

Broadband Infrastructure Program

Sixth Round of Frequently Asked Questions (Aug 11, 2021)

The below FAQs are for informational purposes only and are intended solely to assist potential applicants in better understanding the NTIA Broadband Infrastructure Program and the application requirements set forth in the Notice of Funding Opportunity (NOFO) for this program. The FAQs do not and are not intended to supersede, modify, or otherwise alter applicable statutory or regulatory requirements, or the specific application requirements set forth in the NOFO. In all cases, statutory and regulatory mandates, and the requirements set forth in the NOFO, shall prevail over any inconsistencies contained in the below FAQs.

Eligibility

Does NTIA have an example of a standard partnership agreement?

NTIA does not have an example of a standard partnership agreement. The partnership does not need to be documented in a formal legal agreement at the time of application submission but should be expressed in the application as a general intent to cooperate in implementing the covered broadband project proposed for an award. NTIA does require, however, letters of commitment from each member of the covered partnership. Each application must include a Letter of Commitment from an authorized representative of each member of the covered partnership and any other significant partners participating in the proposed covered broadband project. The Letter of Commitment should discuss the scope of work to be undertaken by each party included in the covered partnership and its relevance to the covered broadband project. See Sections III.A.1 and IV.B.9 of the NOFO.

If an Internet Service Provider (ISP) partners with a qualified subdivision of a State in an application and the ISP plans to build the network and maintain it, is the ISP considered a subrecipient?

The governmental entity (either a State or a political subdivision of a State that must be included in a covered partnership) must serve as the lead applicant for the covered partnership. The governmental entity serving as the lead applicant will become the recipient if NTIA selects the application for award. The ISP may be considered a subrecipient depending on its role in the covered broadband project. See 2 C.F.R. § 200.331 for a discussion of subrecipient and contractor determinations.

Each application must include a Letter of Commitment from an authorized representative of each member of the covered partnership. The Letter of Commitment will discuss the scope of work to be undertaken by the member of the covered partnership and its relevance to the covered broadband project. The grant recipient (State or political subdivision of a State) or a subrecipient, including the service provider, may retain ownership (serve as the trustee) of the funded covered project's infrastructure and associated assets. The members of the covered partnership may make that determination. See Section IV.D.5 of the NOFO.

If a member of the covered partnership already has supplies for the project in its inventory, can they be reimbursed for the material as an allowable expense?

Maybe, subject to the statutory \$50,000 cap on pre-award costs, among other restrictions discussed in the NOFO. In order to charge up to \$50,000 of an award to existing inventory, an applicant would need to clearly identify and propose such pre-award inventory costs as part of the project budget and would need to clearly establish that the costs associated with the existing inventory were incurred in

"preparation of the grant," i.e., after the publication of the NOFO on May 19, 2021, and based on a determination by the applicant that such pre-award inventory costs are necessary for the efficient and timely performance of the scope of work. (See the definition of "pre-award" costs in 2 C.F.R. § 200.458.) If an applicant satisfies this burden, NTIA may allow up to \$50,000 of the award amount to serve as a reimbursement for existing inventory (assuming the applicant did not propose any other pre-award costs). All pre-application costs are incurred at the sole risk of the applicant and will not be reimbursed by NTIA if the proposed project does not receive an award pursuant to this program. See Section IV.J.1.e of the NOFO.

Are contingency costs allowable under the Broadband Infrastructure Program? Does NTIA have a specific percentage applicants should use for contingency costs in line 13 of the SF-424C?

The NOFO does not expressly address whether contingency costs are allowable uses of funds under the Broadband Infrastructure Program; however, Section IV.J.1.f provides that funds may be used for other allowable costs necessary to carrying out programmatic activities of an award, not to include ineligible costs described in Section IV.J.2 of the NOFO.

Grant recipients may only use Federal award funds and any non-Federal cost share committed to an award to pay for allowable costs under the Broadband Infrastructure Program. Allowable costs are determined in accordance with the cost principles identified in 2 C.F.R. Part 200.

The cost principles describe a contingency as that part of a budget estimate of future costs (typically of large construction projects, IT systems, or other items as approved by the Federal awarding agency) which is associated with possible events or conditions arising from causes the precise outcome of which is indeterminable at the time of estimate, and that experience shows will likely result, in aggregate, in additional costs for the approved activity or project. Amounts for major project scope changes, unforeseen risks, or extraordinary events may not be included. 2 C.F.R. § 200.433(a).

An applicant may include contingency amounts (other than those expressly excluded as noted in the above paragraph) in budget estimates to the extent they are necessary to improve the precision of those estimates. Amounts must be estimated using broadly-accepted cost estimating methodologies, specified in the budget documentation of the Federal award, and accepted by the Federal awarding agency. See 2 C.F.R. § 200.433(b). In order for actual costs incurred to be allowable, they must: comply with the cost principles and other requirements in this part (see also 2 C.F.R. §§ 200.300 and 200.403); be necessary and reasonable for proper and efficient accomplishment of project or program objectives; and be verifiable from the non-Federal entity's records. See 2 C.F.R. § 200.433(b).

NTIA has not determined a specific percentage that applicants should use for contingencies in line 13 of the SF-424C. NTIA notes that contingencies are generally considered reasonable if they are 10-15% of construction costs or less, otherwise the applicant should provide justification for the higher budget amounts.

If an extension is granted, can the grantee incur expenses during the extension period, or must all expenses be incurred during the initial 12-month grant period?

Eligible expenses must be incurred during the award period of performance. A grantee that receives an extension of the award period from the Assistant Secretary after submitting a request in accordance with Section II.B of the NOFO may incur eligible expenses during the approved extended award period.

Other Broadband Funding Programs and Eligible Service Areas

If an applicant has applied for – but not yet received – other federal funds, do they need to disclose this?

NTIA, the FCC, and USDA/RUS, as well as other Federal agencies investing in broadband infrastructure projects, continue to share information on past, current, and proposed Federal broadband infrastructure funding, including project specific details such as proposed service areas/maps, broadband speeds, etc., in order to maximize Federal investment in broadband infrastructure while avoiding duplication of funding. Other federal/state funds which are not yet awarded may, but need not, be disclosed at the time of application. However, if a covered partnership is awarded other federal/state broadband infrastructure funds while its Broadband Infrastructure Program application is pending with NTIA, it must inform NTIA of any such award.

Are there additional reporting requirements if an applicant is awarded other state or federal funds but does not accept them?

Section 905(d)(3) of the Act and Section IV.6.j of the NOFO require the covered partnership to describe any federal or state support, including any grant, loan, or loan guarantee, provided to the provider of broadband service that is part of the covered partnership for the deployment of broadband service in the proposed service area. If the applicant does not accept other federal or state funds that it has been awarded, it may, but need not, report them for purposes of its application under the Broadband Infrastructure Program.

Would participation in the FCC’s Emergency Broadband Benefit Program (EBB) program be considered receipt of other federal funding and disqualify the Internet Service Provider (ISP) from participating in the covered partnership?

The FCC’s Emergency Broadband Benefit (EBB) program is intended to help families and households struggling to afford internet service during the COVID-19 pandemic. The EBB program provides a discount of up to \$50 per month towards broadband service for eligible households and up to \$75 per month for households on qualifying Tribal lands. See <https://www.fcc.gov/broadbandbenefit> for more information. An ISP’s participation in the FCC’s EBB program will not disqualify it from being part of a covered partnership or from receiving funding under the Broadband Infrastructure Program since the EBB is a subsidy program that does not fund broadband infrastructure deployment and therefore the two programs do not duplicate federal funding.

What wireless service types count towards whether a location is “served” or not?

Any fixed broadband technology that is capable of delivering qualifying broadband service (as defined in the NOFO) to an eligible service area is acceptable.

If an area is not shown as unserved on the NTIA grant, is it possible to include evidence in our grant application to prove that service is not available?

Yes. The definition of qualifying broadband service in Section I.B.i of the NOFO is based on actual speeds, and includes as a requirement the ability to provide 25 Mbps downstream and 3 Mbps upstream service simultaneously to every household in the eligible service area. NTIA also encourages applicants to provide any additional data they have on the availability of broadband services in their proposed service areas that may provide additional detail and clarity on the presence (or absence) of qualifying broadband service and level of need in those areas. This data can include speed test data that may indicate that a service area is not being served with 25/3 broadband speeds with low latency and therefore may be eligible for funding under the Broadband Infrastructure Program.

What tools will be used to determine the eligibility of a service area?

NTIA Program Staff will use available data from the FCC, as required in the Act, to validate eligible service areas. The FCC Form 477 data is a data layer in NTIA's National Broadband Availability Map (NBAM), and NTIA will rely on the FCC's data, along with other datasets contained in the NBAM and other available information, to validate applicants' proposed service areas as meeting the Act's definition of eligible service area.

Does the definition of "unserved" mean there is no ISP in a census block providing Internet?

The term "unserved," with respect to a household, means: (A) the household lacks access to qualifying broadband service; and (B) no broadband provider has been selected to receive, or is otherwise receiving, Federal or State funding subject to enforceable build out commitments to deploy qualifying broadband service in the specific area where the household is located by dates certain, even if such service is not yet available, provided that the Federal or State agency providing the funding has not deemed the service provider to be in default of its buildout obligations under the applicable Federal or State program.

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Application Process

For the CD-511 Certification Regarding Lobbying, the entire Funding Opportunity Number ("NTIA-Broadband-Infrastructure-Program-21") does not fit in the Award Number field. What should I do?

NTIA acknowledges that the full Funding Opportunity Number does not fit within the applicable field in the CD-511 form. Applicants should either: (1) type out as much of the NOFO name as they can until the field is completely filled; or (2) use the abbreviation "NTIA-BIP-2021."

Should the pro forma financial information and analyses include only the information pertaining to the proposed grant project or should the financial information represent the applicant's consolidated statements for all lines of business and sources of revenues and expenses?

The covered partnership may submit pro forma financial information and analyses specifically pertaining to the proposed project. In every case, the financial information should show that the covered partnership is financially viable, stable, and able to take on and complete the project. The evaluation criteria that will be used by the Merit Reviewers to review and analyze Broadband Infrastructure Program applications are grouped into three categories: (1) Project Purpose and Benefits; (2) Project Viability; and (3) Project Budget and Sustainability. Each application will be evaluated against objective criteria that includes evaluating the Applicant's Organizational Capability, Reasonableness of the Budget and Project Sustainability. Applicants must provide information that is sufficiently detailed to allow merit and programmatic reviewers to evaluate the application against these criteria. See Section V.A. of the NOFO.

What is the required documentation of capacity to provide matching funds and cost sharing? If political subdivisions of states/counties wish to provide matching funding, is written notice of the willingness to support the project sufficient for the application?

If cost sharing or matching funds are included in the budget, the applicant must identify the non-federal source (*e.g.*, state funding) and distinguish the non-federal and federal portions of the budget in the Detailed Budget Justification and Budget Narrative. Information regarding cost sharing or matching funds is available in [2 C.F.R. § 200.306](#). Political subdivisions of states/counties that wish to provide matching funds should provide documentation identifying the source and the amount of the proposed match with the application submission and may also wish to note the non-federal cost share commitment in its Letter of Commitment to the proposed project (*See* Section IV.B.9. of the NOFO).

Can a political subdivision partner change the broadband provider after award of this grant?

The State or political subdivision partner that seeks to change specific provider of fixed broadband service participating in the covered partnership should submit a request for NTIA's consideration. In reviewing the request, NTIA will consider whether the change to the fixed broadband service provider would be consistent with the original purposes of the award and in the best interests of the governmental partner in the covered partnership and the beneficiaries of the covered broadband project.

What information is required with regard to the labor standards referenced in Section IV.B.6.k. in the NOFO?

Section IV.B.6.k of the NOFO states that the Project Narrative should include a description of whether and, if so, how the project will incorporate strong labor standards, including project labor agreements and community benefit agreements that offer wages at or above the prevailing rate and include local hire provisions, and a description of the applicant's workforce plans and practices. NTIA will consider whether, and the extent to which, the applicant proposes to incorporate strong labor protections into the performance of the construction project including paying prevailing wages, as a factor in selecting applications for award. *See* Section V.C of the NOFO. As described in the NOFO, this means that all laborers and mechanics employed by contractors and subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act") or, for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate state entity pursuant to a corollary state prevailing-wage-in-construction law (commonly known as "baby Davis-Bacon Acts").

Grant Award and Reporting Requirements

If there is unused broadband fiber after the project is complete, can the covered partnership sell it or enter into an IRU for that fiber?

A grantee/subgrantee must use its best efforts to acquire only the amount of broadband fiber that is reasonably necessary for the project. In the event a grantee/subgrantee has unused broadband fiber upon completing a project, the grantee/subgrantee must comply with the equipment use and disposition rules set forth in 2 C.F.R. 200.313 and in any specific award conditions pertaining to the use and disposition of grant-acquired property, including obtaining the prior written approval of NTIA and the NIST Grants Office before selling or leasing assets acquired pursuant to a Broadband Infrastructure Program award.