://www.congress.gov/bill/117th-congress/house-bill/3684/text.

13. General Terms and Conditions for the BEAD Initial Planning Funds

The General Terms and Conditions for the BEAD Initial Planning Funds are incorporated by reference into this award.

14. BEAD Program Sequencing:

As described in the NOFO, the BEAD Program has several application steps and phases to the award, the timing of which are as follows:

(a) Letter of Intent
(b) Request for Initial Planning Funds
(c) Five-Year Action Plan—Due 8/28/2023
(d) Program Fund Allocation and Notice of Available Amounts—To be made on or after the date on which the Federal Communications Commission publishes the Broadband DATA Maps, once NTIA determines the BEAD Program allocations
(e) Initial Proposal—Due no later than 180 days from the date of issuance of the Notice of Available Amounts
(f) 20 Percent Funding Release—Upon approval of the Initial Proposal by the Assistant Secretary, NTIA will make available to the Eligible Entity not less than 20 percent of the total grant funds allocated to the Eligible Entity
(g) Final Proposal—Due no later than 365 days from the date the Assistant Secretary approves the Initial Proposal.

The Recipient of this initial funded award action has completed the steps associated with the submission of a Letter of Intent and the Request for Initial Planning Funds. Funding associated with this action may only be used for the specific planning and pre-deployment activities outlined in that request, consistent with the planning activities contemplated by the NOFO and described in special award condition no. 15.

Future award actions associated with the release of additional funding to implement other phases of the project will include additional specific award conditions concerning the use of funds and other requirements associated with those phases, such as, but not limited to, environmental and national historical preservation requirements, and provisions implementing the Buy American, Build America Act.

15. Allowable Uses of Initial Planning Funds for the BEAD Program:

The purpose of the Initial Planning Funds is to support the Eligible Entity's broadband planning efforts, including creating the required five year action plan and capacity development programmatic efforts to support its execution of the BEAD program, as outlined in Section IV.B.2 of the NOFO. The NOFO allows for the use of the initial planning funds only for the following activities:

(a) Research and data collection, including initial identification of unserved locations and underserved locations consistent with the rules, regulations, and processes the Commission has established for making these determinations in the Broadband DATA Maps;
(b) The development of a preliminary budget for pre-planning activities;
(c) Publications, outreach, and communications support related to broadband planning, deployment, mapping, equity and adoption;
(d) Providing technical assistance to potential subgrantees, including through workshops and events;
(e) Training for employees of the broadband program or office of the Eligible Entity or employees of political subdivisions of the Eligible Entity, and related staffing capacity or consulting or contracted support to effectuate the goals of the BEAD Program;
(f) Establishing, operating, or increasing capacity of a broadband office that oversees broadband programs and broadband deployment in an Eligible Entity;
(g) Asset mapping across the Eligible Entity to catalogue broadband adoption, affordability, equity, access and deployment activities occurring within the Eligible Entity;
(h) Conducting surveys of unserved, underserved, and underrepresented communities to better understand barriers to adoption;
(i) Costs associated with meeting the local coordination requirements in Section IV.C.1.c of the BEAD NOFO, including capacity building at the local and regional levels or contracted support;
(j) Reasonable post-NOFO, pre-Initial Planning Funds expenses in an amount not to exceed $100,000 relating to the preparation of program submissions to NTIA (such as the Letter of Intent) or adding additional capacity to State or Territorial broadband offices in preparation for the BEAD Program may be reimbursed if they were incurred after the publication date of the NOFO and prior to the date of issuance of this grant award from NTIA (such pre-award expenses must be approved by NTIA and the Grants Officer in writing to be considered allowable); and
(k) Other uses approved in advance in writing by the Assistant Secretary (including in response to an Eligible Entity's request) that support the goals of the Program.

Entities that wish to request other uses of funds must submit such requests via email to UGAM@nist.gov for consideration by the Assistant Secretary. Work may not begin, nor

costs incurred for requested activities until written approval is provided by the NIST Grants Officer.

Under no circumstances may planning funds awarded via this action be used for any construction or ground disturbing activities, or the build out of any infrastructure.

16. Ineligible Costs

Regardless of the award phase under the BEAD Program, profits, fees, or other incremental charge above actual cost incurred by the Recipient or subgrantee(s) are not allowable costs under this Program.

Additionally, the Recipient or subgrantee(s), including contractors or subcontractors of subgrantees, may not use funds received under the BEAD Program to:

(a) Purchase Covered Communications Equipment or Services, as defined in Section 9 of the Secure and Trusted Communications Networks Act of 2019 (47 U.S.C. § 1608); or
(b) Directly or indirectly support or oppose collective bargaining.

17. Five Year Action Plan Requirements:

A five year action plan is required to be submitted to NTIA within 270 days of the award start date authorizing planning funding and is due by 08/28/2023. This plan must (a) be informed by collaboration with local, regional, and Tribal (as applicable) entities, as well as unions and worker organizations, (b) detail the Eligible Entity's investment priorities and associated costs, and (c) align the State or Territory's planned spending with its economic development, community benefit, workforce, telehealth, digital equity, and other related efforts.

Minimum requirements for the action plan are identified in the NOFO. Additionally, NTIA will make a template available to Recipients on the NTIA Grants Portal. Recipients are not required to use this template as long as the proposed plan addresses the minimum requirements of the Infrastructure Act and NOFO.

18. Period of Performance and Funding Limitations:

Due to the nature of the BEAD program and its associated phases, the approved scope of work and the associated budget of each phase will evolve over the life of the award. As a result, the period of performance and funding limitations will also increase over each phase of this program. To accommodate this overall program structure, this specific award condition will be revised in future funding actions to take into account the needs of each phase and its impacts to the period of performance and funding.

The scope of work and budget incorporated into this award action cover only the planning phase of the BEAD program with an initial period of performance from 12/01/2022 to 11/30/2027 (referred to as the "project period"), for a total of $5,000,000.00 in Federal funds.

Receipt of any funding beyond what is specified at this time up to the level projected under this award is contingent upon the availability of funds, satisfactory performance, and continued relevance to program objectives, and will be at the sole discretion of NTIA and NIST. The Grants Officer may require additional clarification to support the budget. If that results in changes to the budget or budget narrative, the Recipient must submit, in writing, a revised budget and/or budget narrative to the Grants Officer for approval.

The Recipient may not obligate, incur any expenditure, nor engage in any activity that involves a commitment of Federal funds under this Agreement in excess of the Federal amount presently available. Should such an excess obligation, expenditure, or commitment occur, no legal liability will exist or result on the part of the Federal Government for payment of funds.

No legal liability exists or will result on the part of the Federal Government for payment of any portion of the remaining funds, which have not been made available under this award. If additional funds are not made available, any allowable expenses incurred related to termination or closeout activities must be funded from the amount already made available under this award.

As described in the NOFO, on or after the date that the Broadband Data Maps are made public and NTIA determines the BEAD Program allocations, the Assistant Secretary will notify each Recipient of the estimated amount of funding that NTIA will make available to the Recipient and invite submission of an Initial Proposal and Final Proposal.

The notice of availability or non-availability of additional funding for subsequent funding or budget periods will be made in writing by the Grants Officer after the submission of the Initial and Final Proposals and their subsequent review and approval by NTIA and NIST. Only the Grants Officer is authorized to obligate funds. No other verbal or written notice should be relied upon by the Recipient. In the absence of a written notice of additional funding by the Grants Officer on Form CD-451, "Amendment to Financial Assistance Award," no assumption should be made by the Recipient that the funds will be forthcoming.

19. Deviation to the Department of Commerce Financial Assistance Standard Terms and Conditions, Section A.01 "Reporting Requirements":

Initial Report

Not later than 03/01/2023, the Recipient shall submit an Initial Report that:

(a) describes the planned and actual use of funds;
(b) describes the planned and actual subgrant process;
(c) identifies the establishment of appropriate mechanisms by the Eligible Entity to ensure that all subgrantees of the Eligible Entity comply with the eligible uses prescribed under the BEAD Program; and
(d) includes any other information required by the Assistant Secretary.

Additionally, the Recipient shall submit an SF-425, Federal Financial Report, in conjunction with the Initial Report described above, that meets the requirements described in 2 C.F.R § 200.328 and the Department of Commerce Financial Assistance Standard Terms and Conditions (dated November 12, 2020).

Semi-Annual Reports

First report due no later than July 30, 2023, for the period ending June 30, 2023. Thereafter, reports are due semi-annually, for the period between January 1 and June 30, which shall be due on July 30, and for the period between July 1 and December 31, which shall be due on January 30, or any portion thereof. The Recipient shall submit a report that includes:

(a) a description of how the Recipient expended the grant funds;
(b) a description of each service provided with the grant funds and the status of projects or other eligible activities supported by such funds;
(c) a description of the locations at which broadband service was made or will be made available using the grant funds, the locations at which broadband service was utilized, and the comparative demographics of those served;
(d) a certification that the Recipient complied with the requirements of Section 60102 of the Infrastructure Act and with any additional reporting requirements prescribed by the Assistant Secretary; and
(e) any additional information as prescribed in 2 C.F.R § 200.329.

Additionally, the Recipient shall submit an SF-425, Federal Financial Report, in conjunction with the semi-annual report described above that meets the requirements described in 2 C.F.R § 200.328 and the Department of Commerce Financial Assistance Standard Terms and Conditions (dated November 12, 2020).

Final Reports

The Recipient shall submit a final SF-425, Federal Financial Report and final Performance Progress Report within 120 days after the expiration of the period of performance that meets the requirements described in 2 C.F.R § 200.328 and the Department of Commerce Financial Assistance Standard Terms and Conditions (dated November 12, 2020).

Additionally, no later than one year after the Recipient has expended all grant funds under the BEAD Program (to include all phases of the award, not just the initial planning phase) the Recipient shall submit a report that:

(a) describes how the Eligible Entity expended the funds;
(b) describes each service provided with the grant funds;
(c) describes the locations at which broadband service was made available using the grant funds, the locations at which broadband service was utilized, and the comparative demographics of those served;
(d) includes each report that the Eligible Entity received from a subgrantee under Section 60102(j) of the Infrastructure Act; and
(e) certifies that the Eligible Entity complied with the requirements of Section 60102 of the Infrastructure Act and with any additional reporting requirements prescribed by the Assistant Secretary.

Reporting forms for the 90 Day report, Semi-Annual reports, Final reports and SF-425 Federal Financial reports will be available in the NTIA Grants Portal. All reports for the BEAD program must be submitted via email to GReports@nist.gov with a copy to the NTIA Federal Program Officer listed in the award document.

The Recipient organization name, award number, and reporting period must be included in the email subject line. The Recipient contact information should be included in the body of the message. To the greatest extent possible, SF-425 and Performance Progress Reports should be submitted together in the same email.

Reports must not be sent directly to NIST personnel (e.g., Grants Specialist, Grants Officer). Any SF-425 or Performance Progress Reports sent directly to NIST personnel will be returned to the sender with instructions on how to submit through the GReports@nist.gov mailbox.

No other correspondence may be sent through this mailbox; timely responses to any other inquiries received in this mailbox are not guaranteed. The mailbox will not be used for any other purpose ***except*** for purposes identified above.

20. Unfunded Grant Actions Mailbox (UGAM):

Requests for unfunded award actions, which include, but are not limited to, requests for no-cost extension, change in key personnel, change in scope of work, budget revisions, award transfer, and novation, must be submitted to: UGAM@nist.gov, within the prescribed timeframes identified in the terms and conditions of the award.

Unfunded award action requests and related correspondence, including justification to support the request, sent to the mailbox ***must*** contain the following information in the email subject line: (1) Recipient name; (2) NIST award number; (3) Principal Investigator/Project Director; and (4) Action being requested (e.g. no cost extension, change in key personnel, etc.).

Unfunded award action requests must not be sent directly to NIST personnel (*e.g.* Grants Specialist, Grants Officer, Administrative Assistant, GMD Division Chief, Federal Program Officer, etc.).

Any requests sent directly to NIST personnel will be returned to the sender with instructions on how to submit through the UGAM@nist.gov mailbox.

No other correspondence may be sent through this mailbox; timely responses to any other inquiries received in this mailbox are not guaranteed. The mailbox will not be used for any other purpose ***except*** for purposes identified above.

Requests that are processed will be authorized via a Form CD-451 Amendment to the Financial Assistance Award or a Non-Funded Administrative Change Letter.

21. Federal and Non-Federal Cost Sharing:

The BEAD Program requires non-federal cost sharing/local match, however the cost share requirements do not apply to the initial planning phase of funding associated with this award action. This specific award condition will be updated and revised to incorporate cost share requirements in future funding actions, as applicable.

22. Change in Funded Project Participant

Any change to the Administering Entity designated in the Letter of Intent and approved under this award requires prior written approval by the Grants Officer.

23. Supplanting of Funds

Grant funds awarded to a Recipient under the BEAD program shall be used to supplement, and not supplant, the amounts of federal or non-Federal funds that the Recipient would otherwise make available for the purposes for which the grant funds may be used.

24. Administrative Expenses

The Recipient may not use more than two percent of the grant amounts received under the BEAD Program for expenses relating (directly or indirectly) to the administration of the grant, in accordance with Section 60102(d)(2)(B) of the Infrastructure Act. This requirement does not apply to the planning phase of funding awarded with this action and this specific award condition will be updated and revised in future funding actions to incorporate these requirements, as applicable.

25. Restriction on Human Subjects Research Work and Costs Incurred

BEAD grant recipients must comply with Department of Commerce (DOC) regulations relating to the protection of human subjects for all research conducted or supported pursuant to an NTIA grant award. The DOC regulations related to the protection of human subjects are found in 15 C.F.R. Part 27.

The Human Subjects Research Guidance (posted August 29, 2022) (HSR) for the Broadband Equity Access and Deployment (BEAD) Program is incorporated by reference into this specific award condition and identifies three HSR classification categories: Category 1 – Not Conducting Human Subjects Research, Category 2 – Exemption Request, and Category 3 – Human Subject Research Non-Exempt.

To satisfy the BEAD HSR requirements, recipients must submit, no later than 45 calendar days after the award start date, (via email to UGAM@nist.gov with a copy to their BEAD FPO), a letter or memorandum addressed to the Grants Officer that provides the following information:

a. Which HSR classification category is applicable; and
b. Examples of planned BEAD project activities that justify inclusion in that category.

If a project requires a human subjects research exemption request (Category 2) or IRB approval for non-exempt human subjects research (Category 3), research activities involving human subjects are not authorized to start under this award until the appropriate documentation, as set forth by the DOC Standard Terms & Conditions (dated November 12, 2020) Section G.05.i.3, is approved in writing by the Grants Officer.

If a recipient conducts human subjects research before receiving NTIA approval of an exemption or before receiving IRB approval for non-exempt research, recipients will be considered in material non-compliance with award terms and conditions, and any costs incurred to conduct the research may be disallowed.

Notwithstanding the above prohibition on starting human subjects research, work may be initiated, or costs incurred and/or charged to the project for protocol or instrument development related to human subjects research.

Sample HSR memos are available in the Human Subjects Research Guidance (posted August 29, 2022), *Guidance for Human Subjects Research Protection.* (https://broadbandusa.ntia.doc.gov/sites/default/files/2022-08/BEAD-Planning-Grant-HSR-Guidance-Final-9-29-2022.pdf)

26. Budget Narrative and Justification

1,150
1,150
1,150
4,950

The project budget contains costs for subawards to the University of New Hampshire ($453,832) and contracts for a BEAD Plan Developer ($3,200,000) and regional surveys through the NH Regional Planning Commission ($450,000). The budget information provided in the budget narrative and justification is not sufficient for NIST to evaluate the allowability of such costs. Within 45 calendar days of the award start date, via email to both UGAM@nist.gov and the FPO, Recipient must provide a detailed budget and justification for each item listed above to ensure such costs are allowable (see 2 C.F.R. §200.403). No funds associated with the above identified item(s) shall be released by NIST until the detailed budget and justification is submitted by the recipient and approved by the NIST Grants Office via an award amendment or administrative letter.

27. Indirect Cost Calculation

Per 2 CFR 200.1, Modified Total Direct Costs (MTDC) includes all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first $25,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of $25,000.

Within 45 calendar days of the award start date, Business and Economic Affairs, New Hampshire Department of, must provide a revised Budget Narrative that indicates the correct base (MTDC) that the indirect cost rate is applied to, along with an explanation of why they are seeking a lesser amount than what is allowable, to UGAM@nist.gov, with a copy to the FPO. The Budget Narrative and explanation must be reviewed and approved by the NIST Grants Office prior to releasing the funds through the ASAP system.

End of Specific Award Conditions

57.49

GENERAL TERMS AND CONDITIONS

for the

NTIA BROADBAND EQUITY, ACCESS & DEPLOYMENT PROGRAM (BEAD) INTIAL PLANNING FUNDS

July 2022

Table of Contents

1. Project Management Conference
2. Property Trust Relationship and Public Notice Filings for Grant-Acquired Property
3. Recipient and Contractor Compliance with Applicable Requirements
4. Environmental and Historic Preservation Compliance
5. Domestic Preference for Procurements (Buy American)
6. Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms
7. Prevention of Waste, Fraud, and Abuse
8. Protection of Whistleblowers

1. **Project Management Conference**

After the award start date, the NIST Grants Officer (on behalf of NTIA) may contact the Recipient to arrange a project management conference. The purpose of the project management conference is to explain to the Recipient its responsibilities for administration of the award, including its responsibilities with respect to the Terms and Conditions of the award and applicable Federal requirements.

2. **Property Trust Relationship and Public Notice Filings for Grant-Acquired Property**

In accordance with 2 CFR § 200.316 (Property trust relationship), real property, equipment, and intangible property, that are acquired or improved with a Federal award must be held in trust by the non-Federal entity (*i.e.*, Recipient or Subrecipient) as trustee for the beneficiaries of the project or program under which the property was acquired or improved. This trust relationship exists throughout the duration of the property's estimated useful life, as determined by the Grants Officer in consultation with the Program Office, during which time the Federal Government retains an undivided, equitable reversionary interest in the property (Federal Interest). The non-Federal entity must comply with all use and disposition requirements and restrictions as set forth in 2 C.F.R. §§ 200.310 (Insurance coverage) through 200.316 (Property trust relationship), as applicable, and in the terms and conditions of the Federal award.

The Grants Officer may require a non-Federal entity (*i.e.*, a Recipient or Subrecipient) to execute and to record (as applicable) a statement of interest, financing statement (Form UCC-1), lien, mortgage or other public notice of record to indicate that real or personal property acquired or improved in whole or in part pursuant to a Broadband Equity, Access, and Deployment Program (BEAD) award is subject to the Federal Interest, and that certain use and disposition requirements apply to the property. The statement of interest, financing statement (Form UCC-1), lien, mortgage or other public notice must be acceptable in form and substance to NTIA and to the NIST Grants Officer and must be placed on record in accordance with applicable State and local law, with continuances re-filed as appropriate. In such cases, the NIST Grants Officer may further require the non-Federal entity to provide NTIA and the NIST Grants Officer with a written statement from a licensed attorney in the jurisdiction where the property is located, certifying that the Federal Interest has been protected, as required under the award and in accordance with applicable State and local law. The attorney's statement, along with a copy of the instrument reflecting the recordation of the Federal Interest, must be promptly returned to the NIST Grants Officer. The non-Federal entity may use model documentation made available by NTIA.

Without releasing or excusing the non-Federal entity from these obligations, the non-Federal entity, by execution of the financial assistance award or by expending Federal financial assistance funds (in the case of a subrecipient), authorizes NTIA and/or the NIST Grants Officer to file such notices and continuations as it determines to be necessary or convenient to disclose and protect the Federal Interest in the property. The NIST Grants Officer may

elect not to release any or a portion of the Federal award funds until the non-Federal entity has complied with this provision and any other applicable award terms or conditions, unless other arrangements satisfactory to the NIST Grants Officer are made.

3. **Recipient and Contractor Compliance with Applicable Requirements**

The Recipient shall comply, and must require each subrecipient or contractor, including lower tier subrecipients or subcontractors, to comply with all applicable Federal, state, and local laws and regulations. The Recipient is responsible for ensuring that all contracts, including those necessary for design and construction of the Project facilities, are implemented in compliance with the Terms and Conditions of this Award.

4. **Environmental and Historic Preservation Compliance**

NTIA has evaluated the allowable grant-funded activities enumerated in Section IV.B.2 of the NOFO and in Specific Award Condition (SAC) No. 15 for compliance with the National Environmental Policy Act of 1969 (NEPA) and the National Historic Preservation Act of 1966 (NHPA). The activities as described would have no potential to effect historic properties, and qualify for the following DOC Categorical Exclusions:

A8: Planning activities and classroom-based training and classroom-based exercises using existing conference rooms and training facilities.

A11: Personnel, fiscal, management, and administrative activities, such as recruiting, processing, paying, recordkeeping, resource management, budgeting, personnel actions, and travel.

At this time, no further NEPA or NHPA review is required for the expenditure of Initial Planning Funds. This determination does not apply to activities other than those allowable expenses specified in Section IV.B.2 of the NOFO and in SAC No. 15, nor does it apply to any infrastructure project implementation activities. Once planning and design activities are complete, individual projects will need to be evaluated for compliance with NEPA, NHPA, and other applicable laws, regulations, and Executive Orders prior to project initiation.

5. **Domestic Preference for Procurements (Buy American)**

Pursuant to 2 CFR § 200.322, the Recipient should, to the greatest extent practicable under the BEAD award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including, but not limited to, iron, aluminum, steel, cement, and other manufactured products). The requirements of 2 CFR § 200.322 must be included in all subawards, including all contracts and purchase orders for work or products pursuant to this program.

6. **Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms**

Pursuant to 2 CFR § 200.321, the Recipient and its subrecipients must take all necessary affirmative steps (as described in 2 CFR § 200.321) to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

7. **Prevention of Waste, Fraud, and Abuse**

Consistent with statutory requirements in Section 905(e)(3) of the Consolidated Appropriations Act, 2021, and the principles in 2 CFR part 200, at any time(s) during the grant period of performance, NTIA may direct a Recipient's key personnel to take a Government-provided training on preventing waste, fraud and abuse. Key personnel include those responsible for managing the Recipient's finances and overseeing any contractors, sub-contractors or sub-recipients (for financial matters and/or general oversight related to the grant). NTIA will provide instructions on when and how to take such training(s), and costs incurred by a Recipient relative to the training (*e.g.*, staff time) are eligible for reimbursement pursuant to the NTIA award.

Further, Recipients must monitor award activities for common fraud schemes, including but not limited to:

- false claims for materials and labor;
- bribes related to the acquisition of materials and labor;
- product substitution;
- mismarking or mislabeling on products and materials; and
- time and materials overcharging.

Should a Recipient detect any fraud schemes or any other suspicious activity, the grant Recipient must contact its assigned NTIA Federal Program Officer and the Department of Commerce, Office of Inspector General Hotline, as indicated at https://www.oig.doc.gov/Pages/Contact-Us.aspx, as soon as possible. Additionally, in accordance with 2 CFR § 200.113, an applicant or Recipient must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities that have received a Federal award are required to report certain civil, criminal, or administrative proceedings to SAM.gov. Failure to make required disclosures can result in any of the remedies described in 2 CFR § 200.339. (*See also* 2 CFR Part 180, 31 U.S.C. § 3321, and 41 U.S.C. § 2313.)

8. **Protection of Whistleblowers**

The Department of Commerce Financial Assistance Standard Terms and Conditions are incorporated into every NTIA grant award. Section F.05 of these Terms and Conditions

states that each award is subject to the whistleblower protections afforded by 41 U.S.C. § 4712 (Enhancement of contractor protection from reprisal for disclosure of certain information).

Generally, this law provides that an employee or contractor (including subcontractors and personal services contractors) of a non-Federal entity may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body information that the employee reasonably believes is evidence of gross mismanagement of a Federal award, subaward, or a contract under a Federal award or subaward, a gross waste of Federal funds, an abuse of authority relating to a Federal award or subaward or contract under a Federal award or subaward, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal award, subaward, or contract under a Federal award or subaward.

Non-Federal entities and contractors under Federal awards and subawards must inform their employees in writing of the rights and remedies provided under 41 U.S.C. § 4712, in the predominant native language of the workforce.

A person that believes they have been the subject of retaliation for protected whistleblowing can contact the Department of Commerce, Office of Inspector General Hotline, as indicated at https://www.oig.doc.gov/Pages/Hotline.aspx, or the U.S. Office of Special Counsel, toll free at 1-800-872-9855.

OMB Approval No. 0348-0041

BUDGET INFORMATION - Construction Programs

NOTE: Certain Federal assistance programs require additional computations to arrive at the Federal share of project costs eligible for participation. If such is the case, you will be notified.

COST CLASSIFICATION	a. Total Cost	b. Costs Not Allowable for Participation	c. Total Allowable Costs (Columns a-b)
1. Administrative and legal expenses	$882,968	$0	$882,968
2. Land, structures, rights-of-way, appraisals, etc.	$0	$0	$0
3. Relocation expenses and payments	$0	$0	$0
4. Architectural and engineering fees	$0	$0	$0
5. Other architectural and engineering fees	$453,832	$0	$453,832
6. Project inspection fees	$0	$0	$0
7. Site work	$0	$0	$0
8. Demolition and removal	$0	$0	$0
9. Construction	$0	$0	$0
10. Equipment	$0	$0	$0
11. Miscellaneous	$3,663,200	$0	$3,663,200
12. SUBTOTAL *(sum of lines 1-11)*	$5,000,000	$0	$5,000,000
13. Contingencies	$0	$0	$0
14. SUBTOTAL	$5,000,000	$0	$5,000,000
15. Project (program) income	$0	$0	$0
16. TOTAL PROJECT COSTS *(subtract #15 from #14)*	$5,000,000	$0	$5,000,000

FEDERAL FUNDING

17. Federal assistance requested, calculate as follows: (Consult Federal agency for Federal percentage share.) Enter the resulting Federal share.	Enter eligible costs from line 16c Multiply X 100 %	$5,000,000