

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)	
)	
Telecommunications Carriers Eligible to Receive Universal Service Support)	WC Docket No. 09-197
)	
Connect America Fund – Alaska Plan)	WC Docket No. 16-271
)	
Expanding Broadband Service Through the ACAM Program)	RM-11868
)	

**COMMENTS OF THE
NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION**

I. INTRODUCTION

As the President’s principal adviser on telecommunications and information policy, the National Telecommunications and Information Administration (NTIA) offers this comment in

response to the Federal Communications Commission’s (Commission’s) above-captioned Notice of Proposed Rulemaking (NPRM), which seeks input on the proposed Enhanced Alternative Connect America Model (A-CAM).¹

Recognizing that reliable high-speed broadband service is no longer a luxury, but a necessity, Congress in 2021 passed the Infrastructure Investment and Jobs Act (IIJA), which allocated to NTIA more than \$48 billion to expand high-speed internet access to all Americans while ensuring affordability and closing longstanding equity gaps. This funding is spread across several programs. The \$1 billion Enabling Middle Mile Broadband Infrastructure Program is designed to provide support for the infrastructure that bridges the gap between at home “last mile” connections and the robust, high-capacity national and regional networks necessary to support those last mile connections. The \$2.75 billion Digital Equity programs (including a \$1.5 billion state formula grant program and a \$1.25 billion competitive grant program) collectively seek to promote digital equity and inclusion by ensuring that all people and communities have the skills, technology, and capacity needed to benefit from the digital economy. Lastly, the \$42.45 billion Broadband Equity, Access, and Deployment (BEAD) program is designed to drive deployment of last-mile connectivity and to close adoption and equity gaps, ensuring that all Americans have access to a reliable, affordable, high-speed internet connection at home no matter where they live.

As the Commission observes in its NPRM, both A-CAM and the IIJA programs administered by NTIA – particularly the BEAD Program – fund the deployment of broadband to unserved and underserved areas.² To ensure that the Administration’s goal of “Internet for all”

¹ 47 U.S.C. § 902(b)(2)(D).

² *In the Matter of Connect America Fund: A National Broadband Plan for Our Future High-Cost Universal Service Support, et al.*, WC Docket No. 10-90, et. al., Notice of Proposed Rulemaking at p. 2 para. 6 (May 20, 2022).

(*i.e.*, ubiquitous high-speed broadband coverage) is realized and that taxpayer funds are efficiently utilized, and to fulfill Congress’s directive that NTIA and the Commission (among others) coordinate on broadband deployment matters,³ it is essential to align A-CAM and BEAD Program requirements to the greatest extent possible. NTIA offers the Commission the following recommendations.

II. TO MINIMIZE DUPLICATION, THE COMMISSION SHOULD REQUIRE ENHANCED A-CAM CARRIERS TO DEPLOY “QUALIFYING BROADBAND SERVICE” AS THAT TERM IS USED IN THE BEAD PROGRAM.

Many of the households currently lacking access to high-speed broadband are located in hard-to-serve rural areas. Some of these households lack a fixed internet connection entirely, while many others only have access to inferior connections that do not support standard current use cases such as video conferencing, streaming video, telehealth services, and at-home learning. This longstanding inequity has only been further exacerbated by the COVID-19 pandemic. Although the current A-CAM programs and the BEAD Program aim to close the digital divide by bringing fixed internet to hard-to-reach areas, these programs currently impose disparate deployment requirements.

The A-CAM I and II programs were established in 2016 and 2018, respectively, when median broadband speeds across the United States were significantly lower than at present.⁴ In fact, both programs focus on incentivizing providers to deploy networks at speeds of 25 Mbps

³ *See, e.g.*, 47 U.S.C. § 1308 (Broadband Interagency Coordination Act of 2020).

⁴ *See* FEDERAL COMMUNICATIONS COMMISSION, MEASURING BROADBAND AMERICA – SEVENTH FIXED BROADBAND REPORT (Dec. 22, 2017) (stating that in September 2016 median download speed experienced by consumers was 57 Mbps) *and* Ookla United States’ Mobile and Fixed Broadband Internet Speeds, <https://www.speedtest.net/global-index/united-states> (July 20, 2022) (indicating that median broadband download speeds in June 2022 across the United States are 153.80 Mbps).

downstream and 3 Mbps upstream (25/3), which is the minimum level of service currently considered “broadband” by the Commission.⁵

By comparison, the BEAD Program requires a subgrantee to deploy “qualifying broadband” service, which is defined as “reliable broadband service”⁶ offering speeds not less than 100 Mbps downstream and 20 Mbps downstream (100/20) with latency at or below 100 milliseconds round-trip time.⁷ After coordination with the Commission, NTIA determined that a “reliable broadband service” is one that utilizes: (1) fiber-optic technology; (2) cable modem/hybrid fiber-coaxial technology; (3) digital subscriber line (DSL) technology; or (4) terrestrial fixed wireless technology utilizing entirely licensed spectrum or a combination of licensed and unlicensed spectrum.⁸

The disparities between the BEAD Program’s requirements and the A-CAM I and II programs’ mandates pose a significant risk that federal funding will be used inefficiently: NTIA is required by law to direct BEAD Program funds to locations served at speeds of less than 100/20 Mbps, yet the current A-CAM requirements contemplate funding of new networks that do not reach anything close to those speeds. To ensure that the Enhanced A-CAM program

⁵ A-CAM I requires recipient providers to deploy 25 megabits per second (Mbps) downstream and 3 Mbps upstream (25/3) service or 10/1. Meanwhile, A-CAM II requires recipient providers to deploy 25/3 or 4/1. As discussed below, the Commission may update this standard in the near future to 100 Mbps/20 Mbps. *See In the Matter of Connect America Fund: A National Broadband Plan for Our Future High-Cost Universal Service Support, et al.*, WC Docket No. 10-90, et. al., Notice of Proposed Rulemaking at para. 6 (May 20, 2022).

⁶ *See* Infrastructure Act § 60102(a)(2)(L) (defining “reliable broadband service” as “broadband service that meets performance criteria for service availability, adaptability to changing end-user requirements, length of serviceable life, or other criteria, other than upload and download speeds, as determined by the Assistant Secretary [of NTIA] in coordination with the Commission.”).

⁷ *See* Broadband Equity, Access, and Deployment (BEAD) Program Notice of Funding Opportunity (NOFO) at 37 (May 13, 2022), <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf%20> (BEAD Program NOFO) (stating “qualifying broadband” service to a location that is not a community anchor institution is “Reliable Broadband Service with (i) a speed of not less than 100 Mbps for downloads; and (ii) a speed of not less than 20 Mbps for uploads; and (iii) latency less than or equal to 100 milliseconds.”).

⁸ BEAD Program NOFO at 15, footnote 10 (“For the purposes of this definition, the Assistant Secretary adopts the criteria that Reliable Broadband Service must be (1) a fixed broadband service that (2) is available with a high degree of certainty, (3) both at present and for the foreseeable future, and finds, after coordination with the Commission, that the definition of Reliable Broadband Service set forth in this NOFO best meets those criteria.”)

complements BEAD and does not lead to duplicative, wasteful funding of the same locations, NTIA urges the Commission to take several actions to align the programs.

First, NTIA concurs with the ACAM Broadband Coalition's proposal that the Commission should require deployment of networks offering speeds of at least 100/20 Mbps. Chairwoman Rosenworcel recently announced the circulation of a Notice of Inquiry proposing to increase the national speed threshold for broadband from a minimum of 25/3 Mbps (a standard adopted some seven years ago) to a minimum of 100/20 Mbps (a standard consistent with IJJA's requirements) for purposes of the agency's annual inquiry into advanced service deployment and availability. In light of the Chairwoman's proposal, it would make little sense to permit new public investment in networks that do not offer this greater performance standard. But even if the Commission does not formally increase the broadband speed threshold for purposes of its inquiry, it should limit governmental subsidies to networks that do not meet the 100/20 Mbps standard.

Second, NTIA urges the Commission to require providers to deploy networks that meet the BEAD Program's definition of "qualifying broadband" to 100% of eligible locations and to make a binding commitment to deploy such networks. As noted, NTIA is required by law to direct BEAD Program funding to locations lacking service at 100/20 Mbps (or a binding commitment to provide such service). It has therefore directed each state and territory receiving BEAD funds to develop plans to ensure such service to all such locations. Thus, allowing an Enhanced A-CAM provider to deploy broadband service at (for example) 25/3 Mbps to any location would guarantee duplicative funding because the relevant state or territory would be obliged to direct BEAD Program funding to deploy higher-speed service to that same location.

The Commission should also require that providers receiving Enhanced A-CAM support make binding commitments to deploy qualifying broadband networks. BEAD rules prohibit funding any locations already subject to an enforceable federal, state, or local commitment to deploy “qualifying broadband.” Thus, by requiring binding commitments to deploy such service, the Commission can mitigate the risk that proceeding with Enhanced A-CAM awards prior to BEAD subgrantee awards will lead to duplicative funding.

While duplicative funding might be good for the locations receiving extra support, it is inefficient and will diminish the pool of funds available for other unserved or underserved locations. Furthermore, because locations receiving A-CAM support are some of the most difficult to serve in the country and generally offer little economic incentive for carriers, government-funded overbuilding should be avoided to the greatest extent practicable. However, because BEAD rules prohibit treating any locations subject to an enforceable federal, state, or local commitment as unserved or underserved to deploy “qualifying broadband,” the Commission can mitigate the risk of duplicative funding by requiring providers to make binding commitments to deploy BEAD-level “qualifying broadband” to 100% of locations eligible for Enhanced A-CAM funding.^{9, 10}

Third, the Commission should remove from eligibility all locations that are subject to enforceable commitments to deploy “qualifying broadband” through any other federal, state, or

⁹ See BEAD Program NOFO at p. 36 (“In identifying an Unserved Service Project or Underserved Service Project, an Eligible Entity may not treat as ‘unserved’ or ‘underserved’ any location that is already subject to an enforceable federal, state, or local commitment to deploy qualifying broadband as of the date that the challenge process described in Section **Error! Reference source not found.** of this NOFO is concluded.”).

¹⁰ Alternatively, if a commitment to deploy BEAD-level “qualifying broadband” to 100% of eligible locations within a census block is not feasible, the Commission should at least require providers receiving support to identify the specific locations within a census block that will remain unserved. The Commission should then remove those locations from Enhanced A-CAM eligibility and inform state broadband offices that those specific locations will remain unserved. This will help states and federal agencies address those locations through other programs, such as BEAD, without the risk of duplicative funding.

local program or that currently receive unsubsidized broadband at the qualifying broadband standard.¹¹ To do so, the Commission should utilize the data from its Broadband Deployment Locations Map.¹² Moreover, the Commission should work closely with state broadband offices to identify and remove from eligibility locations with state and local enforceable commitments to deploy qualifying broadband. To ensure that states and localities are aware of locations with binding Enhanced A-CAM commitments, the Commission should require recipients to report the locations of binding commitments to deploy qualifying broadband directly to state broadband offices.

In sum, the Commission can best mitigate the risk of duplicative funding by requiring Enhanced A-CAM recipients to make binding commitments to deploy qualifying broadband networks to 100% of eligible locations, by reconciling location eligibility with federal programs and existing networks, and by closely coordinating buildout obligations with state broadband offices.

III. THE COMMISSION SHOULD REQUIRE TIMELY DEPLOYMENT AND THE IMPLEMENTATION OF BASELINE CYBERSECURITY AND SUPPLY CHAIN RISK MITIGATION PLANS.

The Commission should require Enhanced A-CAM recipients to deploy networks in a timely manner. Previous A-CAM programs allowed providers 10 years to deploy to 95% of required locations. BEAD subgrantees, in contrast, are required to deploy within four years of award. Recognizing that Americans in these hard-to-reach areas cannot afford to wait another

¹¹ BEAD Program NOFO at 37, footnote 52 (explaining that “[a]n enforceable commitment for the deployment of qualifying broadband exists when the commitment to deploy qualifying broadband service to that location was made as a condition of” any of various federal, state, and territorial programs).

¹² See Infrastructure Act § 60105 (Broadband Deployment Locations Map).

decade for broadband access, NTIA urges the commission to adopt the BEAD’s four-year deployment obligation for Enhanced A-CAM purposes.¹³

NTIA appreciates the Commission’s proposal to require Enhanced A-CAM carriers to include baseline cybersecurity and supply chain risk management controls in their plans. As the Commission notes in the NPRM, the BEAD Program requires each subgrantee to certify that it has implemented a cybersecurity risk management plan based upon the latest National Institute of Standards and Technology (NIST) Framework for Improving Critical Infrastructure Cybersecurity and a supply chain risk management plan based upon key practices in NIST publication NISTIR 8276.¹⁴ Given the persistent and evolving threats our nation’s communications networks face from foreign adversaries and other malicious actors, NTIA encourages the Commission to replicate the BEAD framework by requiring each Enhanced A-CAM recipient to self-certify that it utilizes both a cybersecurity and supply chain risk management plan and that both plans are based upon or incorporate the principles described in the NIST documents. NTIA also encourages small and rural Enhanced A-CAM providers to participate in its Communications Supply Chain Risk Information Partnership (C-SCRIP), which is designed to share supply chain security risk information with trusted communications providers and suppliers.¹⁵ By requiring Enhanced A-CAM providers to utilize flexible

¹³ Aligning program timeframes will also have the added benefit of helping to eliminate gaming by providers seeking to delay deployments.

¹⁴ See BEAD Program NOFO at p. 70 (directing Eligible Entities to require subgrantees to certify the implementation of a cybersecurity and supply chain risk management based on relevant NIST documents).

¹⁵ COMMUNICATIONS SUPPLY CHAIN RISK INFORMATION PARTNERSHIP (C-SCRIP), <https://ntia.gov/cscrip> (explaining that the goal of the C-SCRIP program “is to improve small and rural communications providers’ and equipment suppliers’ access to information about risks to key elements in their supply chain” and that NTIA also shares “public security alerts, relevant training events, and grant funding opportunities from government partners with this community.”).

cybersecurity and supply chain risk management plans, the Commission can help ensure the security and longevity of publicly-funded networks.

IV. CONCLUSION

To help “Internet for All” become a reality, it is imperative that stakeholders work together and closely coordinate activities related to the wide variety of ongoing broadband-related initiatives. Subscriber and taxpayer dollars should be used in the most efficient way possible and should not ultimately undermine the goal of universal service by wastefully funding multiple deployments to the same locations. At the same time, federal funds should not be used to deploy networks that will be outdated and inadequate the moment they begin operations. Therefore, NTIA urges the Commission to align Enhanced A-CAM performance and technical requirements with those of the BEAD Program and to coordinate as outlined above to ensure the most efficient and successful outcome for our nation.

Respectfully submitted,

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