



Indiana Broadband Office  
BEAD Pre-Qualification Guidance Document  
(Version 4.0)

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## Introduction

The Broadband Equity, Access, and Deployment (BEAD) Program is a federal grant initiative overseen by the National Telecommunications and Information Administration (NTIA), that aims to expand high-speed internet access to unserved and underserved areas nationwide. Of the \$42 billion federal dollars allocated to the program, Indiana was awarded \$868 million in BEAD funds to deploy broadband expansion efforts. The Indiana Broadband Office (IBO) is responsible for facilitating all BEAD Program grant requirements and determining sub-grant award selection on behalf of the state.

Before undertaking a subgrantee selection process and awarding BEAD funds, the Indiana Broadband Office must pre-qualify all prospective applicants to ensure they meet the minimum requirements for subgrantee eligibility. Only internet service providers are eligible prospective applicants at this time. This document is meant to provide prospective applicants with a clear understanding of Indiana's BEAD Pre-Qualification process and what documentation they need to prepare. This guide outlines procedures, requirements, and necessary steps, as outlined in Indiana's [approved Initial Proposal Volume 2](#).

This guide may change with new guidance from NTIA or as the IBO receives questions from prospective applicants. Any changes made to this guide will be clearly documented in version history and communicated to prospective applicants. Further, The IBO will post all pre-qualification documentation and resources on the [Indiana Broadband website](#).

Please note that, as described in Indiana's Initial Proposal Volume 2, participating in the pre-qualification process *does not* bind any internet service provider to submit a project area proposal. However, all applicants who are considering participation or intend to submit a proposal *must* participate in pre-qualification. There will only be one pre-qualification round, so prospective applicants must participate, even if they only intend to apply for BEAD funds in later rounds of subgrantee selection.

## Version History

- Version 1.0 – Posted on July 23, 2024.
- Version 2.0 – Updated on August 13, 2024. Included updates to the Financial Capability requirements and confirmed August 26, 2024, as the pre-qualification opening date.
- Version 3.0 – Updated on September 4, 2024. Included the addition of an appendix detailing guidance on legal opinion letters.
- Version 4.0 – Updated on September 19<sup>th</sup>, 2024. Included updated language on the applicable laws and relevant documentation needed in the legal compliance section.

## Indiana BEAD Pre-Qualification Process

### *Timing*

Pre-qualification is the first step in the subgrantee selection process. The Indiana Broadband Office will open pre-qualification approximately 30 days after the initial posting of pre-qualification guidance. The IBO plans to open prequalification on August 26<sup>th</sup>.

Prospective applicants will have at least 30 days after the pre-qualification round begins to submit their materials. The IBO will announce an official closing date of pre-qualification as it receives more information from the NTIA about Indiana's submission of its Challenge Process results.

The Indiana Broadband Office will review pre-qualification applications on a rolling basis. During its review, the IBO may request revisions or additional documentation. Applicants should monitor their pre-qualification application to ensure that any requests are received and responded to in a timely manner.

The IBO will review all pre-qualification applications before the first round of subgrantee selection begins. The beginning of subgrantee selection will be dependent on NTIA's approval of Indiana Challenge Process results and will be announced at a later date.

### *Portal*

All pre-qualification processes will take place in Indiana's Ready.net portal, available at [apply.connectingindiana.com](https://apply.connectingindiana.com). While this portal was used for Indiana's Challenge Process, all users and prospective applicants will need to register again to participate in

pre-qualification. Users can utilize the same email address as used during the Challenge Process if needed.

Registration will be accessible from the “Register Now” button at [connectingindiana.com](https://connectingindiana.com) when the pre-qualification portal opens. Please only register your organization once. After an organization is registered, you can add additional users to the organization to help submit pre-qualification materials.

### *Content*

During the pre-qualification round, prospective internet service provider applicants will be required to submit materials that fulfill several requirements of Indiana’s Initial Proposal Volume 2. The pre-qualification portal includes the following sections outlined in Volume 2 (parentheses show the relevant section of Volume 2):

- EHP and BABA compliance (2.4.5)
- Financial capability (2.4.11)
- Managerial capability (2.4.12)
- Compliance with applicable law (2.4.14)
- Operational capability (2.4.15)
- Information on ownership (2.4.16)
- Information on other public funding (2.4.17)
- Labor standards and protection (2.7.1)
- Certification of compliance with low-cost service option (2.12.1)
- Certification of compliance with BEAD requirements – cybersecurity and supply chain risk management (2.16.4)

The remainder of this document details the questions and documents required for each of the above sections.

## Pre-Qualification Application Requirements

### *Organization Registration*

#### Overview

Applicants must provide administrative information during the initial registration process, including company details, primary and point of contact, Indiana bidder registration identification, and similar additional details.

#### Application Questions

1. Organization name
2. Organization website
3. Primary contact name
  - a. Primary contact number
  - b. Primary contact email
  - c. Primary contact role
4. FCC-recognized provider ID
5. IRS Employee Identification Number (EIN)
6. FCC Registration Number (FRN)
7. Indiana bidder registration number ([create a bidder profile link](#))
8. Organization address
  - a. Address line 1
  - b. Address line 2
  - c. City
  - d. State
  - e. Zip code

## *Financial Capability*

### Overview

Prospective subgrantees must meet the minimum qualifications for financial capability. Applicants must submit general financial capability information as part of the pre-qualification round and specific project financial capability information during all subsequent rounds.

### Application Questions

#### *Letter of Credit*

1. During each round of subgrantee selection, all prospective subgrantees must provide a letter of credit or, under certain circumstances, a letter guaranteeing a performance bond. During pre-qualification, all prospective subgrantees will certify that they have read and understand the letter of credit and letter of credit waiver requirements and will submit the appropriate documentation during each round of subgrantee selection.

For more information about the letter of credit and options for submission under the NTIA letter of credit waiver, please review the NTIA guidance on the matter:

[https://broadbandusa.ntia.gov/sites/default/files/2023-10/BEAD\\_LOC\\_Waiver\\_Notice\\_10.23.23.pdf](https://broadbandusa.ntia.gov/sites/default/files/2023-10/BEAD_LOC_Waiver_Notice_10.23.23.pdf).

As required by the NTIA, the IBO has also established a model letter of credit that is similar to that used during the Rural Digital Opportunity Fund (RDOF). The model letter of credit is in Appendix A of this document.

A previous version of this guidance stated that a letter of credit or performance bond letter would be uploaded during pre-qualification. Now, all letters of credit and performance bond letters will be submitted by prospective subgrantees during the actual rounds of subgrantee selection.

#### *Financial Statements*

2. All prospective subgrantees must provide financial statements from the prior fiscal year. It is preferred that prospective subgrantees submit financial statements that have been audited by an independent certified public accountant. However, prospective subgrantees may also submit unaudited financial statements and then certify that they will provide audited financial statements before November 30, 2024. Applicants will need to select and upload one of the following:
  - a. Audited financial statements from the prior fiscal year.

- b. Unaudited financial statements from the prior fiscal year.
3. If an applicant chooses to upload unaudited financial statements, then they will be asked to certify that they will provide audited financial statements to the Indiana Broadband Office before November 30, 2024.



## *Managerial Capability*

### Overview

Prospective subgrantees must submit resumes for key management personnel, organization charts listing parents, subsidiaries, and affiliates, and a narrative detailing their readiness to manage a broadband service network, along with relevant experience in similar projects.

### Application Questions

1. Applicants will be asked to upload resumes for all key management personnel and organization charts detailing all parents, subsidiaries, and affiliates of their organization.

Applicants can upload one or multiple documents to fulfill this requirement.

2. Applicants are required to submit a narrative describing their organization's readiness to manage a broadband services network.

This narrative should describe the experience and qualifications of key management for undertaking BEAD projects, experience with projects of similar size and scope, recent and upcoming organizational changes, including mergers and acquisitions, and any relevant organizational policies.

## *Compliance with Applicable Law*

### Overview

All prospective subgrantees must demonstrate their planned compliance with applicable Federal, State, and local laws. Prospective subgrantees must submit a legal opinion confirming their ability to deploy the BEAD Program in compliance with all laws, disclosing any past violations or pending court proceedings. They must identify key management personnel responsible for legal compliance. Additionally, they must certify their commitment to allowing workers to form and meet with work-led health and safety committees as needed.

### Application Questions

1. Applicants will be asked to certify their capability to carry out any BEAD Program deployments competently and in compliance with all applicable Federal, State, and local laws.

Please refer to the BEAD Notice of Funding for any questions about applicable Federal laws: <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>

2. Applicants will be asked to upload a legal opinion and any other relevant documentation that shows their capability to carry out BEAD deployment competently and in compliance with all applicable laws.

This legal opinion should include details on any past violations or pending court proceedings that contradict your ability to comply with applicable laws. The legal opinion should also identify the key management personnel (ex. Chief Compliance Officer) who will be responsible for all aspects of legal compliance. Relevant documentation that shows capability to carry out BEAD deployment competently and in compliance with all applicable laws must be uploaded (either attached to the legal opinion or separately). Applicable laws include: IIJA, BEAD NOFO, and the executive orders, statutes, and regulations referenced therein that apply to BEAD projects or BEAD funding. The relevant documentation may include, but is not limited to, any established processes or procedures that will help ensure compliance or any staff training programs aimed at safety and legal standards. Applicants can upload one or multiple documents to fulfill this requirement.

The minimum requirements of this legal opinion are detailed in Appendix B of this document.

3. Applicants will be asked to certify that they will comply with occupational safety and health requirements, including allowing workers to create work-led health and safety committees and ensuring management will meet with any health and safety committees periodically and upon reasonable request.

## Operational Capability

### Overview

Prospective subgrantees must provide information on their history of voice, broadband, and/or electric transmission or distribution services in Indiana to demonstrate their operational capability.

### Application Questions

#### *General Service Information*

1. How many years has your organization provided internet service?
2. How many consecutive years has your organization provided internet service in Indiana?
3. What is your current number of internet subscribers in Indiana?
4. Applicants will be asked to certify that the above answers are accurate.
5. Applicant will be required to select the option that most closely aligns with their organizations. Subsequent questions will differ depending on the selection.
  - a. Has provided voice or broadband service for at least two consecutive years.

If this option is selected, applicants will be asked to certify that they have filed timely Commission Forms 477s and Broadband DATA Act Submission, and have otherwise complied with the Commission's rules and regulations.

If the answer to the above certification is no, then the applicant will be prompted to upload documentation about any pending or completed enforcement action, civil litigation, or other matter in which they failed to comply or were alleged to have failed to comply.

- b. A subsidiary of a parent company that has provided voice or broadband service for at least two consecutive years.

If this option is selected, applicants will be asked to upload a document detailing the number of years their parent company has been operating and providing voice or broadband service.

- c. Has only provided electronic transmission/distribution services previously.

If this option is selected, applicants will be asked to submit qualified operating or financial reports that they have filed with the relevant financial institution for the relevant

time period, along with a certification that the submission is a true and accurate copy of the reports that were provided to the relevant financial institution.

- d. New entrant to the market with less than two years of providing voice or broadband service.

If this option is selected, applicants will be asked to upload evidence sufficient to demonstrate that the newly formed entity has obtained, through internal or external resources, sufficient operational capabilities. Such evidence may include resumes from key personnel, project descriptions and narratives from contractors, subcontractors, or other partners with relevant operational experience, or other comparable evidence.

## Information on Ownership

### Overview

Prospective subgrantees are required to provide ownership information consistent with the requirements set forth in [47 C.F.R. § 1.2112\(a\)\(1\)-\(7\)](#).

### Application Questions

1. The applicant will be prompted to provide detailed disclosure of ownership and related companies in accordance with Code of Federal Regulations Title 47 § 1.2112(a)(1)–(7).

Applicants can upload one or multiple documents to fulfill this requirement.

Per the Code of Federal Regulations Title 47 § 1.2112(a)(1)– (7), “the disclosure shall include a detailed ownership chart showcasing direct and indirect stakeholders, a list of associated FCC-regulated entities, and clear explanations of relationships between entities.” The disclosure must include:

- The real party or parties in interest in the applicant or application, including a complete disclosure of the identity and relationship of those persons or entities directly or indirectly owning or controlling (or both) the applicant;
- The name, address, and citizenship of any party holding 10 percent or more of stock in the applicant, whether voting or nonvoting, common or preferred, including the specific amount of the interest or percentage held.
- In the case of a limited partnership, the name, address, and citizenship of each limited partner whose interest in the applicant is 10 percent or greater (as calculated according to the percentage of equity paid in or the percentage of distribution of profits and losses)
- In the case of a general partnership, the name, address, and citizenship of each partner, and the share or interest participation in the partnership.
- In the case of a limited liability company, the name, address, and citizenship of each of its members whose interest in the applicant is 10 percent or greater.
- All parties holding indirect ownership interests in the applicant as determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain, that equals 10 percent or more of the applicant, except that if the ownership percentage for an interest in any link in the chain exceeds 50 percent or represents actual control, it shall be treated and reported as if it were a 100 percent interest.
- Any FCC-regulated entity or applicant for an FCC license, in which the applicant or any of the parties identified in paragraphs (a)(1) through (a)(5) of this section, owns 10 percent or more of stock, whether voting or nonvoting, common or preferred. This list must include a description of each such entity's principal

business and a description of each such entity's relationship to the applicant (e.g., Company A owns 10 percent of Company B (the applicant) and 10 percent of Company C, then Companies A and C must be listed on Company B's application, where C is an FCC licensee and/or license applicant)

## *Labor Laws and Protection*

### Overview

The Indiana Broadband Office is required to gather information on labor standards and protection as part of the subgrantee selection process and incorporate this information into project scoring. To streamline the collection of this data, the IBO is asking for overarching information about applicant labor standards and protection during the pre-qualification process rather than during each round of subgrantee selection.

Please note that the information submitted during the prequalification process for an organization will make up part of the score on all proposed projects during each round of subgrantee selection. For more information about project scoring, please refer to Indiana's Initial Proposal Volume 2.

### Application Questions

1. Applicants will be asked to submit documentation showing their organization's record of past compliance with federal labor and employment laws. This documentation must include:
  - a. Information about the entities' compliance with federal labor and employment laws on broadband deployment projects in the last three years;
  - b. A certification from an Officer/Director-level employee (or equivalent) showing evidence consistent with past compliance with federal labor and employment laws, as well as all contractors and subcontractors;
  - c. Written confirmation disclosing any instances in which you or your contractors or subcontractors have been found to have violated laws such as the Occupational Safety and Health Act, the Fair Labor Standards Act, or any other applicable labor and employment laws for the preceding three years.
2. Applicants will be asked to submit documentation detailing their plans for ensuring ongoing compliance with federal labor and employment laws, including how they will ensure compliance in their labor and employment practices, as well as that of their contractors and subcontractors. This documentation must include:
  - a. How your organization will ensure compliance across itself, contractors, and subcontractors;
  - b. Information on applicable wage scales and overtime payment practices for each class of employee expected to be involved in the physical construction of BEAD projects; and



- c. How your organization will ensure the implementation of workplace safety committees that are authorized to raise health and safety concerns in connection with the delivery of deployment projects.

For both questions, applicants can upload one or multiple documents to fulfill this requirement.

## *Public Funding Disclosure*

### Overview

Prospective subgrantees must disclose all current and planned applications and broadband deployment projects that utilize public funding sources.

### Application Questions

1. Applicants will be asked a yes/no question about whether they or their affiliates submitted or plan to submit any broadband deployment project, or are undertaking or have committed to undertake any broadband deployment projects using public funds.

Applicants should consider funds from: the Families First Coronavirus Response Act (Public Law 116- 127; 134 Stat. 178); the CARES Act (Public Law 116-136; 134 Stat. 281), the Consolidated Appropriations Act, 2021 (Public Law 116-260; 134 Stat. 1182); or the American Rescue Plan of 2021 (Public Law 117-2; 135 Stat. 4), any federal Universal Service Fund high-cost program (e.g., RDOF, CAF), or any Indiana or local universal service or broadband deployment funding program.

2. For each planned, submitted, and/or undertaken broadband deployment project using public funds, applicants must upload a description of the project, including at least the following information:
  - a. The speed and latency of the broadband service to be provided (as measured and/or reported under the applicable rules),
  - b. The geographic area to be covered,
  - c. The number of unserved and underserved locations committed to serve (or, if the commitment is to serve a percentage of locations within the specified geographic area, the relevant percentage)
  - d. The amount of public funding to be used,
  - e. The cost of service to the consumer, and (f) the matching commitment, if any, provided by you or your affiliates.

## *BABA and EHP Requirements*

### Overview

Prospective subgrantees must comply with all requirements of the [Build America Buy America Act \(BABA\)](#), as well as [Environmental and Historic Preservation](#) for all projects.

Please review the links provided for a full description of these requirements. You may also review [pages 31-32 of Indiana's Volume 2](#).

### Application Questions

#### *BABA*

1. Applicants will be asked to certify that they have read, understand, and agree to abide by the Build America, Buy America program requirements for all projects, as detailed in the IBO's guidance.

#### *EHP*

2. Applicants will be asked to certify that they have read, understand, and agree to abide by the Environmental Planning and Historic Preservation program requirements for all projects, as detailed in the IBO's guidance.

## Cybersecurity Requirements

### Overview

Prospective subgrantees must attest to compliance with the cybersecurity and supply chain risk management requirements on [pages 70-71 of the BEAD NOFO](#).

### Application Questions

1. Applicants will be asked to attest that they:
  - a. Have a cybersecurity risk management plan that is either operationalized or ready to be operationalized upon providing service;
  - b. The plan reflects the latest version of the National Institute of Standards and Technology (NIST) Framework for Improving Critical Infrastructure Cybersecurity (currently Version 1.1) and the standards and controls set forth in Executive Order 14028 and specifies the security and privacy controls being implemented;
  - c. The plan will be reevaluated and updated on a periodic basis and as events warrant; and
  - d. The plan will be submitted to the Indiana Broadband Office prior to the allocation of funds. If the subgrantee makes any substantive changes to the plan, a new version will be submitted to the IBO within 30 days.
2. Applicants will be asked to upload their cybersecurity risk management plan, if it already exists.

This question is not required. If an applicant does not have a cybersecurity risk management plan created, they will be prompted to upload the document during each round of subgrantee selection.

## *Supply Chain Risk Management*

### Overview

Prospective applicants must certify that they will comply with all supply chain risk management requirements.

### Application Questions

1. Applicants must attest that they:
  - a. Have an SCRM plan in place that is either:
    - i. Operational, if the prospective subgrantee is already providing service at the time of the grant or;
    - ii. Ready to be operationalized, if the prospective subgrantee is not yet providing service at the time of grant award;
  - b. The plan is based upon the key practices discussed in the NIST publication NISTIR 8276, Key Practices in Cyber Supply Chain Risk Management: Observations from Industry and related SCRM guidance from NIST, including NIST 800-161, Cybersecurity Supply Chain Risk Management Practices for Systems and Organizations and specifies the supply chain risk management controls being implemented;
  - c. The plan will be reevaluated and updated periodically and as events warrant; and
  - d. The plan will be submitted to the Indiana Broadband Office prior to the allocation of funds. If the subgrantee makes any substantive changes to the plan, a new version will be submitted to the IBO within 30 days. The IBO must provide a subgrantee's plan to NTIA upon NTIA's request.
2. Applicants will be asked to upload their supply chain risk management plan.

## *Low-Cost Plan Certification*

### Overview

Prospective subgrantees will be required to certify their participation in ACP, or replacement/successor program, and adherence to offering a low-cost service option by the deployment completion date.

### Application Questions

1. Applicants must attest that they:
  - a. Will participate in the Affordable Connectivity Program or any successor program, and;
  - b. In the absence of ACP or a successor program, adopt the low-cost plan adopted by Indiana in its Initial Proposal Volume 2.

*Appendix A: Indiana BEAD Model Letter of Credit*

INDIANA BEAD PROGRAM LETTER OF CREDIT

Irrevocable Standby Letter of Credit No. \_\_\_\_\_

[Name and Address of Issuing Bank]

[Date of Issuance]  
[AMOUNT]  
[EXPIRATION DATE]

**BENEFICIARY**

State of Indiana  
Attn: Indiana Broadband Office  
100 N. Senate Ave.  
Suite N-1049  
Indianapolis, IN 46204

**LETTER OF CREDIT PROVIDER**

[Formal Name of Applicant]  
[Address]

Ladies and Gentlemen:

We hereby establish, at the request and for the account of [Formal Name of Applicant], in your favor, as required under the Broadband Equity, Access, and Deployment Program (BEAD) Notice of Funding Opportunity, issued by the National Telecommunications and Information Administration (NTIA) of the U.S. Department of Commerce (DOC) on May 12, 2022, and the State of Indiana’s Initial Proposal Volume 2 approved by the NTIA, our Irrevocable Standby Letter of Credit No. \_\_\_\_\_, in the amount of [State amount of Letter of Credit in words and figures], expiring at the close of banking business at our office described in the following paragraph, on the date which is 6 years from the date of issuance or such earlier date as the Letter of Credit is terminated by the State of Indiana (the “Expiration Date”).

Funds under this Letter of Credit are available to you against your draft in the form attached hereto as Annex A, drawn on our office described below, and referring thereon to the number of this Letter of Credit, accompanied by your written and completed certificate signed by you substantially in the form of Annex B attached hereto. Such draft and certificates shall be dated the date of presentation or an earlier date, which presentation shall be made at our office located at [BANK ADDRESS] and shall be

effected either by personal delivery or delivery by a nationally recognized overnight delivery service. We hereby commit and agree to accept such presentation at such office, and if such presentation of documents appears on its face to comply with the terms and conditions of this Letter of Credit, on or prior to the Expiration Date, we will honor the same not later than the first banking day after presentation thereof in accordance with your payment instructions. Payment under this Letter of Credit shall be made by [check/wire transfer of funds] to the payee and for the account you designate, in accordance with the instructions set forth in a draft presented in connection with a draw under this Letter of Credit.

Partial drawings are not permitted under this Letter of Credit. This Letter of Credit is not transferable or assignable in whole or in part.

This Letter of Credit shall be canceled and terminated upon receipt by us of the State of Indiana's certificate purportedly signed by two authorized representatives of the State of Indiana in the form attached as Annex C.

This Letter of Credit sets forth in full the undertaking of the Issuer, and such undertaking shall not in any way be modified, amended, amplified or limited by reference to any document, instrument or agreement referred to herein, except only the certificates and the drafts referred to herein and the ISP (as defined below); and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement except for such certificates and such drafts and the ISP.

This Letter of Credit shall be subject to, governed by, and construed in accordance with, the International Standby Practices 1998, International Chamber of Commerce Publication No. 590 (the "ISP"), which is incorporated into the text of this Letter of Credit by this reference, and, to the extent not inconsistent therewith, the laws of the State of Indiana, including the Uniform Commercial Code as in effect in the Indiana. Communications with respect to this Letter of Credit shall be addressed to us at the address set forth below, specifically referring to the number of this Letter of Credit.

[NAME OF BANK]

[BANK SIGNATURE]



ANNEX A

Form of Draft

To: [Issuing Bank]  
DRAWN ON LETTER OF CREDIT No: \_\_\_\_\_  
AT SIGHT

PAY TO THE ORDER OF THE STATE OF INDIANA BY [CHECK/WIRE  
TRANSFER]

FUNDS TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Account (\_\_\_\_\_)

AS [INDIANA BEAD PROGRAM REPAYMENT]

[AMOUNT IN WORDS] DOLLARS AND NO/CENTS  
\$[AMOUNT IN NUMBERS]

State of Indiana  
By: \_\_\_\_\_  
Name:  
Title:

ANNEX B

Draw Certificate

The undersigned hereby certifies to [Name of Bank] (the "Bank"), with reference to (a) Irrevocable Standby Letter of Credit No. [Number] (the "Letter of Credit") issued by the Bank in favor of the State of Indiana ("Indiana") and (b) Section IV.D.2.a.ii of the Broadband Equity, Access, and Deployment (BEAD) Program Notice of Funding Opportunity, issued by the National Telecommunications and Information Administration (NTIA) of the U.S. Department of Commerce (DOC) on May 12, 2022, and the State of Indiana's Initial Proposal Volume 2 approved by the NTIA (the BEAD Program Requirements), pursuant to which [Name of Selected Subgrantee] (the "Provider") has provided the Letter of Credit (all capitalized terms used herein but not defined herein having the meaning stated in the BEAD Program Requirements), that:

[The [Name of Selected Subgrantee] has [describe the event that triggers the draw] and is evidenced by a letter signed by the Director of the Indiana Broadband Office or his designee, dated \_\_\_\_\_, 20\_\_\_\_, a true copy of which is attached hereto.] Accordingly, a draw of the entire amount of the Letter of Credit No. \_\_\_\_\_ is authorized.]

OR

The State of Indiana certifies that given notice of non-renewal of Letter of Credit No. \_\_\_\_\_ and failure of the account party to obtain a satisfactory replacement thereof, pursuant to the BEAD Program Requirements, the State of Indiana is entitled to receive payment of \$\_\_\_\_\_ representing the entire amount of Letter of Credit No. \_\_\_\_\_.]

IN WITNESS WHEREOF, the undersigned has executed this certificate as of [specify time of day] on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

The State of Indiana

By:

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

Title:

ANNEX C

Certificate Regarding Termination of Letter of Credit

The undersigned hereby certifies to [Name of Bank] (the “Bank”), with reference to (a) Irrevocable Standby Letter of Credit No. [Number] (the “Letter of Credit”) issued by the Bank in favor of the State of Indiana, and (b) the requirements established in the Broadband Equity, Access, and Deployment (BEAD) Program Notice of Funding Opportunity, issued by the National Telecommunications and Information Administration (NTIA) of the U.S. Department of Commerce (DOC) on May 12, 2022, and the State of Indiana’s Initial Proposal Volume 2 approved by the NTIA (the BEAD Program Requirements), (all capitalized terms used herein but not defined herein having the meaning stated or described in the BEAD Program Requirements), that:

(1) [include one of the following clauses, as applicable]

(a) The BEAD Program Requirements have been fulfilled in accordance with the provisions thereof; or

(b) [Provider/Selected Subgrantee] has provided a replacement letter of credit satisfactory to the State of Indiana.

(2) By reason of the event or circumstance described in paragraph (1) of this certificate and effective upon the receipt by the Bank of this certificate (countersigned as set forth below), the Letter of Credit is terminated.

IN WITNESS WHEREOF, the undersigned has executed this certificate as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.  
State of Indiana

By:

\_\_\_\_\_

Name:

Title:

By:

\_\_\_\_\_

Name:

Title:

## Appendix B: Guidelines for Opinion Letters from Legal Counsel

- I. Opinion Letter from legal counsel confirming applicant's compliance with all laws (Pre-Qualification Stage):
  - The letter must confirm the applicant's ability to deploy the BEAD Program in compliance with all laws (applicable Federal, State and local laws).
  - The letter must also disclose and include details of any past violations or pending court proceedings that contradict the applicant's ability to comply with applicable laws.
  - Lastly, the letter must identify the key management personnel (e.g., Chief Compliance Officer) who will be responsible for all aspects of legal compliance.
  - **The opinion letter must include the name of the licensed attorney providing the legal opinion with their attorney number below the signature line.**

See Page 10 of the Indiana Broadband Office BEAD Pre-Qualification Guidance Document.

- II. Opinion Letter from legal counsel that accompanies the letter of credit (Application Stage):
  - Letters of credit, but not performance bonds, must be accompanied by an opinion letter from legal counsel asserting that in bankruptcy proceedings the letter of credit or its proceeds will not be treated as the subgrantee's bankruptcy estate property, subject only to customary assumptions, limitations, and qualifications.
  - **The opinion letter must include the name of the licensed attorney providing the legal opinion with their attorney number below the signature line.**

See Page 5, Section 2.1.1 of NTIA's BEAD Subgrantee Qualifications Evaluation Guide; See also Page 73, Section IV.D.2.a.ii of the BEAD NOFO at <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>