

Federal Broadband Funding: Time to Act

Deadlines are arriving thick and fast for massive NTIA funding programs.

By Steven S. Ross / *Broadband Communities*

The clock is ticking for states to share in the largest pile of federal funds ever allocated for deploying broadband. States and territories had to tell the National Telecommunications and Information Administration (NTIA) by July 18 that they intended to participate in the \$42.5 billion Broadband Equity, Access, and Deployment (BEAD) Program. Most had done so by mid-May, and all met the deadline with at least five days to spare.

After NTIA approves a state's anticipated planning process (due by August 15), BEAD unlocks \$5 million to each participating state, the District of Columbia, and Puerto Rico (\$1.25 million for the four smaller territories) for initial planning. After funds are in hand, recipients have up to 270 days to craft a five-year plan to provide broadband to their residents and businesses.

Final deployment decisions will require better maps of existing broadband services than most states have available. Some states have completed their own maps, including Florida, Texas, Virginia, Georgia, New York and Tennessee. The FCC mapping process could have usable but not final data by November. This will kick off challenges at FCC by incumbents saying that some areas marked as unserved are served or soon will be.

State maps typically include community anchor and emergency response institutions, schools, transportation corridors and crowdsourced speed tests. The new FCC map data system ("fabric" in database terms) accommodates this extra information.

Once the challenges are resolved, states and territories have 180 days to file their draft initial proposed plans for using BEAD money. Other NTIA funds are available for tribal lands, new middle-mile trunks, citizen computer training, etc. There are also ongoing, large funding programs

at the FCC, Treasury and the Rural Utilities Service at the USDA.

NTIA promises technical support, and state offices tell me they will all use it because they need the help and want in-process feedback. A key, perhaps *the* key, issue is how each state intends to choose winners to build systems. The law demands public input in each state or territory as well. Because incumbents, local governments and others can challenge any proposals, there is a considerable incentive for parties in any one area to join in regional (presumably often public-private) operating partnerships. AT&T has announced doubling its national fiber footprint to 25 million more premises and is already participating in public-private deployments in Indiana, Kentucky and Texas.

Expert communications lawyers (and, maybe, consultants advising local attorneys on all sides) must carefully draw public-private partnership agreements on both sides. That's especially so when one of the partners is a national carrier. There's no template for these agreements, as local conditions vary. For instance, will a national carrier try to deny or overprice the use of the new fiber backhaul to competing carriers' cellular service? Will it try to monopolize the best microcell sites on the fiber route?

And what about E-Rate? The FCC has been considering a Declaratory Ruling that E-Rate funding could be used to equip school buses with Wi-Fi because wireless access point technologies serve an educational purpose. Funding for Wi-Fi is already covered under the FCC's Emergency Connectivity Fund, and \$35 million of fund money has been allocated to buy wireless hot spots and broadband services for school buses.

AND NOW, THE BIG MONEY

Once NTIA approves these initial proposals, states get 20 percent of the total project funds they've allocated

and a year to finalize deployment plans. Suppose a state decides not to participate in BEAD or gets into mortal combat with NTIA, hoping for a change in the federal political balance. In that case, NTIA can designate local governments (cities, groups of counties, and so forth) to get the money. Of course, the financial incentives to participate in BEAD are enormous – an average of \$800 million and a minimum of \$100 million per state, Puerto Rico, and Washington, D.C. Other U.S. territories get a minimum of \$25 million.

The bias toward fiber is transparent and warranted – this may be the last chance to bring broadband to most of the nation’s premises. But fiber is not an absolute requirement. Areas considered serviceable but unserved (with less than 25/3 Mbps broadband – or with service exclusively by satellite or unlicensed spectrum – typically point-

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to-point wireless) get the first crack at the BEAD funds.

To NTIA, “underserved” locations are those on the anticipated FCC maps with less than 100/20 Mbps. NTIA’s funding formula would give states extra funds for “high-cost” areas (low population density, rough terrain, extreme poverty, and so forth). These “relative” funding formulas generally involve dividing the number of unserved locations by the total nationwide and multiplying that by the remaining funds.

If all this sounds like a lot of work for lawyers, engineers, consultants and construction companies, you heard right. Keep up with the news and webinars at NTIA (www.internetforall.gov) and on the **BROADBAND COMMUNITIES** website. ❖

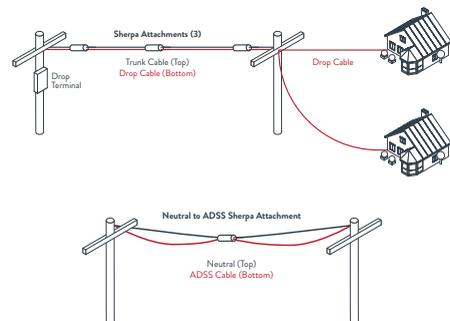
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