

## SUBGRANT AGREEMENT

### NEW JERSEY BROADBAND, EQUITY, ACCESS AND DEPLOYMENT (BEAD) PROGRAM

This GRANT AGREEMENT (The “Agreement”) is made and entered into as of the date of the last signature on this Agreement between the State of New Jersey’s Board of Public Utilities (“Board” or “BPU”) with its principal offices located at 44 S Clinton Ave, Trenton, NJ 08609, and

«Grantee»

«Address1»

«City» «State» «Zip»

The Broadband Equity, Access, and Deployment (“BEAD”) program is a federal grant program authorized by the Infrastructure Investment and Jobs Act of 2021, (Division F, Title I, Section 60102, Public Law 117-58, 135 Stat. 429 (November 15, 2021) (“IIJA”), also known as the Bipartisan Infrastructure Law, 47 U.S.C. § 1701, et seq., and is implemented in accordance with NTIA regulations and all related policies and guidance, including NTIA Policy Notice dated June 6, 2025.

Grantee submitted an application to BPU for BEAD grants to support Grantee’s broadband infrastructure project, representing to the Board that it has the technical, financial, and managerial capacity to implement the Project in compliance with federal and state laws, the Board’s BEAD program guidelines, and applicable state and federal regulatory requirements.

The Board approved Grantee’s application for the planning, construction, timely completion, and deployment of its broadband infrastructure project. The Board also sent Grantee a commitment letter and this Agreement, requiring Grantee to electronically sign and return the Agreement to BPU within 30 days of the date of the commitment letter or the offer may be withdrawn by BPU.

The Board and Grantee (collectively “Parties”) wish to enter into this Agreement to establish the terms and conditions governing the disbursement and use of BEAD grant funds, to ensure compliance with all applicable laws, regulations and requirements, including programmatic, fiscal, and reporting requirements, and to set forth the rights, obligations, and responsibilities of each Party. The terms of this Agreement and all Exhibits expressly incorporated herein, together will be referred to as the “Agreement.”

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and intending to be legally bound, the Board and the Grantee agree as follows:

#### 1. Definitions

- **“Agreement”** means this Grant Agreement, including all attachments, exhibits, incorporated documents, referenced statutes and rules, and any future amendments approved by the New Jersey Board of Public Utilities (BPU).
- **“Award”** means the Grant of federal financial assistance under the BEAD Program made by the State of New Jersey, through the BPU, to the Grantee.
- **“Award Amount”** means the total amount of Grant Funds the State agrees to provide to the Grantee under this Agreement, as listed in Exhibit A.

- **“BEAD”** means the Broadband Equity, Access, and Deployment Program authorized by the Infrastructure Investment and Jobs Act (IIJA) of 2021, Section 60102, codified at 47 U.S.C. § 1701 et seq., and implemented by the National Telecommunications and Information Administration (NTIA) through applicable notices, policies, and program guidance.
- **“Breach of Agreement”** means an uncured Event of Default under Section [Insert Section Number] of this Agreement, including but not limited to: (i) failure to meet material requirements of this Agreement; (ii) ineligibility to receive federal assistance due to suspension, debarment, or other federal action; or (iii) initiation of bankruptcy, receivership, or similar proceedings not dismissed or stayed within 30 days.
- **“Broadband Serviceable Location” (BSL)** means a business or residential location in New Jersey where mass-market, fixed broadband service can be installed, as defined in the BEAD NOFO and reflected in the FCC’s Fabric dataset (Version 6 or later as adopted by NTIA).
- **“Budget”** means the approved financial plan for the Project, attached as Exhibit B, and aligned with the Scope of Work in Exhibit A.
- **“Contractor”** has the meaning set forth in 2 CFR § 200.1, and refers to any third party with whom the Grantee enters into a contract to carry out a portion of the Project.
- **“Exhibits”** means the attachments incorporated into and made a part of this Agreement, as listed in Exhibit A.
- **“Federal Award”** means the grant of federal financial assistance from the U.S. Department of Commerce (via NTIA) to the State of New Jersey for the BEAD Program, a portion of which is sub awarded to the Grantee under this Agreement.
- **“Federal Awarding Agency”** means the National Telecommunications and Information Administration (NTIA), a bureau of the U.S. Department of Commerce.
- **“Fixed Amount Subaward”** means a subaward structured under 2 CFR § 200.201(b) and modified by NTIA’s *Policy Notice of Part 200 Exceptions*, available at: [https://broadbandusa.ntia.gov/sites/default/files/2023-12/BEAD\\_Policy\\_Notice\\_of\\_Part\\_200\\_Exceptions\\_Related\\_Issues.pdf](https://broadbandusa.ntia.gov/sites/default/files/2023-12/BEAD_Policy_Notice_of_Part_200_Exceptions_Related_Issues.pdf)
- **“Funded Network”** means any broadband infrastructure or system constructed, owned, or operated by the Grantee using BEAD Award Funds.
- **“Grant Funds”** means federal BEAD funds provided by the State to the Grantee for the purpose of carrying out the Project under this Agreement.
- **“Matching Funds”** means the non-federal cost share required under the BEAD Program, provided by the Grantee or through other eligible sources, in accordance with BEAD NOFO Section III.C.2.
- **“Major Purpose”** of a grant is broadband infrastructure deployment if more than 50% of total eligible costs are attributable to broadband infrastructure activities. NTIA retains Board to make final determinations on project purpose classifications.
- **“Party”** means either the State or the Grantee. “Parties” means both collectively.
- **“Project”** means the broadband infrastructure deployment activities and related obligations funded under this Agreement, as described in Exhibit B and aligned with Section IV.B.7.a.ii of the BEAD NOFO. This includes, but is not limited to:
  - Last-mile broadband deployment to unserved and underserved BSLs;
  - Deployment of Middle Mile Infrastructure;
  - Deployment of broadband infrastructure within multi-family residential buildings.

- **“Recipient”** means the State of New Jersey, acting through the New Jersey Board of Public Utilities (BPU), as the entity receiving and administering the federal BEAD award.
- **“State”** refers to the State of New Jersey
- **“Subrecipient”** means the Grantee, as a non-federal entity receiving a subaward from the State to carry out part of the BEAD Program.
- **“Total Project Funds”** means the sum of all funds used for the Project, including Grant Funds and Matching Funds.
- **“Uniform Guidance”** means the federal regulations codified at 2 CFR Part 200, as modified by NTIA for the BEAD Program through applicable policy notices including the *Uniform Guidance Policy Notice* issued on December 26, 2023.
- **“Work”** means the services performed and deliverables provided by the Grantee in fulfillment of the Project described in this Agreement.

## 2. Grant Terms and Conditions

The Grantee agrees to comply with all applicable federal and state requirements as outlined in this Agreement and its incorporated exhibits. The following Exhibits are incorporated into and made a material part of this Agreement. The Grantee shall comply with the terms and requirements set forth in each Exhibit, as applicable. Failure to comply with any Exhibit shall constitute a breach of this Agreement and may result in enforcement actions, including suspension, termination, or recovery of funds.

- **Exhibit A – Scope of Work:** *Describes the required activities, deployment obligations, and performance deliverables under this Agreement.*
- **Exhibit B – BEAD Project Budget:** *Sets forth the approved project budget, cost categories, and funding limitations.*
- **Exhibit C – BEAD Program Specific Conditions:** *Outlines core programmatic terms applicable to all BEAD Grantees.*
- **Exhibit C-2 – LEO Grantee BEAD Program Specific Conditions:** *Applies additional requirements for Grantees using Low Earth Orbit satellite technology.*
- **Exhibit D – BEAD Grantee Reporting Requirements:** *Specifies required reporting content, format, and submission timelines.*
- **Exhibit E – BEAD Federal Audit Requirements:** *Details audit thresholds, timelines, and federal compliance obligations.*
- **Exhibit F – BEAD Federal Contracting Provisions:** *Lists federally mandated clauses and flow-down provisions under 2 C.F.R. Part 200.*
- **Exhibit G – NJ State BEAD Additional Terms:** *Identifies New Jersey-specific legal and programmatic requirements.*
- **Exhibit H – BEAD Payment and Fiscal Responsibilities:** *Defines invoicing, disbursement, and financial management obligations.*
- **Exhibit J – Uniform Guidance Exceptions (2 C.F.R. 200):** *Lists approved deviations from federal Uniform Guidance as applied to BEAD.*
- **Exhibit K – Monitoring Requirements:** *Outlines performance monitoring, site access, and oversight obligations.*
- **Exhibit L – Notice of Completion and Engineer’s Certification:** *Requires formal project closeout certification and engineering compliance attestation.*

The Grantee agrees to comply with all applicable terms and conditions set forth in this Agreement and the incorporated Exhibits. These Exhibits form an integral part of this Agreement and carry the same force and effect as if fully set forth herein. In addition to the obligations outlined in the Exhibits, the following terms and conditions apply:

**I. Amount of Award**

- A. Subject to the terms of this Agreement, the Board hereby awards up to \$\_\_\_\_\_ (Award Amount) in BEAD funds to the Grantee to support the timely initiation and completion of deployment of broadband infrastructure and grant funded activities in accordance with the requirements and conditions of this Agreement for the Project described in Exhibit A, within the Project Budget in Exhibit B, and in accordance with the BEAD program Specific Conditions in Exhibit C and Exhibit C-1 or C-2 as applicable.
- B. Grantee must use any Award Amounts solely for allowable purposes as set forth in the IJJA and BEAD program requirements to carry out the Project.
- C. The Board shall have no obligation to pay Grantee any amount under this Agreement that exceeds the Award Amount. The Award Amount will not increase if Grantee exceeds the total costs set forth in the Project Budget at Exhibit B.

**II. Availability of Funds**

- A. The Grantee acknowledges that:
  - 1. Award and continuation of funding are subject to the availability of federal and state appropriations;
  - 2. The Board shall not be held liable for any failure to perform under this Agreement due to a lack of appropriated funds;
  - 3. No commitment of future funding beyond the current grant period is implied or guaranteed.

**III. Letter of Credit / Performance Bond**

- A. At the discretion of the New Jersey Board of Public Utilities (BPU), the Grantee may be required to submit a performance bond or irrevocable standby letter of credit (LOC) equal to no less than ten percent (10%) of the total award amount.
- B. If required, the LOC must:
  - 1. Be issued by an eligible financial institution;
  - 2. Include a legal opinion certifying the LOC is not Grantee property in the event of bankruptcy;
  - 3. Be submitted within thirty (30) days of receipt of the Notice of Award;
  - 4. Remain in effect until all project milestones are verified by the Office of Broadband Connectivity (OBC);
  - 5. Not be amended or cancelled without prior written approval from BPU;
  - 6. Be exercisable only in the event of a material uncured default.

**IV. Indemnification**

- A. The Grantee shall be solely responsible for, and shall indemnify, defend, and hold harmless the State of New Jersey and its officers, employees, and agents from any and all

claims, losses, liabilities, damages, costs, and expenses arising out of:

1. Personal injuries or property damage caused by the Grantee's operations;
2. Any failure to provide adequate protection for employees or third parties;
3. Negligence, malpractice, or willful misconduct by the Grantee or its agents;
4. Any resulting legal fees or litigation costs.
5. This indemnification obligation survives termination of the Agreement.

## **V. Assignability**

- A. The Grantee may not assign, transfer, or subcontract any rights or obligations under this Agreement without the prior written approval of the Board, unless otherwise provided herein.

## **VI. Financial Management System**

- A. The Grantee shall maintain a financial management system that fully complies with applicable federal, state, and programmatic requirements, including but not limited to 2 CFR Part 200 (Uniform Administrative Requirements), NTIA's BEAD Notice of Funding Opportunity, the Restructuring Policy Notice (June 6, 2025), and the New Jersey BEAD Program guidelines. The Grantee shall promptly notify BPU if it is unable to comply with the requirements in this section.
- B. The Grantee's financial management system must provide for the following, consistent with 2 CFR §200.302 and the BEAD program's accountability standards:
  1. Financial Reporting: Maintain accurate, current, and complete disclosure of financial results for each BEAD-funded project, in accordance with generally accepted accounting principles (GAAP) and any specific formats prescribed by BPU.
  2. Accounting Records: Maintain records that clearly identify the source and application of BEAD funds. These must include authorizations, obligations, unobligated balances, assets, liabilities, expenditures, and income, and be capable of tracking costs by activity and funding source.
  3. Internal Controls: Implement effective internal controls that safeguard assets, ensure compliance with applicable statutes and terms of the subgrant, and protect against waste, fraud, and abuse. These controls shall align with 2 CFR §200.303 and include separation of duties, authorization procedures, and regular reconciliations.
  4. Budgetary Controls: Ensure actual expenditures are compared with the approved budget for the project. Grantee must maintain the ability to relate financial data to performance outcomes, including unit cost analysis, where required.
  5. Cost Principles Compliance: Ensure that all costs charged to the award are allowable, allocable, and reasonable under 2 CFR §§200.403–200.405. Profit, management fees, or mark-ups above actual cost are unallowable under New Jersey's BEAD Program.
  6. Source Documentation: Support all accounting records with appropriate source documentation, including invoices, receipts, payroll records, and timesheets. Grantees must retain documentation as required by 2 CFR §200.334.
  7. Cash Management: Implement procedures to minimize the time elapsing between the receipt of funds from BPU and disbursement by the Grantee. Unless otherwise authorized, all disbursements will be made on a reimbursement basis and tied to

verified milestone completion.

- C. Upon request by BPU, the Grantee shall submit a "Statement of Adequacy of the Accounting System" or equivalent documentation confirming compliance with federal standards and demonstrating capacity to manage BEAD funds.
- D. BPU may conduct a pre-award risk assessment or post-award monitoring review to evaluate the adequacy of the Grantee's financial system. If deficiencies are identified, BPU may impose specific conditions in accordance with 2 CFR §200.208 or require the submission of corrective action plans. Failure to correct deficiencies may result in enforcement action, including withholding of payments or suspension of the subgrant.

## **VII. Method of Payment**

All payments under this Grant Agreement shall be made by the New Jersey Board of Public Utilities (BPU) on a reimbursement basis and in accordance with the approved fixed amount subaward structure. Reimbursement shall occur only after the Grantee submits all required documentation and the Office of Broadband Connectivity (OBC) verifies successful completion of the applicable project milestones, as defined in the approved Scope of Work (Exhibit A) and Deliverables section of this Agreement.

No funds shall be advanced or disbursed prior to milestone verification. All payment procedures shall be governed by the terms outlined in the consolidated Section VI. Deliverables/Payments of Exhibit A (Scope of Work). Additional details governing disbursements, documentation requirements, and fiscal responsibilities are set forth in Exhibit H (BEAD Payment Provisions and Fiscal Responsibilities), which is hereby incorporated by reference.

Disbursements shall be made only after:

- A. Submission of required documentation demonstrating the Grantee has achieved the applicable milestone(s) as defined in the approved Scope of Work (Exhibit A); and
- B. BPU's review and written approval of such documentation.

The Grantee must submit payment requests in a form and manner prescribed by BPU, which shall include but is not limited to:

- A. Quarterly invoices detailing actual costs incurred, aligned with the approved budget and 2 CFR Part 200 cost principles;
- B. Certification that costs are allowable, allocable, and reasonable;
- C. Evidence of milestone completion, including deployment or service benchmarks as applicable;
- D. Documentation of matching contributions, where required;
- E. Any additional records or forms specified by BPU or the NTIA.

No payment shall be made prior to the execution of this Agreement by all required parties and approval of the grant award by the Board. BPU reserves the right to withhold or delay payment if the Grantee fails to comply with the terms of this Agreement, applicable law, or BEAD Program requirements.

## **VIII. Allowable Costs**

- A. **Limitation on Use of Funds:** Grantee shall use grant funds solely for allowable, allocable, and reasonable costs necessary to carry out the broadband deployment project as approved under the New Jersey BEAD Program and consistent with the Infrastructure

Investment and Jobs Act of 2021 (Division F, Title I, Section 60102, Public Law 117-58) (the “Infrastructure Act”), NTIA’s BEAD Notice of Funding Opportunity, the Restructuring Policy Notice (June 6, 2025), and this Agreement.

Grantee shall not seek reimbursement for costs that have been or will be reimbursed by another funding source. Duplicate funding is strictly prohibited.

**B. Definition of Allowable Costs:** Allowable costs are those that:

1. Are necessary and reasonable for the performance of the BEAD-funded project;
2. Are allocable to the project under the principles in 2 CFR §200.405;
3. Are authorized and not prohibited under applicable laws, regulations, or this Agreement;
4. Are adequately documented and supported by appropriate source materials (e.g., invoices, contracts, payroll records);
5. Comply with limitations on use of funds established by BPU and NTIA;
6. Are incurred during the performance period of this Subgrant unless otherwise approved in writing.

**C. Applicable Cost Principles:** Allowable costs shall be determined in accordance with:

1. 2 CFR Part 200, Subpart E – Cost Principles, including general provisions on allowable, reasonable, and allocable costs;
2. State of New Jersey grant administration policies, as applicable; and
3. BEAD-specific cost guidance issued by NTIA or BPU.

**D. Unallowable Costs:** In addition to those identified in 2 CFR §200.420–.476, the following are expressly unallowable under the New Jersey BEAD Program:

1. Profit, fee, or management markup in excess of actual cost;
2. Costs not directly tied to approved project activities;
3. Entertainment, lobbying, fines and penalties, and other unallowable categories as identified in federal regulations or NTIA guidance.

**E. Pre-Award Costs:** Pre-award costs are not allowable unless explicitly authorized in writing by BPU and consistent with 2 CFR §200.458.

## **IX. Period of Availability of Funds**

Grantee may charge to the award only those eligible costs that:

- A. Are incurred during the approved period of performance as defined in this Agreement;
- B. Are directly tied to approved milestones and deliverables under the Scope of Work (Exhibit A); and
- C. Are properly documented and submitted for reimbursement in accordance with BPU’s payment procedures.

Unless expressly authorized in writing by BPU, no costs incurred before the effective date or after the end date of the subaward’s period of performance shall be considered allowable.

Carryover of unobligated funds between budget periods is **not permitted** under this fixed amount subaward model unless specifically approved in writing by BPU and consistent with applicable BEAD program guidance.

#### **X. Matching and Cost Sharing**

The Grantee shall be required to account to the satisfaction of the Board for matching and cost sharing requirements of the grant in accordance with Federal and State requirements.

The Grantee shall be required to contribute a minimum non-federal match equal to at least twenty-five percent (25%) of total allowable project costs, in accordance with the Broadband Equity, Access, and Deployment (BEAD) Program requirements and 47 U.S.C. § 1702(f) (Infrastructure Act § 60102(f)).

- A. **Match Requirement:** The required 25% match must be provided from non-federal sources, unless the project is located in an area that qualifies for a waiver as determined by the BPU and consistent with BEAD program guidance. Matching funds may be in the form of cash or in-kind contributions, provided they meet all federal criteria for allowability and valuation.
- B. **Documentation and Valuation:** The Grantee must:
  - 1. Clearly identify the sources and amounts of all matching contributions;
  - 2. Maintain detailed documentation demonstrating that such contributions are:
    - i. Allowable, allocable, and reasonable under 2 CFR Part 200;
    - ii. Verifiable from the Grantee's records;
    - iii. Not otherwise paid by the federal government; and
    - iv. Necessary and integral to the approved project scope;
  - 3. Submit periodic reports and supporting records to BPU demonstrating compliance with match requirements, in a form and frequency specified by the Board.
- C. **Failure to Meet Match Obligation:** Failure to meet the required match may result in disallowance of costs, withholding of payments, or other enforcement actions as provided under this Agreement and applicable law.

#### **XI. Audit Requirements**

This subgrant is subject to the audit requirements of 2 CFR Part 200, Subpart F, as enforced by the National Telecommunications and Information Administration (NTIA). If the Grantee expends \$750,000 or more in federal funds during its fiscal year, it must obtain a Single Audit and submit it to the Federal Audit Clearinghouse in accordance with federal deadlines. The Grantee shall provide a copy to the Board upon request.

#### **XII. Budget Amendment/Extension**

This subaward is issued on a fixed amount basis; therefore, deviations from the approved budget and reallocation between cost categories are not permitted without prior written approval from the Board. The Grantee shall adhere strictly to the approved budget and Scope of Work (Exhibit A) associated with each milestone.

Requests for changes that would alter the scope, timing, or deliverables of the project must be submitted in writing and approved by the Board. No amendments shall be effective unless



authorized in writing by the Board and, where required, by NTIA.

**XIII. Procurement Standards**

Procurement of supplies, equipment, and other services with funds provided by this grant shall be accomplished in a manner generally consistent with Federal and State requirements.

Adherence to the standards contained in the applicable Federal and State laws and regulations does not relieve the Grantee of the contractual responsibilities arising under its procurements. The Grantee is the responsible authority, without recourse to the Board, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurement entered in support of a grant.

**XIV. Monitoring of Program Performance**

Refer to Exhibit K – Monitoring Requirements, which is hereby incorporated into this Agreement by reference.

**XV. Reporting Requirements**

Refer to Exhibit D – BEAD Grantee Reporting Requirements, for more information which is hereby incorporated into this Agreement by reference.

**XVI. Access to Records**

The Grantee in accepting this grant agrees to make available to the Board, any Federal agency whose funds are expended in the course of this grant, or any of their duly authorized representatives, pertinent accounting records, books, documents and papers as may be necessary to monitor and audit Grantee's operations.

All visitations, inspections and audits, including visits and requests for documentation in discharge of the Board's responsibilities, shall as a general rule provide for prior notice when reasonable and practical to do so. However, the Board retains the right to make unannounced visitations, inspections, and audits as deemed necessary.

The Board reserves the right to have access to records of any Grantees and requires the Grantee to provide for Board access to such records in any grant with the Grantee. The Board reserves the right to have access to all work papers produced in connection with audits made by the Grantee or independent certified public accountants, registered municipal accountants or licensed public accountants hired by the Grantee to perform such audits.

**XVII. Record Retention**

Except as otherwise provided, financial and programmatic records, supporting documents, statistical records and all other records pertinent to the grant shall be retained for a period of seven years, unless Federal or State funding Board statutes require longer periods or unless directed to extend the retention by the Board.

- A. If any litigation, claim, negotiation, action or audit involving the records is started before the expiration of the seven-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular seven-year period, whichever is later unless otherwise directed by the Board.
- B. Records for nonexpendable property acquired with Board funds shall be retained for seven years after its final disposition, unless otherwise provided or directed by the Board.

For Federal and State purposes (unless otherwise provided):

- C. **General:** The retention period starts from the date of submission of the final expenditure report, or for grants that are renewed annually, from the date of submission of the annual financial report.
- D. **Real Property and Equipment:** The retention period for real property and equipment records starts from the date of the disposition, replacement or transfer at the direction of the Board.

The Board may request transfer of certain records to its custody from the Grantee when it determines that the records possess long-term retention value and will make arrangements with the Grantee to retain any records that are continuously needed for joint use.

#### **XVIII. Enforcement**

- A. **Hearings, Appeals:** In taking an enforcement action, the Board may provide the Grantee an opportunity for such hearing, appeal or other administrative proceeding to which the Grantee is entitled under any statute or regulation applicable to the action involved.
- B. **Effects of Suspension and Termination:** Costs incurred by the Grantee, resulting from obligations incurred by the Grantee during a suspension or after termination of an award, are not allowable to be applied against the grant unless the Board expressly authorizes them in the notice of suspension or termination or subsequently. Other Grantee costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if the costs result from obligations which were properly incurred by the Grantee before the effective date of suspension or termination, and are non-cancellable.
- C. **Relationship to Debarment and Suspension:** The enforcement remedies identified in this Section, including suspension and termination, do not preclude the Grantee from being subject to State and Federal debarment and suspension procedures.
- D. **Disputes:** The Grant Officer shall be the representative of the State hereunder. In the event of any dispute hereunder, the interpretation of this Agreement by the Grant Officer, and his/her decision on any dispute, shall be final. The Grant Officer shall be the representative of the State hereunder. In the event of any dispute hereunder, the interpretation of this Agreement by the Grant Officer, and his/her decision on any dispute, shall be final.

#### **XIX. Termination and Suspension**

The following definitions shall apply for the purposes of this Section:

- A. **Termination:** The termination of a grant means the cancellation of assistance, in whole or in part, under a grant at any time prior to the date of completion.
- B. **Suspension:** The suspension of a grant is an action by the Board which temporarily suspends assistance under the grant pending corrective action by the Grantee or pending a decision to terminate the grant by the Board.
- C. **Disallowed Costs:** Disallowed costs are those charges to the grant which the Board or its representatives shall determine to be beyond the scope of the purpose of the grant, excessive, or otherwise unallowable.

When the Grantee has failed to comply with grant award stipulations, standards, or conditions, the

Board may suspend the grant and withhold further payments; prohibit the Grantee from incurring additional obligations of grant funds pending corrective action by the Grantee; or decide to terminate the grant in accordance with paragraph C below. The Board shall allow all necessary and proper costs, which the Grantee could not reasonably avoid during the period of suspension, provided they meet Federal and State requirements.

The Board may terminate the grant in whole or in part whenever it is determined that the Grantee has failed to comply with the conditions of the grant. The Board shall promptly notify the Grantee in writing of the determination and the reasons for the termination together with the effective date. Payments made to the Grantee or recoveries by the Board under the grant terminated for cause shall be in accord with the legal right and liability of the parties.

The Board and the Grantee may terminate the grant in whole, or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and in case of partial terminations, the portion to be terminated. The Grantee shall not incur new obligations for the terminated portion after the effective date and shall cancel as many outstanding obligations as possible.

The Grant Closeout procedures in Section XX of the grant shall apply in all cases of termination of the grant.

**Remedies for Noncompliance:** If a Grantee materially fails to comply with the term of an award, whether stated in a State or Federal statute or regulation, an assurance, in a State plan or application, a notice of award, or elsewhere, the Board may take one or more of the following actions, as appropriate in the circumstances:

- A. Temporarily withhold cash payments pending correction of the deficiency by the Grantee or take more severe enforcement action.
- B. Disallow all or part of the cost of the activity or action not in compliance.
- C. Wholly or partly suspend or terminate the current award for the Grantee's program.
- D. Withhold further awards for the program,
- E. Request the balance of grant funds to be returned and/or seek reimbursement for funds expended that were not in compliance with the terms and conditions of the grant agreement.
- F. Take other remedies that may be legally available.

## **XX. Grant Closeout Procedures**

Closeout shall be completed in a manner in compliance with federal guidance. The closeout process may include, but shall not be limited to, inspection and testing of materials outlined in Section 18, a final performance report and review process, a final compliance monitoring process, a request by the State for any Award-related documentation not yet provided, and a request for payment by Grantee and payment of the Award Amount by the State. Grantee shall comply with all closeout requirements in a timely manner, and in any case no less than 30 days after a request for a response

- A. **Grant Closeout:** Grant closeout is the process by which the Board determines that the Grantee has completed all required project milestones and deliverables in accordance with the approved Scope of Work (Exhibit A), and that all applicable administrative and reporting

obligations under this Agreement have been satisfied. Closeout shall not affect the Board's right to disallow costs or recover funds based on audits, monitoring, or other reviews conducted after the closeout date.

- B. **Date of Completion:** The date when all activities under the grant are completed or the **expiration date in the award document, or any supplement or amendment thereto.**

The Grantee shall submit final expenditure and performance reports as prescribed by the Board and in the timeframes set forth in the executed grant agreement, including all exhibits and attachments, upon completion of the grant period or termination of the grant. The Board may permit extensions when requested in writing by the Grantee.

The Grantee will, together with the submission of the final report, refund to the Board any unexpended funds or unobligated (unencumbered) cash advanced, except such sums that have been otherwise authorized in writing by the Board to be retained.

In the event a final audit has not been performed prior to the closeout of the grant, the Board retains the right to recover any appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

## **XXI. General Provisions**

- A. **Assignment or Transfer:** The Grantee's rights and obligations under this Agreement are specific to the Grantee and may not be assigned, delegated, or otherwise transferred in whole or in part without the prior written consent of the BPU. Any attempted assignment or transfer without such consent shall be null and void.
- In addition to BPU approval, any proposed assignment or transfer may be subject to prior written approval by the National Telecommunications and Information Administration ("NTIA") in accordance with BEAD program requirements. All approved assignments shall remain subject to the terms and conditions of this Agreement.
- B. **Amendments and Modifications:** This Agreement may only be amended or modified through a written instrument signed by both BPU and the Grantee.
- C. **Conflicts of Interest:** No officer or employee of BPU or the Grantee shall have any personal pecuniary gain or interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the Project under this Agreement. The Grantee shall promptly notify BPU upon becoming aware of any potential or actual conflict of interest or attempt to circumvent this requirement.
- D. **Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey. Any dispute arising between the Parties shall be brought exclusively in a court of competent jurisdiction in the State of New Jersey. Nothing in this Agreement shall be construed as a waiver of the State of New Jersey's sovereign immunity.
- E. **Force Majeure:** Neither BPU nor the Grantee shall be liable for any failure or delay in performance arising from causes beyond their reasonable control, including but not limited to acts of God, acts of public enemies, fires, floods, epidemics, and quarantine restrictions. Both Parties shall make reasonable efforts to mitigate the impact of such events. Typical weather conditions shall not constitute a force majeure event. BPU shall determine whether a force majeure condition exists based on the facts and circumstances presented.
- F. **Notice:** All communications and notices under this Agreement shall be in writing and delivered by email to: [broadband@bpu.nj.gov](mailto:broadband@bpu.nj.gov)
- G. **Severability:** If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall remain in full force

and effect.

- H. **Successors and Assigns:** This Agreement shall be binding upon and inure to the benefit of BPU and the Grantee and their respective successors and permitted assigns.

## 21. INSURANCE AND TAX LIABILITY REQUIREMENTS

- A. **Liability Insurance:** The Grantee's standard liability insurance policies must protect, or be endorsed to protect, the State of New Jersey from claims of bodily injury, property damage, or both, arising from any activities performed by the Grantee, its employees, or agents under this agreement. Coverage must include business and non-business invitees, their property, and all other property damaged as a direct or indirect result of the Project when validly present on the Grantee's premises, whether or not engaged in the Project at the time of the incident. Policies must not limit the sovereign immunity of the State of New Jersey or its officers, agents, or employees. Upon request, the Grantee shall provide the Authority with proof of such insurance.
- B. **Workers' Compensation Insurance:** The Grantee shall provide workers' compensation insurance as required by law and shall be fully responsible for payment of all premiums, social security, and any other taxes or payroll deductions required by law for its employees performing activities under this agreement.

## XXII. COMPLIANCE WITH FEDERAL REQUIREMENTS

- C. **Flowdown Requirements:** The requirements of this Part shall apply to Grantee, subrecipients, and subcontractors. Grantee shall require and cause any subcontractor or subgrantee or subrecipient used by Grantee in connection with this Grant Agreement to agree to and be subject to and bound by such terms and provisions.
- D. **BEAD Requirements:** BEAD requirements are incorporated by reference as if fully set forth herein and constitute contractual obligations of the Grantee. The BEAD NOFA/NOFO and related guidance clarify and provide requirements regarding applicable C.F.R. provisions, internal controls, subrecipient monitoring and management, and audit requirements that apply to BPU and all sub-awardees or contractors receiving BEAD funds through this Grant Agreement. These obligations are legally binding and enforceable under this Grant Agreement. BPU reserves the right to pursue legal remedies including disallowance of costs, withholding of funds, or recoupment as necessary to ensure compliance with BEAD requirements. Grantee's obligations in regard to BEAD requirements include but are not necessarily limited to:
1. Infrastructure Investment and Jobs Act (IIJA), Public Law 117-58, 135 Stat. 429 (November 15, 2021);
  2. BEAD Notice of Funding Opportunity (BEAD NOFO), including updates or changes;
  3. Applicable provisions of Federal Uniform Guidance (2 C.F.R. part 200); and
  4. Any other specific requirements set forth in Grant Agreements or similar documents between the State of New Jersey and federal government governing projects receiving BEAD funds.
- E. **Necessary and Allowable Expenditures.** Grantee represents and warrants that BEAD

funds shall only be used for allowable expenditures as defined in this Grant Agreement, and consistent with 2 C.F.R. Subpart E (Cost Principles) Grantee.

**F. Internal Controls and Single Audit Act, SubPart F.** BEAD funds distributed under this Grant Agreement are considered federal financial assistance subject to the Single Audit Act (31 U.S.C. §§ 7501–7507) and 2 C.F.R. §§ 200.303 and 200.330–332. If Grantee expends \$750,000 or more in federal awards in any fiscal year, it must undergo a Single Audit and submit the report to BPU as required.

1. BEAD funds distributed hereunder count toward the \$750,000 or more threshold applicable to federal awards spent during the fiscal year, which triggers 2 C.F.R. part 200, subpart F regarding audit requirements for nonprofits or governmental entities. Nonprofit and local government subrecipients that expend \$750,000 or more in a year in federal awards (from all sources) shall have a single audit conducted for that year in accordance with the provisions of the OMNI Circular, OMB Uniform Guidance: Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. 200. A copy of the final audit report shall be submitted to BPU if either the schedule of findings and questioned costs or the summary schedule of prior audit findings includes any audit findings related to federal awards provided by BPU. The audit report, if required, shall include a schedule of the prior year's questioned costs (to the extent applicable), along with a response to the current status of the prior year's questioned costs. Copies of all management letters written as a result of the audit shall also be forwarded to BPU within one (1) month of the time of receipt by the Grantee accompanied by an action plan, if applicable, for each. Grantee shall provide BPU with a copy of any written audit findings or reports, whether in draft or final form, required to be submitted to BPU per the criteria above within two (2) Business Days following receipt by the Grantee. If an audit report is not required to be submitted per the criteria above, the subrecipient must provide written notification to BPU that the required audit was conducted in accordance with Government Auditing Standards and that neither the schedule of findings and questioned costs nor the summary schedule of prior audit findings includes any audit findings related to federal awards provided by BPU. See the OMNI Circular, Section 200.330, Subrecipient and Contractor Determinations for a discussion of subrecipient versus contractor (vendor) relationships.
2. These audit requirements do not generally apply to for-profit business; however, BPU remains responsible for ensuring compliance with the Grant Agreement and BEAD program requirements through the implementation of audit and monitoring controls pursuant to 2 C.F.R. 200.501(h). These requirements are addressed in the Project certification, monitoring, review, status, and recoupment provisions in Parts VI. (Project Commencement and Completion), VIII. (Payment), IX. (Records), and X. (Right to Audit).

**G. Cost Principles.** To the extent applicable, in addition to any other terms, conditions, restrictions, or limitations applicable to allowable expenditures or reimbursable expenses or costs under the Grant Agreement, the costs or expenses charged, paid, or reimbursed under the Grant Agreement shall be determined as allowable under the cost principles detailed in 2 C.F.R. 200 Subpart E – Cost Principles. Grantee may only include indirect costs in the project budget if such costs are supported by a current and approved

Negotiated Indirect Cost Rate Agreement (NICRA) or an indirect cost methodology explicitly approved in writing by the BPU. The use of the 15 percent de minimis indirect cost rate, as referenced in 2 C.F.R. § 200.414(f), is not permitted under this program. Indirect costs must be clearly identified and justified within the Grantee's budget, and any indirect cost recovery is subject to review and approval by the BPU.

- H. Restriction on Leveraging Funding.** No portion of the funds received under the Grant Agreement may be used for the purpose of obtaining additional federal funds under any other law of the United States, except if authorized under that law.
- I. Federal Award Management System.** Unique entity identifier and System for Award Management (SAM)—Required. Grantees must normally (i) Be registered in SAM before submitting an application; (ii) provide a valid unique entity identifier in its application; and (iii) continue to maintain an active SAM registration with current information at all times during which it has an active federal award or an application or plan under consideration by a federal awarding agency. Proof of SAM registration and corresponding account information must be provided by Grantee before any payments will be made under the Grant Agreement.
- J. Recovery of Funds.** If a State or federal audit takes exception to the Project(s) provided under the Grant Agreement for which federal funds have been paid or reimbursed, or if federal funds are deferred and/or disallowed as a result of any audits (or expended in violation of the laws applicable to the expenditure of such funds, including BEAD Program Requirements, BEAD NOFO and 2 C.F.R. Part 200), Grantee will be liable to BPU and the State or New Jersey (or any other applicable governmental entity, including the United States Department of Treasury) for the full amount of any such payment, reimbursement, or any claim disallowed (or the amount of funds expended in violation of applicable laws or requirements) and for all related penalties incurred. If BPU or any federal governmental entity concludes that Grantee has been paid for any cost that is unallowable or unreasonable under the Grant Agreement, Grantee will be liable to BPU and the State of New Jersey (or any other applicable governmental entity, including the United States Department of Treasury) for such cost. Grantee shall pay to BPU or State of New Jersey (or any other applicable governmental entity, including the United States Department of Treasury) all amounts for which the Grantee is liable under this section within ten (10) business days of receiving a written demand or written notice. BPU may withhold any payment under the Grant Agreement if Grantee fails to timely make any payment required by this Section. The requirements of this Section shall apply to Grantee and subcontractors. Grantee shall require and cause any subcontractor or subgrantee or subrecipient used by Grantee in connection with the Grant Agreement to agree to and be subject to and bound by such terms and provisions.
- K. Required Federal Certifications.** Each of the following required certifications set forth below is a material representation of fact upon which reliance is placed by BPU prior to distributing federal funds. In addition to any criminal penalties authorized by the New Jersey Penal Code that may result from any false statements of material fact made herein or any other remedies available at law, equity, or otherwise, a Grantee that is subsequently determined to have made a statement, representation, warranty, certification, or attestation herein that is later proven untrue in any material respect shall be obligated to repay BPU the entire amount of any grant funds previously distributed by BPU to Grantee under the Grant Agreement. By signing the Grant Agreement, Grantee's authorized representative who must be expressly authorized to make the below certifications on behalf of Grantee, under penalty of perjury and pursuant to the laws of the

State of New Jersey, certifies and attests to Grantee's compliance with the following. The following certifications shall apply to Grantee and subcontractors. Grantee shall require and cause any subcontractor or subgrantee or subrecipient used by Grantee in the performance of the Grant Agreement to certify, agree to, and be subject to and bound by each of the following certifications. Grantee may be required to provide any information identified or required in connection with the below certifications as a precondition to receiving funds under the Grant Agreement.

**Note:** In addition to the certifications listed in this section, Grantees and their subrecipients are required to comply with the applicable federal requirements outlined in **Exhibit F – BEAD Federal Contracting Provisions**. Exhibit F contains mandatory flow-down provisions and federal procurement requirements incorporated by reference into this Grant Agreement. Grantee must review and adhere to the terms of Exhibit F in full, and ensure that any subcontractor or subgrantee is also made subject to those provisions as applicable.

1. *Drug Free Workplace*. This certification is required by the regulations implementing Sections 5151- 5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. § 701 et seq.). These regulations require certification by Grantees (and Grantee Contractors) that they will maintain a drug-free workplace. In accordance with these applicable laws, Grantee certifies that it does currently and will continue to provide a drug-free workplace, including by minimally:
  - i. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in Grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
  - ii. Establishing an ongoing drug-free awareness program to inform employees about:
    - a. The dangers of drug abuse in the workplace;
    - b. Grantee's policy of maintaining a drug-free workplace;
    - c. Any available drug counseling, rehabilitation, and employee assistance programs; and
    - d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
  - iii. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by Part XIX, Section I.1.a.
  - iv. Notifying the employee in the statement required by Part XIX, Section I.1.a, as a condition of their continued employment, that the employee will:
    - a. Abide by the terms of the statement; and
    - b. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction.
  - v. Notifying the Office in writing, within ten (10) calendar days after receiving notice under Part XIX, Section I.1.d from an employee or otherwise receiving



actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant.

- vi. Taking one of the following actions, within thirty (30) calendar days of receiving notice under Part XIX, Section I.1.e, with respect to any employee who is so convicted:
  - a. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
  - b. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.
- vii. Making a good faith effort to continue to maintain a drug-free workplace consistent with Part XIX, Sections I.1.a through I.1.f during the Term.

2. *Lobbying.* This certification is required by the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. § 1352. These regulations require certification by Grantees (and Grantee Contractors) that they have not engaged in prohibited lobbying activities and/or have filed any required disclosures in accordance with these applicable laws. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code; any person who fails to file the required certification may be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. In accordance with these applicable law s, Grantee certifies the following:

- i. No federal funds have been paid or will be paid, by or on behalf of Grantee, to any person for influencing or attempting to influence an officer or employee of the Office, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative Grant Agreement, or the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative Grant Agreement.
- ii. If any funds other than federal funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of the Office, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any federal contract, grant, loan, or cooperative Grant Agreement, Grantee must complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

3. *Suspension and Debarment.* This certification is required by the provisions of Executive Orders 12549 and 12689 and 31 C.F.R. part 19 regarding Debarment, Suspension, and Other Responsibility. A contract award must not be made to parties listed on the government-wide exclusions in SAM, in accordance with the OMB guidelines at 2 C.F.R. 180 that implement Executive Orders 12549 (3 C.F.R. part 1986 Comp., p. 189) and 12689 (3 C.F.R. part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
4. *Certification Regarding Environmental Tobacco Smoke.* This certification is required by Public Law 103-227, also known as the Pro-Children Act of 1994 ("Pro-Children Act"). The Pro-Children Act requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan, or loan guarantee. The Pro-Children Act also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The Pro-Children Act does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity. In accordance with these applicable laws, Grantee certifies and agrees to the following with respect to it and its principles, as applicable. Grantee certifies that it will comply with the requirements of the Pro-Children Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Pro-Children Act.
5. *Assurance of Compliance Nondiscrimination in Federally Assisted Programs & Equal Opportunity.* This certification requires Grantee to comply with any applicable federal nondiscrimination requirements or laws providing for or requiring equal opportunity in employment. Except as otherwise provided under 41 C.F.R. part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. part 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 C.F.R. part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 C.F.R. part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." To the extent required by these applicable laws, Grantee certifies during the performance of this Grant Agreement that:

- i. The Grantee will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Grantee will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- ii. The Grantee will, in all solicitations or advertisements for employees placed by or on behalf of the Grantee, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- iii. The Grantee will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Grantee's legal duty to furnish information.
- iv. The Grantee will send to each labor union or representative of workers with which he has a collective bargaining Grant Agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Grantee's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- v. The Grantee will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- vi. The Grantee will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- vii. In the event of the Grantee's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Grantee may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- viii. The Grantee will include the portion of the sentence immediately preceding paragraph 9.5.1 and the provisions of paragraphs 9.5.1 through 9.5.8 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Grantee will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Grantee becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Grantee may request the United States to enter into such litigation to protect the interests of the United States.
- ix. The Grantee further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the Grantee so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.
- x. The Grantee agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of Grantees and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.
- xi. The Grantee further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the Grantee agrees that if it fails or refuses to comply with these undertakings, the administering agency may

take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

6. *Americans with Disabilities Act.* Grantee certifies that it shall comply with Subtitle A, title II of the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12131-12134, and Department of Justice implementing regulation, 28 C.F.R. part 35.
7. *Equal Treatment for Faith Based Organizations.* Grantee shall comply with any applicable requirements of 28 C.F.R. part 38, governing "Equal Treatment for Faith Based Organizations." The Equal Treatment Regulation provides in part that grant awards may not be used to fund any inherently religious activities, such as worship, religious instruction, or proselytization. Grant recipients, including contractors may still engage in inherently religious activities, but such activities must be separate in time or place from the grant funded program, and participation in such activities by individuals receiving services from the Grantee or a subgrantee must be voluntary. The Equal Treatment Regulation also makes clear that organizations participating in programs funded through grant funding are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion. Notwithstanding the foregoing, faith-based organizations may, in some circumstances, consider religion as a basis for employment. See [http://www.ojp.gov/about/ocr/equal\\_fbo.htm](http://www.ojp.gov/about/ocr/equal_fbo.htm).
8. *Immigration and Naturalization Service.* Grantee certifies that it keeps on file, as appropriate, Immigration and Naturalization Service Employment Eligibility Verification Form (I-9) forms for applicable Grantee Personnel. This form is to be used by recipients of federal funds to verify that persons are eligible to work in the United States.
9. *Contract Work Hours and Safety Standards Act (40 U.S.C. § 3701-3708).* Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. part 5). To the extent applicable, Grantee must compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

- 10. *Clean Air Act (42 U.S.C. §§ 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251-1387), as amended.*** Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). Grantee agrees to comply with these applicable laws, violations of which must be reported to BPU and federal awarding agency and the regional office of the Environmental Protection Agency (EPA).
- 11. *Federal Funding Accountability and Transparency Compliance.*** This certification is required by the Federal Funding Accountability and Transparency Act ("FFATA"). FFATA requires recipients of individual federal grants equal to or greater than \$25,000 and awarded on or after October 1, 2010, to report on data related to executive compensation and associated first-tier subgrants of \$25,000 or more. In accordance with 2 C.F.R. part 170 (Reporting Subaward and Executive Compensation Information), Grantee must complete and submit to BPU the FFATA Form included with this Grant Agreement as Exhibit \_\_\_\_.
- 12. *Davis-Bacon Act/Copeland Act.*** When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors/Grantees must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors/Grantees must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract/grant or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts/grants must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor/Grantee or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
- 13. *Compliance with Applicable Environmental Laws.*** Grantee will not commence implementation and Grant Funds will not be disbursed until any and all necessary environmental reviews are complete and NTIA has approved any necessary decision

documents. Grantee certifies and, as applicable, further represents, warrants, and covenants that it will at all times comply with the following:

- i. The National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 et seq.);
- ii. Section 7 of the Endangered Species Act (ESA) of 1973 (16 U.S.C 1531 et seq.);
- iii. Section 404 of the Federal Water Pollution Control Act (the “Clean Water Act” or CWA) of 1948, as amended (33 U.S.C 1251 et seq.);
- iv. The Clean Air Act (CAA) of 1967, as amended (42 U.S.C §§ 7409, 7410, 7502-7514, 7571-7574);
- v. The National Historic Preservation Act (NHPA) of 1966 (16 U.S.C. 470 et seq.), as amended (54 U.S.C. 3001 et seq.);
- vi. Flood Risk Management Standard and Implementing Guidelines established through in Executive Order 14030,
- vii. Climate-Related Financial Risk (86 FR 27967) and Executive Order 13690,
- viii. Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input (80 FR 6425)
- ix. The Migratory Bird Treaty Act (16 U.S.C. 703 et seq.).

**L. 2 C.F.R. 200.331 Compliance.** Grantee certifies that it has been separately provided the current and available pass-through information required under 2 C.F.R. 200.331 by BPU.

**M. Environmental and Historical Preservation (EHP) and Build America, Buy America (BABA) Compliance.** Grantee shall comply with all applicable federal requirements related to Environmental and Historical Preservation (EHP), including those imposed under the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA), and related statutes, regulations, and executive orders. Grantee shall also ensure compliance with the Build America, Buy America Act (BABA), including provisions requiring the use of iron, steel, manufactured products, and construction materials produced in the United States, unless a waiver is granted by the U.S. Department of Commerce or other appropriate federal authority. Grantee must maintain records sufficient to demonstrate compliance with EHP and BABA requirements and provide such documentation to the BPU, or federal oversight authorities upon request. Failure to comply with these provisions may result in withholding of funds, repayment obligations, or other remedies as provided in this Grant Agreement and applicable law.

**N. Compliance with Labor and Employment Laws.** Grantee shall comply with all applicable federal, state, and local labor and employment laws, including but not limited to those identified in the BEAD NOFO and New Jersey IPV2. This includes compliance with wage and hour requirements, the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, and other prevailing wage laws where applicable. Grantee shall ensure that all contractors and subcontractors engaged in the performance of work under this Grant Agreement similarly comply with such laws. Grantee must maintain documentation of wage classifications, compensation paid, and compliance with worker protection requirements, and make such documentation available to the BPU, or other oversight authorities upon request. Noncompliance with labor standards may result in corrective action, disallowance of costs, or other enforcement remedies as provided in this Grant Agreement and applicable law.

**O. Prohibition on Certain Telecommunications Equipment and Services.** Grantee

certifies it will comply with 2 C.F.R. 200.216 and will not obtain, provide or use covered telecommunications equipment or services in the performance of this Agreement. Covered telecommunications equipment or services has the same meaning as described in Section 889 of Public Law 115-232.

## **Exhibits**

**Exhibit A** – Scope of Work

**Exhibit B** – BEAD Project Budget

**Exhibit C** – BEAD Program Specific Conditions

**Exhibit C-2** – LEO Grantee BEAD Program Specific Conditions

**Exhibit D** – BEAD Grantee Reporting Requirements

**Exhibit E** – BEAD Federal Audit Requirements

**Exhibit F** – BEAD Federal Contracting Provisions

**Exhibit G** – NJ State BEAD Additional Terms and Conditions

**Exhibit H** – BEAD Payment and Fiscal Responsibilities

**Exhibit J** – Uniform Guidance (2 C.F.R. 200) Exceptions

**Exhibit K** – Monitoring Requirements

**Exhibit L** – Notice of Completion and Engineer's Certification of Compliance



## **Exhibit A**

### **Scope of Work**

#### **I. Broadband Equity, Access, And Deployment (BEAD) Program:**

The Broadband Equity, Access, and Deployment (BEAD) Program was established under Section 60102 of the Infrastructure Investment and Jobs Act of 2021 (IIJA) to support the deployment of high-speed broadband networks and promote digital equity across the United States. Administered by the National Telecommunications and Information Administration (NTIA), the BEAD Program provides funding to Eligible Entities to expand broadband access to unserved and underserved locations, as well as community anchor institutions (CAIs). All BEAD-funded networks must deliver service that meets or exceeds 100 Mbps download and 20 Mbps upload speeds, with latency at or below 100 milliseconds, and must be easily scalable to symmetrical 100/100 Mbps service or greater. In New Jersey, the BEAD Program is administered by the Board of Public Utilities' Office of Broadband Connectivity and aims to achieve universal connectivity by funding projects that offer reliable, affordable, high-speed internet to eligible locations in accordance with NTIA guidance and New Jersey's Initial Proposal and Five-Year Action Plan.

#### **II. Project Description:**

The Grantee shall use BEAD funds, along with the required minimum 25% match funding, to implement the broadband deployment project approved under the New Jersey BEAD Program. The project must deliver Qualifying Broadband Service—defined as service with speeds of at least 100 Mbps download and 20 Mbps upload, latency of 100 milliseconds or less, and the capacity to scale to symmetrical 100/100 Mbps speeds over time—to all eligible Broadband Serviceable Locations (BSLs) within the awarded Project Area. The network must be engineered for reliability, long-term scalability, and affordability, in alignment with BEAD technical standards, New Jersey program requirements, and the affordability criteria outlined in the BEAD Notice of Funding Opportunity, the Initial Proposal Volume 2 (IPV2) and subsequently updated to reflect the NTIA's BEAD Restructuring Policy Notice." All construction activities must be completed, and service made available to all BSLs in the Project Area, within four (4) years of the Grant award date, unless an extension is approved in accordance with BEAD policy.

<b>Grantee Name</b>	
<b>County Name</b>	
<b>Project Name</b>	
<b>Project ID</b>	
<b>UEI #</b>	
<b>BEAD Funding amount (\$)</b>	
<b>Match Funding amount (\$)</b>	
<b>Project Type</b>	
<b>Technology Type</b>	
<b>Project Start Date</b>	
<b>Project End Date</b>	

### III. **Grantee Responsibilities:**

The Grantee shall timely perform all deliverables and tasks described in this Scope of Work, as well as those included in its approved BEAD application submitted through BPU E-Filing system and the BPU E-File Docket #, which is incorporated below for reference. The Grantee must ensure full compliance with this Agreement, all applicable requirements of the Broadband Equity, Access, and Deployment (BEAD) Program, including the Infrastructure Investment and Jobs Act, the BEAD Notice of Funding Opportunity, the December 2023 Tailoring Uniform Guidance Policy Notice, and the June 2025 BEAD Restructuring Policy Notice issued by the National Telecommunications and Information Administration (NTIA). The Grantee shall engage contractors and subcontractors as necessary to complete the project and must ensure that any Internet Service Providers (ISPs) participating in the project are bound by all applicable BEAD program obligations. This includes the requirement to offer an approved Low-Cost Service Option (LCSO) to eligible subscribers within the project area, in accordance with New Jersey's BEAD program design. All project advertisements, media coverage, or public notices related to this award must include the following acknowledgment: "This project is being supported, in whole or in part, by federal award number NTIA-BEAD-2023-NJ awarded to the State of New Jersey by the National Telecommunications and Information Administration."

<b>BPU E-Filing Docket #</b>	
------------------------------	--

### IV. **New Jersey Board of Public Utilities Responsibilities**

The New Jersey Board of Public Utilities (the "Board") shall be responsible for:

- A. Administering the BEAD Grant Program in accordance with applicable federal and state laws, including the Infrastructure Investment and Jobs Act, BEAD NOFO, Restructuring Policy Notice, and Uniform Guidance (2 CFR Part 200);
- B. Monitoring Grantee compliance with this Agreement, including site visits, performance tracking, and fiscal oversight;
- C. Reviewing and approving invoices, payment requests, and required deliverables;
- D. Providing technical assistance to support implementation and compliance;
- E. Submitting required reports to the National Telecommunications and Information Administration (NTIA); and
- F. Enforcing all applicable BEAD programmatic and financial accountability standards, including remedies for noncompliance.

### V. **Delivery of Service**

The recipient of Low Earth Orbit (LEO) Capacity Subgrants (Grantee) must begin providing broadband service to each customer that desires broadband service not later than four years from the date of this subgrant. A Grantee shall be deemed to have begun to provide service when it certifies to the Eligible Entity that the recipient can initiate broadband service within ten (10) business days of a request to any covered BSL in the project area, with no charges or delays attributable to extension of the service.

Grantees must provide all necessary consumer premises equipment (CPE) at no cost as part of the standard installation for each new subscriber (i.e. for each new resident or group of residents) at the BEAD-funded location throughout the period of performance. If the same subscriber requests additional CPE after installation, the LEO Capacity Grantee may charge customary rates unless the request is made due to equipment malfunction or damage caused by a weather event.

## **VI. Deliverables/Payments**

BPU will utilize fixed amount subawards for deployment Grantees under this Agreement. Funding shall be disbursed on a reimbursable basis, tied to the achievement of defined service milestones (e.g., 50%, 70%, 85%) as outlined in the NJ IPV2 and the approved Scope of Work. Payments will only be made upon OBC's verification of milestone completion, supported by the Grantee's timely submission and BPU's approval of all required documentation.

To receive reimbursement for eligible project costs, Grantees must demonstrate progress and compliance with the deployment, service availability, and reporting benchmarks established in this Agreement. Required documentation includes, but is not limited to:

- A. Quarterly invoices detailing actual costs incurred, consistent with the approved project budget and federal cost principles outlined in 2 CFR Part 200;
- B. Certification that claimed costs are allowable, reasonable, and allocable;
- C. Proof of matching funds expenditures, if applicable;
- D. Evidence of completion of construction and performance milestones, as defined in the Scope of Work, including deployment benchmarks;
- E. Any additional documentation or reports required by BPU or the National Telecommunications and Information Administration (NTIA).

Following successful execution of this Agreement and satisfaction of all conditions precedent to the initial disbursement, including completion of all NTIA-approved Environmental and Historic Preservation (EHP) reviews, receipt of all EHP approvals, and acquisition of all required permits, BPU may disburse up to ten percent (10%) of the total award amount.

BPU will retain the final ten percent (10%) of the award amount until all contractual obligations under this Agreement have been fulfilled. Final payment is contingent upon:

- A. Full completion of all project activities;
- B. Submission and approval of all required deliverables and reports;
- C. Satisfactory financial and physical verification conducted by BPU; and
- D. Full compliance with all terms of this Agreement and all applicable BEAD Program requirements.

BPU reserves the right to withhold any disbursement in the event of Grantee's noncompliance with this Agreement or BEAD Program requirements, including but not limited to failure to:

- A. Conduct and complete any and all NTIA-approved environmental reviews required under the Environmental and Historic Preservation (EHP) process prior to commencing any construction activities. Consistent with the grant disbursement milestones in Exhibit A, no more than the initial 10% of grant funds may be disbursed prior to receipt of all required EHP approvals.

- B. Deploy broadband infrastructure in accordance with agreed-upon timelines and specifications;
- C. Satisfy obligations related to the low-cost service option, middle-class affordability plan, stakeholder engagement, fair labor practices, workforce development, participation of women- and minority-owned businesses, environmental, historical and cultural reservation, procurement, and technology infrastructure reliability and resiliency and mitigation measures;
- D. Submit complete and timely quarterly progress reports or other required documentation.

All payments, including milestone-based reimbursements and the final disbursement, are subject to BPU's verification of satisfactory progress. Verification methods may include, but are not limited to, financial reviews, physical inspections, performance reporting, and other monitoring activities approved by BPU.

## **VII. ADMINISTRATIVE COSTS**

The Grantee may use funds provided under this award to cover direct administrative costs, subject to the State's approval of the Project Budget.<sup>1</sup>

## **VIII. SITE ACCESS**

The Grantee agrees to allow the State or representatives of the State access to work sites funded through this grant agreement for any purpose, which includes publicity, site verification, and any other purpose as determined by the State.

## **IX. SINGLE AUDIT**

Federal single audit requirements shall apply to this grant agreement (as applicable), as set forth in 2 CFR 200 Subpart F, Audit Requirements.

## **X. PREVENTION OF FRAUD, WASTE, AND ABUSE**

Grantees must actively monitor all award-funded activities to prevent fraud, waste, and abuse. Common schemes to be monitored include, but are not limited to:

- False claims for materials and labor;
- Bribery or kickbacks related to the acquisition of materials and labor;
- Product substitution or use of noncompliant materials;
- Mismarking or mislabeling on products and materials; and
- Overcharging on time and materials.

---

<sup>1</sup> Administrative costs are those expenses incurred by the grant recipients or subrecipients in support of their day-to-day operations. These overhead costs are the expenses that are not directly tied to a specific programmatic purpose or activity.

Programmatic costs are costs that are directly tied to the delivery of a particular project, service or activity undertaken by a Grantee to achieve an outcome intended by the funding program. (Source: [NTIA BEAD: Frequently Asked Questions and Answers Version 10](#))

If a Grantee detects any suspected fraud, abuse, or other irregularities, it must report such activity promptly to the New Jersey Office of Broadband Connectivity (OBC) at [broadband@bpu.nj.gov](mailto:broadband@bpu.nj.gov).

In accordance with 2 CFR § 200.113, Grantees are required to disclose, in a timely manner and in writing, to the federal awarding agency or pass-through entity any violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Certain civil, criminal, or administrative proceedings must also be reported in SAM.gov. Failure to make required disclosures may result in remedies described in 2 CFR § 200.339, including but not limited to suspension of award payments, termination, or recovery of funds. (See also 2 CFR Part 180, 31 U.S.C. § 3321, and 41 U.S.C. § 2313.)

Additionally, in the event of material noncompliance, including but not limited to:

- Failure to meet agreed-upon timeline commitments,
- Failure to demonstrate sufficient deployment progress, or
- Failure to provide the minimum advertised service performance or pricing,

OBC reserves the right to recoup funds previously disbursed (clawback). Clawback is a last-resort remedy following good-faith efforts by OBC to support corrective action and provide technical assistance. Grantees will be required to repay the forfeited amount, plus any applicable interest, within a reasonable time frame to be determined by OBC. If the Grantee fails to return the required amount, OBC may initiate further collection actions, and the ownership and use of the broadband infrastructure funded under the BEAD program may revert to the State of New Jersey.

OBC reserves the right to update clawback provisions through further guidance and legal review.

## **XI. OWNERSHIP AND DISPOSITION OF PROJECT PROPERTY**

All real property, equipment, and other tangible assets acquired or improved with BEAD Award Funds ("Project Property") shall be held in trust by the Grantee for the benefit of the public for a minimum of **10 years from the closeout of this Agreement** (the "Federal Interest Period"), in accordance with 2 CFR § 200.313 and BEAD program requirements.

- The Grantee may not sell, transfer, lease, or encumber Project Property during the Federal Interest Period without prior written approval from the Board.
- In the event of loss, damage, or theft, the Grantee must promptly notify the Board and take all reasonable actions to recover or replace the property.
- At the end of the Federal Interest Period, the Grantee may retain the property without further obligation, subject to any residual state or federal interest.

If the Grantee fails to comply with these provisions, the Board may take appropriate enforcement action, including recapture of funds, legal remedies, or transfer of assets to another eligible entity.

## **XII. Application Attachments:**

Attachment A	Application Intake Form
Attachment B	BSL shapefiles
Attachment C	CAI shapefiles
Attachment D	Program Conditions Form
Attachment E	Project Budget Template

Attachment F	Project Milestones Template
Attachment G	Financial Pro Forma Template
Attachment H	NJ BEAD Project Plan Package Template
Attachment I	Letter of Commitment

**Exhibit B**  
**BEAD Project Budget**

**Grantee Name:** *[Insert Grantee Name]*

**Contract Period:** *[Insert Contract Period]*

**Contract Number:** *[Insert Contract Number]*

This Exhibit incorporates by reference the project budget submitted by the Grantee as part of its BEAD application. The submitted budget will serve as the baseline for final budget negotiations. The final project budget will be agreed upon by the State and the Grantee prior to execution of the Subgrant Agreement and will reflect any adjustments necessary to ensure alignment with BEAD program requirements, eligible costs, and the approved project scope.

**Exhibit C**  
**BEAD PROGRAM SPECIFIC CONDITIONS**

**Exhibit C** is applicable to all BEAD grants.

**1. PRIORITY AND NON-PRIORITY BROADBAND PROJECTS**

- a. All broadband technologies meeting federal performance requirements may qualify for BEAD funding as projects that are either a Priority Broadband Project or a non-Priority Broadband Project. Exhibit A identifies Grantee's Project as either a Priority Broadband Project or a non-Priority Broadband Project.
- b. As a Priority Broadband Project, Grantee shall design, deploy, and maintain network architecture that at a minimum can meet current performance thresholds and future scalability requirements to:
  - i. Provide broadband service with speeds of at least 100 Mbps download and 20 Mbps upload;
  - ii. Maintain latency less than or equal to 100 milliseconds; and that
  - iii. Can easily scale speeds over time to meet the evolving connectivity needs of households and businesses and support the deployment, including the support of 5G, successor wireless technologies, and other advanced services.
- c. As a non-Priority Broadband Project, Grantee shall design, deploy, and maintain network architecture that at a minimum can:
  - i. Provide broadband service with speeds of at least 100 Mbps download and 20 Mbps upload; and
  - ii. Maintain latency less than or equal to 100 milliseconds.
- d. Performance standards and performance testing requirements, reporting requirements, and all other obligations as set forth in this Agreement apply to both Priority Broadband Projects and non-Priority Broadband Projects unless expressly stated otherwise.

**2. ELIGIBLE PROJECTS**

- a. BEAD funds may be used for the following eligible projects:
  - i. Deploying and/or upgrading broadband network facilities in connection with a Broadband Service Area (BSA).
  - ii. Data collection, broadband mapping, and planning to the extent necessary to facilitate the goals and deliverables of the BEAD Program.

**3. ELIGIBLE PROJECT AREAS**

- a. Eligible projects are limited to defined Broadband Serviceable Areas (BSAs). BSAs are determined by BPU.
- b. BSAs may consist of a single BSA or an aggregation of contiguous BSAs; however, for LEO capacity grants, BSAs need not be contiguous.
- c. The boundaries for BSAs are based on U.S. Census Block Groups. BSAs will contain only eligible Broadband Serviceable Locations (BSLs) and Community Anchor Institutions (CAIs), all of which must be located within a single county.
- d. Up to 5% of high-cost locations in each BSA for the project may be excluded.



#### **4. ELIGIBLE PROJECT COSTS**

- a. Grantee shall use BEAD Funds only for the following eligible deployment-specific costs:
  - i. Physical improvements: Construction, improvement, and/or acquisition of facilities and telecommunications equipment required to provide qualifying broadband service, including infrastructure for backhaul, middle- and last-mile networks, and multi-tenant buildings.
  - ii. Long-term leases: Long-term leases (for terms greater than one year) of facilities required to provide qualifying broadband service, including indefeasible right-of-use (IRU) agreements.
  - iii. Multi-family residential deployment: Deployment of internet and Wi-Fi infrastructure within an eligible multi-family residential building.
  - iv. Planning, design, & engineering: Engineering design, permitting, and work related to environmental, historical, and cultural reviews, including permitting related to the National Environmental Protection Act (See <https://ceq.doe.gov/>).
  - v. Personnel costs: Including salaries and fringe benefits for staff and consultants providing services directly connected to the implementation of the BEAD Program (such as project managers, program directors, and subject matter experts). And,
  - vi. Network software upgrades: To include, but not be limited to, cybersecurity solutions.
- b. Grantee is not permitted to use BEAD funds for any of the following purposes:
  - i. Non-deployment uses.
  - ii. Acquisition of spectrum licenses.
  - iii. Operating expenses other than grant administration costs.
  - iv. Short-term operating leases.
  - v. Payment of interest on principle for outstanding debt instruments, or other debt service costs.
  - vi. Planning and mapping that does not result in deployment.
- c. Pre-award costs incurred by the Grantee may be eligible expenses, provided that Grantee submits documentation to BPU demonstrating that:
  - i. The costs were necessary to and directly arising from deployment readiness for the project; and
  - ii. The costs were not billed or incurred due to delay in the BEAD program (i.e., billed or incurred during the time period between the end of BEAD Round One and the release of NTIA's Policy Notice on June 6, 2025).
- d. The eligibility of costs and expenses for reimbursement under the BEAD program shall be determined by the Board in its sole discretion.

#### **5. FINANCIAL CAPABILITY**

- a. Grantee represents and agrees that:
  - i. It is financially qualified to meet the obligations associated with the Project.
  - ii. It will have available funds for all Project costs that exceed the Award Amount.  
And,
  - iii. It will fully comply with all BEAD program requirements, including the milestones set forth in the Agreement.

- b. To receive a reimbursement, Grantee must certify that it has sufficient financial resources to cover Project costs until further disbursements are authorized. BPU will not reimburse until Grantee provides and BPU approves Grantee's certification of sufficient financial resources.

**6. LETTER OF CREDIT (LOC) OR PERFORMANCE BOND**

- a. BEAD grantees were required to submit a letter from a bank that meets eligibility requirements consistent with those set forth in 47 C.F.R. § 54.804(c) (2) committing to issue an irrevocable standby Letter of Credit (LOC), in the required form, and in a value of no less than 25 percent of the subaward amount. BEAD NOFO, Section IV.D. pgs. 71-73.
- b. On July 30, 2025, NTIA issued a Notice of Programmatic Waiver in response to the FCC's modification of the FCC's rules to eliminate Weiss ratings as the standard for United States banks to be considered acceptable for issuing LOCs and to permit the issuing bank be well capitalized, effective August 24, 2025. Additionally, the programmatic waiver allowed financial institutions rated BBB- or higher by a Nationally Recognized Statistical Rating Organization (NRSRO), as recognized by the Securities and Exchange Commission (SEC), to be considered acceptable for issuing letters of credit in the BEAD program.
- c. For BEAD infrastructure grants other than LEO capacity grants, Grantee may obtain a new LOC or renew its existing LOC to a reduced value – or in the case of a performance bond opt to reduce the amount of the performance bond – by a commensurate amount if Grantee demonstrates to the satisfaction of BPU that Grantee meets required service milestones set forth in the Agreement.
  - i. Grantee must obtain an actual letter of credit.
  - ii. In no event, shall the letter of credit have a value of less than 25 percent of the subaward amount.
  - iii. Grantee with its LOC must include an opinion letter from legal counsel clearly stating, subject only to customary assumptions, limitations, and qualifications, that in a proceeding under Title 11 of the United States Code, 11 U.S.C. § 101 et seq. (the "Bankruptcy Code"), the bankruptcy court would not treat the letter of credit or proceeds of the letter of credit as property of the winning Grantee's bankruptcy estate under Section 541 of the Bankruptcy Code.
  - iv. Grantee's LOC and opinion letter from legal counsel is attached hereto and incorporated herein at Attachment \_\_\_\_.
- d. For LEO capacity grants, the conditions and requirements for the LOC or performance bond are set forth in Attachment \_\_\_\_.

**7. RISK MANAGEMENT PLANS FOR INFRASTRUCTURE RELIABILITY AND RESILIENCY**

- a. Grantee shall satisfy requirements of 47 U.S.C. §1702(g)(1)(C) and shall ensure reliability and resiliency of broadband infrastructure by creating, implementing, and maintaining risk management plans that account for technology infrastructure reliability and resilience, including from natural disasters, as applicable, as well as cybersecurity best practices and security and privacy controls implemented with such plans.

- b. Grantee's cybersecurity plan must reflect the requirements of the National Institute of Standards and Technology Cybersecurity Framework, National Institute of Standards and Technology (NIST) Framework for Improving Critical Infrastructure Cybersecurity, as may be updated or revised, as well as cybersecurity best practices, e.g., Cybersecurity Supply Chain Risk Management Practices for Systems and Organizations, NIST 800-161 Rev.1 and Key Practices in Cyber Supply Chain Risk Management: Observations from Industry, NIST IR 8276, as identified in NTIA's June 2025 Policy, Notice, at footnote 15.
- c. Upon request of BPU, Grantee shall provide a copy of all risk management plans to BPU.
- d. Grantee shall maintain and comply with the risk management plans for infrastructure reliability and resiliency in accordance with federal law and requirements throughout the Contract Period of Performance.
- e. BPU reserves the right to require additional information and documents of Grantee regarding its implementation of Grantee's Risk Management Plans for Infrastructure Reliability and Resiliency Plans.

## **8. LOW-COST SERVICE OPTION**

- a. Grantee must offer to eligible subscribers at least one Low-Cost Service Option (LCSO) meeting BEAD speed and performance criteria of:
  - i. Minimum speeds of 100 Mbps download and 20 Mbps upload; and,
  - ii. Latency of 100 milliseconds or less.
- b. Grantee shall make the LCSO available to eligible subscribers, defined as any household seeking to subscribe to broadband internet access service and eligible under the FCC's Lifeline Program criteria. Grantees are responsible for verifying the eligibility of LCSO subscribers and may ask potential subscribers to provide the same documentation used for Lifeline eligibility verification.
- c. Grantee must offer the LCSO throughout the 10-year federal period of interest, or in the case of a LEO grantee, a 10-year period of performance.
- d. Grantee must make the LCSO available to all locations within the Project Area. Grantees are encouraged to make the LCSO available across its entire service territory.
- e. The LCSO rate shall be set by the Grantee and identified in Exhibit A, along identification of any methodology to be used by Grantee to change to the LCSO rate over time.
- f. At the request of the Board, Grantee shall provide documentation of Grantee's compliance with the service level for its LCSO offering(s) and shall include total annual subscribers of Grantee's LCSO offering(s).

## **9. CUSTOMER SERVICE AND INSTALLATION**

- a. Grantee shall be solely responsible for all customer service functions related to the broadband services supported under this Agreement. This includes, but is not limited to,

Grantee providing customer outreach, service activation, equipment installation, and ongoing customer support at its own expense.

- b. The Grantee must provide a clear process for customers to initiate and manage service, either directly or through a subcontracted entity, and ensure timely and professional installation of all necessary equipment. The Grantee is responsible for coordinating any required user setup on the provider's platform, managing customer communications, and ensuring adequate installation support through trained contractors.
- c. BPU will not be responsible for subsidizing or managing customer service and installation functions on behalf of the Grantee. Customer service and installation functions are not eligible costs under the BEAD program.

#### **10. NEPA AND ESAPTT**

- a. The Board will use the Environmental Screening and Permitting Tracking Tool ("ESAPTT") within the NTIA Grants Portal to facilitate National Environmental Policy Act (NEPA) reviews and approvals and to evaluate and track NEPA milestone schedules and escalate Federal right-of-way permitting issues to NTIA for interagency resolution.
- b. BPU reserves the right to request Grantee to provide information and documents concerning any permitting issues.

#### **11. PERMITTING LAWS AND REGULATIONS COMPLIANCE**

- a. Grantee must obtain and fully comply with all applicable federal, state, and local permitting laws and regulations including, but not limited to, environmental reviews, rights-of-way acquisition, historic preservation, utility coordination, and construction permits.
- b. Grantee is responsible for accounting for permitting timelines and compliance with applicable federal, state, and local permitting requirements in proposed Project planning, Project deployment and timeframes, Project milestones, and budget assumptions.
- c. Grantee shall provide detailed report(s) of its progress concerning its permitting activity and compliance, as addressed in the Agreement or as requested by BPU.
- d. Failure to secure appropriate permits or adhere to applicable permitting requirements may result in enforcement actions or remedies, including suspension of funds or termination of the award, as set forth in this Agreement or as available at law.

**Exhibit C-2**  
**LEO Grantee BEAD Program Specific Conditions**

The following specific conditions apply to a Low Earth Orbit (LEO) capacity grant:

**1. LEO CAPACITY SUBGRANTS**

LEO capacity subgrants involve the reservation of sufficient capacity from a low-earth orbit satellite provider to deliver broadband service that meets the BEAD performance and technical requirements to each Broadband Serviceable Location (BSL) in the Project Area. See, NTIA's June 2025 Policy Notice, Appendix B.

**2. CERTIFICATION**

- a. Grantee must begin providing broadband service to each customer that desires broadband service not later than four years from the date of the subgrant. 47 U.S.C. §1702(h)(4)(C); see also, NOFO, Section IV.C.2.b.i, pg. 65. 51.
- b. Grantee shall be deemed to have begun to provide service when Grantee certifies to BPU that it can initiate broadband service within ten (10) business days of a request to any covered BSL in the Project Area, with no charges or delays attributable to extension of the service.

**3. EXTENDED PERIOD OF PERFORMANCE**

- a. Grantee shall be subject to an Extended Period of Performance that concludes 10 years from the date upon which the Grantee certifies to BPU that broadband is available to every location covered by the Project. See, NTIA June 2025 Policy Notice, Appendix C.
- b. Grantee must continue to offer access to broadband service to each BSL served by the Project throughout the 10-year Extended Period of Performance. In the event Grantee's customer receiving service at a BSL moves, Grantee must continue to offer broadband service to the BSL under the terms of this Agreement if subsequent occupants request broadband service.

Consumer and taxpayer protections as set forth in NTIA's BEAD NOFO apply to Grantee for the duration of the 10-year Extended Period of Performance. See, BEAD NOFO at 64-71.

**4. MILESTONES AND REIMBURSEMENT**

- a. BPU determines reimbursements for LEO capacity grants.
- b. [To be determined based upon applications received and BEAD grants awarded by BPU.] For example, BPU will advance up to 50% of the total cost of the LEO capacity subgrant: (1) at the time Grantee certifies the availability of service throughout the Project Area; (2) upon Grantee meeting subscription milestones established by BPU; or (3) a combination thereof.
- c. The type, quality, and sufficiency of documentation provided by Grantee for reimbursement requests shall be solely determined by BPU. BPU will not reimburse for unreasonable expenses or insufficient documentation, questionable support, or data disputed by BPU.

- d. If BPU elects to advance a portion of the subgrant, the remaining portion shall be distributed in equal installments across the remainder of the Extended Period of Performance. See, NTIA June 2025 Policy Notice, Appendix B, at p. 20, fn. 59.
- e. Grantee shall comply with Exhibit H for payment and fiscal responsibilities.

**5. LETTER OF CREDIT OR PERFORMANCE BOND**

- a. Grantee shall obtain and maintain a Letter of Credit (LOC) or performance bond as a condition of its receipt of BEAD funds.
- b. The LOC or performance bond shall comply with all federal BEAD program requirements, including NTIA's Policy Notice and NTIA's July 30, 2025, Notice of Programmatic Waiver.
- c. Grantee's LOC or performance bond and the opinion letter from legal counsel are attached hereto and incorporated herein at Exhibit \_\_\_\_.
- d. Grantee's LOC or performance bond may be reduced upon Grantee's demonstration, to BPU's satisfaction, as follows:
  - i. By 50% at the point of Grantee's certification to BPU that BEAD qualifying broadband services are available to each location in the Project Area.
  - ii. By an additional 25% of the original LOC or performance bond at the point that the subscription rate for BEAD qualifying broadband services reached at least 25% of all locations in the Project Area, and thereafter may be closed out once the subscription rate reaches 50% of all locations in the Project Area. (To illustrate, if the original LOC would have been valued at \$2,500, upon certification of service availability, the LOC could be reduced to \$1,250. After achieving a 25% "take rate" in the project area, the LOC could be further reduced to \$625 and eliminated after reaching a 50% "take rate.")
  - iii. As part of the certification, Grantee shall demonstrate to BPU that subscription rates have increased for qualifying broadband services. Qualifying broadband services shall mean the broadband services satisfy BEAD speed and latency requirements as a Priority Broadband Project or a non-Priority Broadband Project. See, Exhibit C. BPU reserves the right to require Grantee to provide additional information or to undertake additional follow-up to ensure compliance with BEAD program requirements. Grantee shall promptly provide information and undertake the follow up as requested by BPU.
  - iv. The reduction in LOC obligations will continue to be allowable even if the subscription rate later drops.
- e. Regardless of subscription rates, the LOC may be terminated four years after Grantee certifies to BPU that it can initiate broadband service within 10 business days of a request to any covered BSL in the Project Area.

**6. LEO FINANCIAL CERTIFICATION [if applicable]**

- a. Prior to execution of the Agreement, Grantee shall submit a fully executed Parental Guarantee Agreement to BPU, signed by an official authorized to bind Grantee and the proposed Parental Guarantor.

The template for the Parental Guarantee Agreement shall conform to the form provided by NTIA at Appendix A of NTIA's July 18, 2025, BEAD Low Earth Orbit Provider Financial Certification.

**7. CUSTOMER PREMISES EQUIPMENT**

- a. Grantee is responsible for providing customer premises equipment (CPE) at no cost to the customer. CPE costs to Grantee are not reimbursable expenses under the BEAD program.
- b. Grantee must provide all necessary customer CPE at no cost to the customer as part of the standard installation for each new subscriber (i.e. for each new resident or group of residents) at BEAD-funded locations throughout the Extended Period of Performance.
- c. The CPE obligation is limited to no more than three (3) CPEs at the BEAD-funded location during the Extended Period of Performance.
- d. If the same subscriber requests additional CPE after installation, Grantee may charge customary rates unless the request is made due to equipment malfunction or damage caused by a weather event.

**8. REPORTING ACKNOWLEDGEMENT AND COMPLIANCE**

- a. Grantee acknowledges the reporting obligations set forth in Exhibit D and agrees to comply with the reporting requirements set forth in Exhibit D.
- b. Delay of or to failure to comply fully with these conditions will result in holds on BEAD payments and reimbursements or suspension of BEAD grants, as solely determined by BPU.
- c. Grantee expressly agrees that the provisions set forth in paragraphs 14-17 of this Agreement are just and reasonable.
- d. Grantee shall comply with any future statutes, regulations, policies, directives, guidance, and requirements applicable to or impacting the BEAD program and this Agreement.

## EXHIBIT D

### BEAD GRANTEE REPORTING REQUIREMENTS

**Exhibit D** is applicable to all BEAD grants.

#### I. Deployment Timeline

Grantees receiving BEAD program funds must deploy the broadband network described in their approved application and begin offering service to any customer within the project area who requests it, no later than **four (4) years** from the date of Grant award by the State of New Jersey.

For Grantees serving **Unserved Locations in Extremely High-Cost Areas** using **Unlicensed Fixed Wireless (ULFW)** technologies, deployment must comply with all applicable BEAD NOFO obligations and must be completed **as soon as practicable**, and no later than **ten (10) years** from the date of award, in accordance with any deployment milestones set by the New Jersey Office of Broadband Connectivity and NTIA.

#### 1. GENERAL REPORTING OBLIGATIONS

Applicable to all reports and reporting requirements in this Exhibit:

- a. Grantee shall submit timely, accurate, and complete reports in accordance with 2 CFR Part 200, NTIA guidance and grant administration requirements, and BPU BEAD Program Guidelines.
- b. Grantee shall provide comprehensive reports to enhance transparency, facilitate thorough review, and ensure compliance with this Agreement and all federal and state BEAD program requirements.
- c. Grantee acknowledges and agrees to maintain sufficient control over subcontractors to ensure Grantee's ability to provide timely, accurate and complete reports required by BPU.
- d. BPU reserves the right to require Grantee to provide additional information or follow-up reports and documentation, including but not limited to invoices, spreadsheets, project account statements, certificates, approvals, proposed budgets, contracts (executed and proposed), and any other information as may be requested by the Board to ensure compliance with BEAD program requirements. Grantee shall promptly provide all such information at the request of BPU.
- e. The number, frequency, form, and content of reports shall be determined by the Board and may be modified from time to time at the sole discretion of the Board.
- f. Delay of or failure to meet reporting deadlines will result in holds on BEAD payments and reimbursements or suspension of BEAD grants, as solely determined by BPU.
- g. Grantee expressly agrees that the provisions set forth in paragraphs 14-17 of this Agreement are just and reasonable in the event of default or noncompliance with the reporting requirements in this Agreement.

#### 2. MONTHLY REPORTS

- a. Grantee shall timely submit monthly reports within (5) calendar days after the end of each month. Monthly reports shall commence on [insert date].
- b. For the initial monthly progress report and continuing unless modified by the Board, Grantee shall report on the following matters:



- i. **Project Progress Update:** Summary of deployment progress and related activities, along with supporting documentation and descriptions demonstrating the work undertaken or completed during the reporting period. The monthly report will track with the required milestones.
  - ii. **Challenges & Risks:** Detailed description of delays, obstacles, and mitigation strategies, such as updates on permitting, material sourcing, and make ready status.
- c. At any time, BPU reserves the right to request that Grantee, including its subcontractors, provide any additional information and supporting documents regarding the monthly report as may be requested by BPU. Additional information may include the following:
  - i. Milestone Progress Report: Status of each project phase, including percentage completion, and impact on project milestones, challenges, and future timelines for the Project.
  - ii. Broadband Network Deployment Metrics:
    - Miles of fiber deployed.
    - Infrastructure deployed.
    - Capacity added / Subscribers added (LEOs).
    - Number of locations passed and premises activated.
    - Number of Community Anchor Institutions (CAIs) connected.
  - iii. Infrastructure Testing:  
 Test results verifying speed and latency requirements, as addressed in the Agreement and federal requirements.  
 Timely reporting with FCC Broadband Data Collection (BDC) requirements, or any successor broadband data requirements.
  - iv. Other: Broadband Adoption & Market Penetration, including Marketing efforts promoting low-cost service options (LCSOs).
  - v. Special Conditions Reporting:
    - 1. Summary of any changes, updates, delays, or issues regarding the following BEAD special conditions in Exhibit C:
      - Letters of Credit or Performance Bonds.
      - Risk Management Plans.
      - Cybersecurity Plan, including the occurrence over the past quarter of any incidents, data breaches, or unauthorized network access.
      - Low-Cost Service Option.
      - Permitting.
    - 2. Summary of any changes, updates, delays, or issues regarding the following BEAD special conditions in as applicable in Exhibit C-1 or Exhibit C-2.

### 3. SEMIANNUAL PERFORMANCE REPORTS

- a. Grantee shall timely submit semiannual progress reports to BPU on or before January 10th and July 10th, unless otherwise directed or approved by BPU. The semiannual reports shall commence on [ insert date ].

- b. The Grantee of broadband infrastructure grants, other than LEO capacity grants, shall provide semiannual performance reports until its BEAD grant is closed out under 2 CFR § 200.344.
- c. The Grantee of a LEO Capacity BEAD grant shall provide semiannual performance reports until its BEAD grant is closed out under 2 CFR § 200.344, at the end of the federal interest period addressed in Appendix C of NTIA's June 2025 Policy Notice.
- d. For the initial semiannual performance report and continuing thereafter unless modified by the Board, Grantee shall:
  - i. Provide a list of addresses or location identifications (including the BSL fabric established under 47 U.S.C. § 642(b)(1)(B)) that constitute the service locations that will be served by the broadband infrastructure to be constructed and the status of each project.
  - ii. Identify new locations served within each project area at the relevant reporting intervals, and service taken (if applicable).
  - iii. Identify whether each address or location is residential, commercial, or a Community Anchor Institution.
  - iv. Describe the types of facilities that have been constructed and installed.
  - v. Describe the peak and off-peak actual speeds of the broadband service being offered.
  - vi. Describe the maximum advertised speed of the broadband service being offered.
  - vii. Describe the non-promotional prices, including any associated fees, charged for different tiers of broadband service being offered.
  - viii. List all interconnection agreements that were requested and the current status regarding implementation and operation of such agreements.
  - ix. Include any other data that would be required to comply with the data and mapping collection standards of the Commission under Section 1.7004 of title 47, Code of Federal Regulations, or any successor regulation, for broadband infrastructure projects. And,
  - x. Provide:
    - 1. Certification or Report of compliance with New Jersey prevailing wage rates, under the New Jersey Prevailing Wage Act (N.J.S.A. 34:11-56.25 et seq.) And,
    - 2. Certification of compliance with Build America, Buy America Act (BABA), the Secure and Trusted Communications Networks Act of 201913; and the National Defense Authorization Act of 2019, and other federal laws and BEAD programmatic requirements required or requested by BPU.

#### **4. BEAD CLOSEOUT & FINAL COMPLIANCE CERTIFICATION**

- a. Grantee shall timely complete all closeout requirements and submit a final compliance certification within ninety (90) calendar days after project completion.
- b. Grantee shall provide:
  - i. Certification of Project Completion & Full Network Deployment.
  - ii. Final Financial Report with Documentation of All Expenditures.
  - iii. Certification of Low-Cost Service Option.

- iv. Affirmation of Compliance with BPU BEAD Agreement for a 10-Year Service Period.
- v. Federal Interest Certification for BEAD-Funded Assets & Infrastructure.
- vi. Transfer of Any Remaining Funds or Unused Grant Proceeds to BPU.

## **5. REPORTING ENFORCEMENT & NONCOMPLIANCE**

- a. In the event Grantee fails to submit reports required in this Agreement or reports as requested by BPU:
  - i. BPU may withhold reimbursement payments, recoup BEAD funds, cease BEAD funds, or undertake any other action permitted in this Agreement or at law, until compliance is achieved to BPU's satisfaction.
  - ii. For repeated noncompliance with reporting requirements, BPU may terminate the Agreement, 2 CFR § 200.340.
- b. False or Misleading Reporting:
  - i. Any falsification of data may result in federal enforcement actions, disqualification from future funding, and repayment of all BEAD funds.
  - ii. As solely determined by BPU, violations will be referred to the NTIA Office of Inspector General (OIG) for investigation.
- c. Audit Enforcement:
  - i. Grantee shall retain financial records, program records, and accounts, effective the Contract Period of Performance and continuing for 5 years after the Federal Interest Period or the Extended Federal Interest Period, as applicable to Grantee. 2 CFR §§ 200.332(b), (c).
  - ii. BPU reserves the right to audit Grantee's financial records, program records, and accounts, effective the Contract Period of Performance and continuing for 5 years after the Federal Interest Period or the Extended Federal Interest Period, as applicable to Grantee. 2 CFR §§ 200.332(b), (c).
  - iii. All costs associated with the audit shall be borne by the Grantee if the audit determines fraudulent, false, or misleading reporting of Project records and accounts.
  - iv. Grantee must provide full access to all records and accounts in compliance with 2 CFR § 200.337.

## **6. Reporting Templates:**

Project milestones will be agreed upon by the State and the Grantee prior to execution of the Subgrant Agreement and will reflect any adjustments necessary to ensure alignment with BEAD program requirements, eligible activities, and the approved project scope.

**[See next two pages]**

Request for Reimbursement Template		
Deployment Deadline: [Insert Dates]		
Milestones	Minimum Level of Service	Number of Premises Passed/Miles of Fiber
--%		
--%		
--%		
--%		
--%		
<p>The Grantee shall complete one hundred percent (100%) of the broadband network deployment activities described in the Scope of Work (Exhibit A) in accordance with BEAD program requirements and Section 60102(h)(4)(C) of the Infrastructure Investment and Jobs Act. For all technologies other than Unlicensed Fixed Wireless, deployment must be completed no later than four (4) years from the date the Grantee receives the Grant award. For projects utilizing Unlicensed Fixed Wireless, deployment must be completed no later than ten (10) years from the award date. The deployed network must enable broadband service to all Broadband Serviceable Locations ("BSLs") within the awarded project area and provide service to any customer requesting broadband within the project area by the applicable deployment deadline.</p>		<p>Funding shall be disbursed on a reimbursable basis and is contingent upon the Grantee's submission of a complete request for reimbursement.</p> <p>When submitting each Reimbursement Request package, it should include:</p> <ul style="list-style-type: none"> <li>(1) quarterly invoices detailing actual costs incurred, consistent with the approved project budget and federal cost principles under 2 CFR Part 200;</li> <li>(2) certification that claimed costs are allowable, reasonable, and allocable;</li> <li>(3) documentation of matching fund expenditures, as applicable;</li> <li>(4) evidence of completion of construction and performance milestones, including deployment benchmarks, as outlined in the approved Scope of Work; and</li> <li>(5) any additional documentation or reporting requirements specified by the Board or NTIA.</li> </ul> <p>Grantee shall not receive reimbursement for any work performed until the corresponding milestone is achieved and substantiated in accordance with these requirements.</p>
<b>TOTAL COST NOT TO EXCEED: \$0.00</b>		

<b>Quarterly Progress Report</b>		
<b>Deployment Deadline: [Insert Dates]</b>		
<b>Milestones</b>	<b>Minimum Level of Service</b>	<b>Number of Premises Passed/Miles of Fiber</b>
--%		
--%		
--%		
--%		
--%		
<p>Grantee shall submit quarterly progress reports to the New Jersey Board of Public Utilities for the duration of the project term. Each report shall include a list of Broadband Serviceable Locations (BSLs) to be served under the award, the current status of deployment at each location, and whether broadband service has been adopted. Grantee shall identify the classification of each location (residential, commercial, or community anchor institution), describe all facilities constructed and installed during the reporting period, and provide data on peak and off-peak actual speeds, maximum advertised speeds, and non-promotional pricing for all broadband service tiers offered, including any associated fees.</p>		<p>Reports shall also provide the status of all required permits, identify any milestones that are delayed or at risk, and describe the mitigation measures undertaken to address such delays. Each quarterly submission shall include a certified SF-425 Federal Financial Report, as well as any other data necessary to comply with NTIA and FCC mapping and reporting standards, including but not limited to 47 C.F.R. § 1.7004. Projects with a total expected cost exceeding \$5,000,000 may be subject to additional reporting obligations, and the Grantee shall comply with any further reporting requirements established by the Board or required under the BEAD Notice of Funding Opportunity, the BEAD Restructuring Policy Notice, or Uniform Guidance.</p>
<b>TOTAL COST NOT TO EXCEED: \$0.00</b>		

## **EXHIBIT E**

### **BEAD FEDERAL AUDIT REQUIREMENTS**

Exhibit E applies to all BEAD grants.

#### **1. AUDIT CLAUSE FOR FEDERAL GRANTS (MANAGEMENT DIRECTIVE 325.9 (5)(C))**

- a. The Grantee must comply with all applicable federal and state grant requirements including The Single Audit Act Amendments of 1996; 2 CFR Part 200 as amended; and any other applicable law or regulation for federal and state grants, and any amendment to any other applicable law or regulation for federal and state grants that may be enacted or promulgated by the federal government.
- b. If the Grantee is a local government or non-profit organization that expends \$750,000 or more in federal awards during its fiscal year, the Grantee is required to provide the appropriate single or program specific audit in accordance with the provisions outlined in 2 CFR Part 200.501.
- c. If the Grantee expends total federal awards of less than the threshold established by 2 CFR 200.501, it is exempt from federal audit requirements for that year, but records must be available for review or audit by appropriate officials (or designees) of the federal agency, pass-through entity, and Government Accountability Office (GAO).
- d. If the Grantee is a for-profit entity, it is not subject to the auditing and reporting requirements of 2 CFR Part 200, Subpart F – Audit Requirements (Subpart F). However, the Grantor is responsible for establishing requirements, as necessary, to ensure compliance by for-profit subrecipients. The contract with the for-profit subrecipient should describe applicable compliance requirements and the for-profit subrecipient's compliance responsibility. Methods to ensure compliance for federal awards made to for-profit subrecipients may include pre-award audits, monitoring during the contract and post-award audits. The post-award audits may be in the form of a financial audit in accordance with Government Auditing Standards, a single audit report or program-specific audit report in accordance with Subpart F. However, these post-award audits must be submitted directly to the Grantor. Only single audit reports for local governmental and non-profit subrecipients are electronically submitted to the Federal Audit Clearinghouse.

#### **2. ADDITIONAL POTENTIAL COMPONENTS OF THE SINGLE AUDIT REPORTING PACKAGE (MANAGEMENT DIRECTIVE 325.9 (5)(C))**

- a. In instances where a federal program-specific audit guide is available, the audit report package for a program-specific audit may be different and should be prepared in accordance with the appropriate audit guide, Government Auditing Standards, and Subpart F.
- b. In addition to the requirements of Subpart F, State agencies may require that the single audit reporting packages include additional components in the SEFA, or supplemental schedules, as identified through the respective grant agreement.

#### **3. SUBMISSION OF THE AUDIT REPORT (MANAGEMENT DIRECTIVE 325.9 (5)(C))**

The Grantee must submit an electronic copy of the audit report package to the Federal Audit Clearinghouse, including the elements outlined in Subpart F.

**4. SUBMISSION OF THE FEDERAL AUDIT CLEARINGHOUSE CONFIRMATION (MANAGEMENT DIRECTIVE 325.9 (5)(C))**

The Grantee must send a copy of the confirmation from the Federal Audit Clearinghouse to the resource account [RA-BOASingleAudit@pa.gov](mailto:RA-BOASingleAudit@pa.gov).

**5. AUDIT OVERSIGHT PROVISIONS (MANAGEMENT DIRECTIVE 325.9 (5)(C))**

- a. The Grantee is responsible for obtaining the necessary audit and securing the services of a certified public accountant or independent governmental auditor.
- b. The State reserves the right for federal and state agencies or their authorized representatives to perform additional audits of a financial or performance nature, if deemed necessary by State or federal agencies. Any additional audit work will rely on work already performed by the Grantee's auditor and the costs for any additional work performed by the federal or state agencies will be borne by those agencies at no additional expense to the Grantee.
- c. Audit Documentation and audit reports must be retained by the Grantee's auditor for a minimum of five years from the date of issuance of the audit report, unless the Grantee's auditor is notified in writing by the State, the cognizant federal agency for audit, or the oversight federal agency for audit to extend the retention period. Audit documentation will be made available upon request to authorized representatives of the State, the cognizant federal agency for audit, the oversight federal agency for audit, the federal funding agency, or the GAO.

**6. PROJECT CLOSEOUT PROCEDURES.**

The submission of a Single Audit does not exempt the Grantee from complying with Project closeout procedures as may be issued by the Grantor, including, but not limited to, the submission of a financial statement of the Project after termination of Project activities

**Exhibit F**  
**BEAD FEDERAL CONTRACTING PROVISIONS**

Exhibit F applies to all BEAD grants.

**1. CIVIL RIGHTS COMPLIANCE**

- a. The Grantee shall comply with the legal requirements relating to nondiscrimination and nondiscriminatory use of Federal funds. Grantee may not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity) in accordance with the following authorities:
  - i. i. Title VI of the Civil Rights Act of 1964, P.L. 88-352 (42 U.S.C. 2000d-1 et. seq.) and related regulations (31 CFR Part 22), which provide that no person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Grantee receives Federal financial assistance.
  - ii. ii. Section 504 of the Rehabilitation Act of 1973 (Section 504), Public Law 93-112, as amended by Public Law 93-516, 29 U.S.C. 794, which provide that no otherwise qualified individual with a disability in the United States as defined in section 7(20) [29 USCS § 705(20) ], shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
  - iii. iii. Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101 et seq., and the Department implementing regulations at 31 CFR part 23. no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.
- b. The Grantee will be required to provide a narrative describing its compliance with Title VI.

**2. HATCH ACT**

The Grantee will comply with the provisions of the Hatch Act, P.L. 85-554 (5 U.S.C 1501 et seq.) which limits the political activity of employees.

**3. CONFLICT OF INTEREST**

The Grantee will establish safeguards to prohibit employees from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties. (2 CFR 200.112)

**4. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT PROVISIONS**

- a. Registration and Identification Information
  - i. The Grantee must maintain a current full registration in the System for Award Management ("SAM") ([www.sam.gov](http://www.sam.gov)) at all times during which the Grantee has



active federal awards funded pursuant to this agreement. Grantee shall not enter into any subcontracts without confirming that the Grantee is not debarred, suspended, or otherwise ineligible. Eligibility can be checked on SAM.gov.

- ii. A Unique Entity Identifier (UEI) is issued upon registration in SAM.gov. The Grantee must provide its UEI to the State along with the signed Agreement.

b. Primary Location

- i. The Grantee must provide to the State the primary location of performance under the grant award, including the city, State, and zip+4. If performance is to occur in multiple locations, then the Grantee must list the location where the most amount of the grant award is to be expended pursuant to this agreement.
- ii. The Grantee must provide this information to the State along with the Grantee's return of the signed agreement. The State will not process this agreement until the Grantee provides this information.

c. Compensation of Officers

- i. The Grantee must provide to the State the names and total compensation of the five most highly compensated officers of the entity if:
  - 1. the entity in the preceding fiscal year received:
    - a. 80 percent or more of its annual gross revenues in Federal awards; and
    - b. \$25,000,000 or more in annual gross revenues from Federal awards; and
  - 2. the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.
- ii. If the Grantee does not meet the conditions listed above, then it must specifically affirm to the State that the requirements of this clause are inapplicable to the Grantee.
- iii. The Grantee must provide information responding to this question along with the Grantee's return of the signed agreement. The State will not process this agreement until the Grantee provides the information responding to this question.
- iv. The Grantee must resubmit this information to the Grantor each time the total amount of funds available under this agreement increases or decreases.

## **5. REQUIRED PROVISIONS IN FEDERAL CONTRACTS (2 CFR 327)**

Not all provisions will apply to all programs and their application is dependent on the requirements of the federal program under which this agreement is executed.

**a. Remedies for Breach of Contract**

Contracts for more than the simplified acquisition threshold (currently \$250,000.00), which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, and found at 48 CFR Subpart 2.101, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract

terms, and provide for sanctions and penalties as appropriate. (2 CFR 200 Appendix II (A)).

**b. Termination Provision**

For all contracts in excess of \$ 10,000, the Grantee must address termination for cause and for convenience, including the manner by which it will be affected and the basis for settlement. (2 CFR 200 Appendix II (B)).

**c. Equal Employment Opportunity**

Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." (2 CFR 200 Appendix II (C)).

**d. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)**

Where applicable, all contracts awarded by the Grantee in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. (2 CFR 200 Appendix II (E)).

**e. Rights to Inventions Made Under a Contract or Agreement**

If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the Federal awarding agency. (2 CFR 200 Appendix II (F)).

**f. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as Amended**

Contracts and subgrants of amounts in excess of \$ 150,000 must contain a provision that requires compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency. (2 CFR 200 Appendix II (G)).

**g. Debarment And Suspension (Executive Orders 12549 And 12689)**

A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management(SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. (2 CFR 200 Appendix II (H)).

**h. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)**

Contractors that apply or bid for an award exceeding \$ 100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. The disclosures are forwarded from tier to tier up to the non-Federal award. (2 CFR 200 Appendix II (I)). i.

**i. Procurement of Recovered Materials**

If the Grantee is an agency of a political subdivision of the State of New Jersey, the Grantee and its subcontractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency ("EPA") at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. (2 CFR 200 Appendix II (J)) and (2 CFR 200.323).

**j. Prohibition on Certain Telecommunications and Video Surveillance Services of Equipment**

Grantee and its subcontractors are prohibited from obligating or expending grant funds for equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. The definition of “covered telecommunication equipment” is telecommunication equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of those entities). More detailed information is available at 2 CFR 200.216. (2 CFR 200 Appendix II (K)) and (2 CFR 200.216).

**k. Domestic Preferences for Procurements**

As appropriate and to the extent consistent with law, the Grantee should, to the greatest extent practicable under this agreement, 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 this section must be included in all subawards including all contracts and purchase orders for work or products under this award. For purposes of this section: (1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. (2) “Manufactured products: means items and construction materials composed in whole or in part of nonferrous metals such as aluminum; plastics and polymer- based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber. (2 CFR 200.322)(2 CFR 200 Appendix II (L)) and (2 CFR 200.322).

**Exhibit G**  
**NJ State BEAD Additional Terms and Conditions**

1. The Grantee agrees to comply with all applicable federal statutes, regulations, and executive orders, including but not limited to the Infrastructure Investment and Jobs Act (IIJA), the BEAD Notice of Funding Opportunity (NOFO), and relevant NTIA guidance. Grantee shall ensure that all contractors and subcontractors comply with such requirements.
2. All costs within the approved Project Budget must be reasonable necessary, and allocable in accordance with 2 C.F.R. §§ 200.404 and 200.405.
3. The Grantee shall maintain records and financial documents sufficient to demonstrate compliance with applicable federal requirements.
4. The U.S. Department of Commerce Office of Inspector General, the Government Accountability Office, NTIA, or their authorized representatives shall have the right to access these records for audit or oversight purposes.
5. Records must be retained for at least through the Federal Interest Period of 10 years.
6. The Grantee must maintain a conflict-of-interest policy consistent with 2 C.F.R. § 200.318(c), and must disclose any potential conflicts in writing to the State as required under 2 C.F.R. § 200.112.
7. The Grantee agrees to apply the principles outlined in 2 C.F.R. Part 200 – *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* as applicable.
8. Entities expending \$750,000 or more in federal funds in a fiscal year must undergo a single or program-specific audit in accordance with 2 C.F.R. Part 200, Subpart F.
9. For-profit subrecipients may be subject to pre- and post-award risk assessments, ongoing monitoring, and a post-award closeout process consistent with federal audit principles.
10. The Grantee must report all subawards that equal or exceed \$30,000 to the State and disclose executive compensation as required under 2 C.F.R. Part 170 (Appendix A), if applicable.
11. Grantees must maintain an active registration in the System for Award Management (SAM.gov) in accordance with 2 C.F.R. Part 25.
12. Grantee agrees to make a good-faith effort to maintain a drug-free workplace consistent with 31 C.F.R. Part 20.
13. Grantee certifies that no award funds will be used to influence any federal employee or Member of Congress, as prohibited under 31 C.F.R. Part 21.
14. Grantee must comply with all applicable federal nondiscrimination laws, including but not limited to:
  - Title VI of the Civil Rights Act of 1964
  - The Fair Housing Act
  - Section 504 of the Rehabilitation Act of 1973
  - The Age Discrimination Act of 1975
  - Title II of the Americans with Disabilities Act of 1990
15. Grantee shall include the following statement in any materials, publications, or communications funded under this award: “This project [is being] [was] supported, in whole or in part, by federal funds from the Broadband Equity, Access, and Deployment (BEAD) Program, awarded to the State of New Jersey by the U.S. Department of Commerce, National Telecommunications and Information Administration.”
16. Consistent with the Hatch Act (5 U.S.C. 1501-1508 and 7324-7328), Grantee agrees to refrain from certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance

17. Grantee acknowledges that making false statements or claims in connection with this award may result in criminal, civil, or administrative penalties under federal law.
18. Grantee shall not discharge, demote, or otherwise discriminate against an employee for disclosing evidence of fraud, waste, or abuse relating to a federal contract or grant, pursuant to 41 U.S.C. § 4712.
19. Grantee should encourage contractors to adopt and enforce seat belt use policies (Executive Order 13043).
20. Grantee should also promote policies banning text messaging while driving (Executive Order 13513).
21. Grantee must ensure that all contracts include the applicable provisions outlined in 2 C.F.R. § 200.327 and Appendix II to Part 200.
22. Grantee shall cooperate with monitoring, reporting, and evaluation activities conducted by the National Telecommunications and Information Administration (NTIA), the State, or their designees, and shall provide access to personnel, records, construction sites, and other project-related information as requested.
23. Grantee is responsible for ensuring that all subrecipients, contractors, and subcontractors comply with the applicable federal and state requirements, and must conduct risk assessments and ongoing monitoring as required under 2 C.F.R. Part 200 and BEAD guidance.
24. Grantee shall comply with all applicable provisions of the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58), including provisions related to high-cost thresholds, Buy America, and prevailing wage requirements, as applicable.
25. Grantee must comply with any applicable NTIA or Federal Communications Commission (FCC) requirements regarding broadband labeling, consumer transparency, or service disclosures to ensure end-user awareness of pricing, performance, and terms.
26. The Grantee shall not initiate any construction activities until all applicable reviews required under the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA), and other relevant environmental and cultural resource laws have been completed and approved by the appropriate authorities. In addition, the Grantee must obtain and maintain all required federal, state, and local permits or authorizations before commencing any work that is subject to such requirements. Activities that are conditioned on such permits, including ground disturbance, installation of infrastructure, or access to regulated areas, shall not proceed without documented approval.
27. The Grantee shall implement cybersecurity and supply chain risk management measures in accordance with BEAD guidance and as further detailed in Section XVI(F) and the Cybersecurity Requirements Attachment. These measures must include the use of secure, reliable, and trusted vendors and adherence to industry-recognized best practices for network protection.

The Grantee shall provide shapefiles, location-level deployment data, and other information as required under the BEAD NOFO, NTIA guidance, and applicable federal and state broadband mapping requirements, including the FCC Broadband Data Collection (BDC) process.

**Exhibit H**  
**BEAD PAYMENT PROVISIONS AND FISCAL RESPONSIBILITIES**

Exhibit H applies to all BEAD grants.

## **1. PAYMENT OF ELIGIBLE PROJECT COSTS**

- a. The Board shall pay the grantee for eligible project costs incurred as follows:
  - i. Subject to the availability of state and federal funds and other of this agreement, the Grantee will be reimbursed based upon a determination of the Grantee's needs and in accordance with the Budget as set forth in Exhibit B.
  - ii. The Board may pay the Grantee for eligible Project costs at intervals to be determined by the Board. Under no circumstances shall the State or the Board be liable for any expenditure exceeding the amount stated in this agreement or amendments to this agreement.
  - iii. Any expenditure made by the Grantee which is not in accordance with the terms of this agreement may be disapproved and payment to the Grantee may be adjusted accordingly.
  - iv. Subject to the other terms of this agreement or unless otherwise directed by the Board, initial payments to the Grantee to effectuate activities under this Contract and all other payments are to be made on invoice forms and in accordance with instructions provided by the Board.
- b. The reimbursement to Grantee will not exceed 90 percent of the total Award Amount prior to the submittal of the required reports and information by Grantee. The Board may delay reimbursement of funds until sufficient documentation of costs, project status, geospatial data, or other project information as determined by the Board, is provided by Grantee.
- c. To the extent available, the Grantee must disburse funds available from program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, and interest earned on these funds before requesting additional cash payments from the Board. (2 CFR § 200.305(b)(5)).
- d. Program Income is defined as gross income earned by the Grantee that is directly generated by the Project or earned as a result of the grant award throughout the Contract Period of Performance, including the Extended Period of Performance for LEO capacity grants or the Federal Interest Period as applicable for all other broadband infrastructure grants. Appendix C in NTIA's June 2025 Policy Notice. (2 CFR § 200.1).
- e. Program Income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired pursuant to this agreement, the sale of commodities or items fabricated pursuant to this agreement, license fees and royalties on patents and copyrights, and principal and interest on loans made with funds received pursuant to this agreement. (2 CFR § 200.1).
- f. Program Income does not include interest earned on advanced payments of grant funds, nor does it include rebates, credits, discounts, and interest earned on any rebates, credits or discounts, except as otherwise provided in Federal statutes, regulations or the terms of the federal award. (2 CFR § 200.1)

## **2. CONDITIONS FOR PAYMENT**

- a. Grant payments under this Agreement are conditioned upon the completion of terms of this Agreement.
- b. Costs allocated to program administration are limited to those set forth in the Budget or as otherwise revised in accordance with the amendment provisions of this Agreement set forth in the provision entitled Amendments.
- c. Payment by the State and all other terms of this Agreement are subject to the effect of any federal deficit reduction legislation upon the availability of funds awarded by this Agreement.

### **3. PROJECT ACCOUNT**

- a. The Grantee is not required to establish and maintain separate depository accounts for funds received pursuant to this agreement. However, the Grantee must be able to account for the receipt, obligation and expenditure of funds received pursuant to this Contract through some sort of accounting system (the "Project Account"). (2 CFR § 200.305(b)(7)(i)). The Grantee shall charge to the Project Account all approved costs of the Project. All costs, including activities contributed by the Grantee or others and charged to the Project Account, are required to be supported by properly executed vouchers or other records indicating in proper detail the nature and propriety of the charge.
- b. If the Grantee receives an advance payment of funds pursuant to this agreement, the Grantee must deposit and maintain the advance payment of funds received pursuant to this agreement in insured accounts whenever possible. (2 CFR § 200.305(b)(7)(ii)).

### **4. INVESTMENT OF FUNDS**

- a. The Grantee must maintain advance payments of funds received pursuant to this Agreement ("Advanced Funds") in interest-bearing accounts, unless:
  - i. The Grantee receives less than \$250,000 in Federal awards per year;
  - ii. The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances;
  - iii. The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources; or
  - iv. A foreign government or banking system prohibits or precludes interest bearing accounts. (2 CFR § 200.305(b)(8)).
- b. The Grantee may retain for administrative expenses interest earned on Advanced Funds totaling up to \$500 per calendar year. Any additional interest earned on Advanced Funds must be remitted annually to the Department of Health and Human Services Payment Management System (PMS) through an electronic medium using either Automated Clearing House (ACH) network or a Fedwire Funds Service payment. (2 CFR § 200.305(b)(9))

### **5. CONDITIONS FOR REPAYMENT OF GRANT FUNDS**

- a. Misuse or Failure to Use Funds.
  - i. The Grantee shall use the funds granted by this Agreement, or as much as may be necessary, to carry out the project in accordance with the terms of this



Agreement. If after all or any part of the funds has been paid to the Grantee and the Grantee shall fail to carry out the activities, the Grantee shall repay these funds to the Board.

- ii. If the Grantee does not use all or a portion of the funds paid under the terms of this Agreement for purposes of and in accordance with this Agreement, the Grantee shall be liable to the Board for the amount of funds unused or improperly used and shall return the funds to the Board.
  - iii. In the event the Board is be entitled to repayment of all or a portion of the funds granted to the Grantee, then repayment includes all interest, income, accumulations and the monetary equivalent of any appreciation in value of any property (real, personal or mixed) purchased with the funds granted them. The repayment is payable to the State of New Jersey by check and must be forwarded to the Board for: (1) the principal and (2) the total of any interest, income, accumulations or appreciation in value.
- b. Violation of the Prohibition of Illegal Alien Labor on Assisted Projects Act.
- In the event:
- i. Grantee knowingly employs, or knowingly permits any of its subcontractors to knowingly employ, the labor services of an illegal alien on activities funded in whole or in part by grants or loans issued by an executive agency of the State of New Jersey; and
  - ii. Grantee or any of its subcontractors are sentenced under Federal law for an offense involving knowing use of labor by an illegal alien on activities funded in whole or in part by grants or loans issued by an executive agency of the State of New Jersey,
  - iii. Grantee shall, in accordance with instructions to be provided by the Board, repay all grant funds received by the Grantee from the Board pursuant to this Agreement.
- c. Direct Payment of Federal Funds.
- If the Grantee receives funds granted by this Agreement directly from the Federal government, and those funds are required to be repaid pursuant to these provisions, those funds must be repaid to the Federal government, unless otherwise directed by the Board.

## **6. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT PROVISIONS.**

- a. Registration and Identification Information.
  - i. The Grantee must maintain a current full registration in the System for Award Management ("SAM") ([www.sam.gov](http://www.sam.gov)) at all times during which the Grantee has active federal awards funded pursuant to this agreement. A Unique Entity Identifier (UEI) is issued upon registration in SAM.gov. The Grantee must provide its UEI to the State along with the signed Agreement.
- b. Primary Location.
  - i. The Grantee must provide to the State the primary location of performance under the grant award, including the city, State, and zip+4. If performance is to occur in

multiple locations, then the Grantee must list the location where the most amount of the grant award is to be expended pursuant to this Agreement.

- ii. The Grantee must provide this information to the State along with the Grantee's return of the signed Agreement. The State will not process this Agreement until the Grantee provides this information.
- c. Compensation of Officers.
  - i. The Grantee must provide to the State the names and total compensation of the five most highly compensated officers of the entity if:
    - 1. the entity in the preceding fiscal year received:
      - a. 80 percent or more of its annual gross revenues in Federal awards; and
      - b. \$25,000,000 or more in annual gross revenues from Federal awards; and
    - 2. the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.
  - ii. If the Grantee does not meet the conditions listed above, then it must specifically affirm to the State that the requirements of this clause are inapplicable to the Grantee.
  - iii. The Grantee must provide information responding to this question along with the Grantee's return of the signed agreement. The State will not process this agreement until the Grantee provides the information responding to this question.
  - iv. The Grantee must resubmit this information to the Board each time the total amount of funds available under this agreement increases or decreases.

## **7. Request for Reimbursement Template**

*[Refer to Exhibit D]*

**Exhibit J**  
**UNIFORM GUIDANCE (2 CFR 200) EXCEPTIONS**

Exhibit J applies to all BEAD grants.

**3. Acknowledgment**

- a. The Grantee acknowledges that the National Telecommunications and Information Administration (NTIA) has provided specific exceptions and clarifications to 2 CFR Part 200 as it applies to the BEAD Program. See BEAD Policy Notice: Uniform Guidance Exceptions, Adjustments, Clarifications
- b. Grantee acknowledges and agrees to comply with NTIA's Uniform Guidance Exceptions, as may be updated or modified by NTIA, including but not limited to the exceptions, modifications, and requirements addressed in this Exhibit.

**4. Program Income**

- a. Grantee may retain program income without restriction, including revenue from end-user subscriptions and wholesale broadband services.
- b. While program income may be retained, profit, fees, or similar charges are not allowable costs and shall not be included in Grantee's proposed budget.
- c. Program income must be reported to BPU as part of quarterly financial reports.

**5. Procurement**

- a. This BEAD grant is not subject to the Uniform Guidance procurement standards in 2 C.F.R. 200.318-320 and 200.324-326. All other Uniform Guidance procurement standards apply.

**6. Fixed Amount Subaward & Incremental Cost Reimbursement Program**

- a. This BEAD grant program is a fixed amount subaward and utilizes incremental reimbursements of actual, documented costs. For reimbursements, Grantee shall submit to BPU evidence demonstrating compliance with the performance milestones set forth in the Agreement. BPU will hold in reserve 10% of the total Award Amount to be released upon Project completion and BPU's acceptance of Grantee's final report.
- b. Grantee shall adhere to Generally Accepted Accounting Principles (GAAP) for validation of costs.
- c. BPU shall monitor the reasonableness of fixed amount subawards, ensuring compliance with GAAP.

**7. Property Standards for Federally Funded Infrastructure**

- a. Ownership of Assets. Title to real property and equipment acquired under this Agreement vests with the Grantee, subject to federal interest requirements.
- b. Federal Interest Period. The federal interest in BEAD-funded broadband infrastructure shall continue for 10 years following the project closeout per 2 C.F.R. 200.344, as further addressed in NTIA's June 6, 2025 Policy Notice.

- c. Encumbrances & Disposition. Grantee may not sell, transfer, or lease project assets without BPU and NTIA approval.
- d. Grantee must record liens or notices of federal interest on all assets. If assets are disposed of during the Federal Interest Period, the U.S. government must be reimbursed based on its percentage of project cost.

**8. Compliance with Build America, Buy America (BABA)**

- a. Grantee shall comply with the Build America, Buy America Act (BABA), Pub. L. No. 117-58, § 70901 et seq., ensuring that all iron, steel, manufactured products, and construction materials are sourced from the United States.
- b. Waivers may only be granted in accordance with federal law and must be approved by NTIA and the Office of Management and Budget (OMB).

**9. Audit Requirements**

- a. Single Audit Compliance. Any non-federal entity that expends \$750,000 or more in federal funds during a fiscal year is subject to the Single Audit Act (2 CFR 200.501) and must submit audit reports to the Federal Audit Clearinghouse.
- b. Audit Requirements for Commercial Grantees
  - i. If Grantee is a for-profit entity, BPU may require pre-award audits, financial monitoring, and post-award audits per 2 C.F.R. 200.501(h).
  - ii. NTIA and the U.S. Department of Commerce Office of Inspector General (OIG) reserve the right to audit any BEAD subrecipient at any time.

**10. Certification of Project Completion**

- a. Project Certification Requirement. Upon project completion, Grantee must submit a certification statement to BPU attesting that the broadband infrastructure has been fully deployed and placed into service.
- b. Certification must comply with 47 USC 1702(h)(4)(C) and NTIA's reporting requirements.
- c. Final payment under this Agreement will not be issued until certification is received and verified by BPU

**Exhibit K**  
**MONITORING REQUIREMENTS**

The administration of resources awarded by BPU to the Grantee (herein otherwise referred to as (“Grantee”) may be subject to audits and/or monitoring by BPU as described below.

**MONITORING:** Monitoring procedures will be conducted on an ongoing basis and shall, at a minimum, occur in conjunction with the project completion milestones defined in Exhibit A, which outlines the approved deployment phases and associated performance benchmarks. Grantee performance and compliance will be assessed at each milestone prior to the release of payments under the fixed amount subaward model.

Monitoring activities may include, but are not limited to:

- Programmatic walkthroughs;
- Desk reviews and documentation requests;
- On-site visits by BPU staff and/or contracted third parties;
- Post-payment compliance reviews;
- Limited scope audits (as applicable under 2 CFR §200.425); and
- Other procedures deemed necessary by the Board to verify compliance with BEAD program requirements.

By entering into this Agreement, the Grantee agrees to fully cooperate with all monitoring procedures implemented by the New Jersey Board of Public Utilities (“BPU”) and to provide timely and complete responses to requests for documentation or access.

For-profit Grantees may also be subject to risk assessments, enhanced post-award monitoring, and grant closeout procedures, in accordance with the BEAD NOFO, NTIA guidance, and all applicable federal and state regulations. These activities may include site inspections, verification of milestone completion, and financial and programmatic evaluations necessary to confirm compliance with 2 CFR Part 200 and BEAD program requirements.

**FUNDING RESOURCES: FEDERAL RESOURCES AWARDED TO THE GRANTEE PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:**

<b>Federal Awarding Agency</b>	National Telecommunications and Information Administration (NTIA)
<b>Assistance Listing Title:</b>	Broadband Equity, Access, and Deployment (BEAD) Program
<b>Assistance Listing Number:</b>	11.032
<b>Federal Award Amount</b>	[Insert BEAD Subaward Amount]
<b>BEAD Program Application #</b>	[Insert NJ BEAD Grantee Application ID]

**COMPLIANCE REQUIREMENTS APPLICABLE TO THE FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:**

1. The Grantee shall perform the obligations as set forth in this Agreement and in the Grantee's BEAD Program Application number (listed above), including any attachments or exhibits thereto.
2. The Grantee shall comply with all applicable provisions of the Infrastructure Investment and Jobs Act (IIJA), the BEAD Notice of Funding Opportunity (NOFO), the Uniform Guidance (2 CFR Part 200) as implemented by NTIA, and all relevant guidance issued by NTIA and the New Jersey Board of Public Utilities, including but not limited to the BEAD Restructuring Programmatic Notice (June 6, 2025) and New Jersey's Approved Initial Proposal Volume 2 (IPV2).

**Exhibit L**  
**NOTICE OF COMPLETION AND ENGINEER'S CERTIFICATION OF COMPLIANCE**

**NOTICE OF COMPLETION**  
BROADBAND EQUITY, ACCESS, AND DEPLOYMENT ("BEAD") Program AGREEMENT  
Between  
THE NEW JERSEY BOARD OF PUBLIC UTILITIES  
And

PROJECT DESCRIPTION: \_\_\_\_\_

BPU Agreement No. \_\_\_\_\_

By the Terms and Conditions of the New Jersey Broadband Equity, Access, and Deployment Program "NJBEAD" agreement, the undersigned provides notification that the work authorized by this Agreement is \_\_\_\_\_% complete as of \_\_\_\_\_, 20\_\_\_\_\_.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ENGINEERS' CERTIFICATION OF COMPLIANCE**

In accordance with the Terms and Conditions of the Capital Projects Fund Agreement, the undersigned certifies that all work which originally required certification by an independent Engineer has been completed in compliance with the Project construction plans and specifications.

SEAL:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_