

**Virginia Office of Broadband  
Broadband Equity, Access, and Deployment (BEAD) Program**

*Policy Notice for Alternative Technology Engagement*

**General Statement:** The Commonwealth of Virginia, as a BEAD program Eligible Entity, must certify in its BEAD Final Proposal to the National Telecommunications and Information Administration (NTIA), that all unserved and underserved locations included in the NTIA approved post-challenge process results are covered by a provisional subgrant award.

The following policy notice is provided to meet the Virginia Office of Broadband's (VA OoB) commitment to and the NTIA requirement of a fair, open, and competitive subgrantee selection process. This policy reinforces that adequate safeguards are in place in Virginia's approved BEAD Initial Proposal Volume 2 to protect the integrity of the competition, including safeguards against collusion, bias, conflicts of interest, arbitrary decisions, and other factors that could undermine confidence in the subgrantee selection process for last-mile broadband deployments. These commitments are provided throughout Virginia's approved BEAD Initial Proposal Volume 2.

This policy, consistent with NTIA guidance, lists the VA OoB provisions for a BEAD project application or project subgrant award, to entertain applications that propose to utilize Alternative Technologies.

This policy notice is broken down into two main sections:

1. Requirements for submitting challenge on the basis of either an enforceable commitment or provision of service by an Alternative Technology. **Please note this challenge process is for Unlicensed Fixed Wireless Internet Service Providers only.**
2. Participation of low Earth orbit satellite providers in the Virginia BEAD Program

*Summary of Requirements of Virginia by NTIA – Provided for Informational Purposes Only*

The National Telecommunications and Information Administration (NTIA) published its final [Alternative Broadband Technology Policy Notice](#) on December 19, 2024. This policy notice outlines requirements and options for states and territories to consider when engaging Alternative Technologies to provide broadband access to BEAD eligible locations. Alternative Technologies, per the NTIA definition include, but are not limited to, unlicensed fixed wireless and low Earth orbit satellite service (LEO).

**Challenge Process to Document Unlicensed Fixed Wireless Enforceable Commitments, as well as Existing Broadband Coverage via Alternative Technologies**

NTIA's Policy Notice outlines a minimum 7 + 30 day process for states and territories consider Alternative Technology Enforceable Commitments and coverage. As required by NTIA guidance, this is a 7-day notification time frame and 30 days to submit all required materials under this process. While alternative technology has a broad definition under the BEAD Notice of Funding Opportunity, this challenge process is for Unlicensed Fixed Wireless Internet Service Providers only. In order to maintain progress on developing and submitting Virginia's BEAD Final Proposal by the deadline of July 2025, this challenge process to identify Alternative Technology enforceable commitments, and

locations already served by alternative technologies will begin on February 14 upon a public announcement to BEAD stakeholders in Virginia on the VA OoB's email database. Please note that this process will begin before the remaining BEAD eligible locations are finalized in early April for a 30-day application round. This means that providers of Alternative Technology must submit challenges based on the entirety of BEAD eligible locations, which is available on the [Virginia Open Data Portal](#).

The following requirements below outline the process and procedures for providers of Alternative Technology to submit a challenge that an enforceable commitment exists for alternative technology, or if existing broadband coverage already exists via Alternative Technologies.

*If an Alternative Technology Enforceable Commitment is present:*

- i. By February 21, 2025, the Alternative Technology provider must email [broadband@dhcd.virginia.gov](mailto:broadband@dhcd.virginia.gov) that it intends to submit evidence showing that it meets the standard established in this guidance.

*If an Alternative Technology provider has internet access available:*

- i. By February 21, 2025, the Alternative Technology provider must email [broadband@dhcd.virginia.gov](mailto:broadband@dhcd.virginia.gov) that it intends to submit evidence showing that it meets the standard established in this guidance.

Submissions under both processes outlined above will not be exempt from the Freedom of Information Act (FOIA) and will be posted publicly online at [dhcd.virginia.gov/bead](http://dhcd.virginia.gov/bead).

After submitting such information by February 21, 2025, a 31-day process will be open until **March 24, 2025**. Under this process, the following information must be submitted for each scenario outlined below.

*If an Alternative Technology Enforceable Commitment is present:*

- i. The Alternative Technology provider must submit the following information by email to [broadband@dhcd.virginia.gov](mailto:broadband@dhcd.virginia.gov).
  - a. A cover letter that outlines the general description of the location of the enforceable commitment and details of the technology to be utilized to satisfy the enforceable commitment.
  - b. A signed and notarized affidavit affirming the challenge and attached information is true.
  - c. The speed and latency requirements of the enforceable commitment
  - d. A point shapefile or .csv of locations and polygon shapefiles identifying all homes, businesses, and other locations within the enforceable commitment, as well as the boundary of such commitment.
  - e. The status of deployment under the enforceable commitment, including the start date, performance milestones, and deadline of the enforceable commitment.
  - f. To demonstrate the Alternative Technology provider is capable of delivering the performance requirements of the enforceable commitment, the following information must be submitted.
    - i. Verified speed tests at times of peak network usage across a challenger's service area that mimics the geography and topography of the challenged area. Please see Appendix C of the [FY2024 Virginia Telecommunication Initiative Guidelines](#) for additional guidance on the number of speed tests

required and acceptable practices for conducting speed tests. *Please note that the number of speed tests required will be based on the number of locations included in the enforceable commitment.*

*If an Alternative Technology provider has internet access available:*

- i. The Alternative Technology provider must submit the following information by email to [broadband@dhcd.virginia.gov](mailto:broadband@dhcd.virginia.gov)
  - a. A cover letter that outlines the alternative technology that is utilized to provide broadband access to BEAD eligible locations
  - b. A signed and notarized affidavit affirming the challenge and attached information is true.
  - c. Minimum/maximum speeds available in the challenged area
  - d. Street level data of customers receiving service within the challenged area
  - e. A point shapefile or .csv of locations that identifies all BEAD eligible locations that the alternative technology provider provides broadband access to, which includes the broadband speeds available at each location via the alternative technology
  - f. Heat maps indicating received signal strength indicator (RSSI) in the challenged area, accounting for terrain and peak vegetation (Note: These files must be provided in .zip file form).
  - g. Challengers are required to submit verified speed tests at times of peak network usage on all or portion(s) of the challenged area. Please see Appendix C of the [FY2024 Virginia Telecommunication Initiative Guidelines](#) for additional guidance on the number of speed tests required and acceptable practices for conducting speed tests.
  - h. The Alternative Technology provider must show that it is reasonably capable of delivering such service to some or all of these locations for at least four years after the date of Virginia's Final Proposal submission (anticipated July 2025).

Regarding the two submission criteria above, Alternative Technology providers claiming that enforceable commitments for alternative technologies are present may request FOIA Exemption for sub item f. Alternative Technology providers claiming that broadband access is available may request FOIA exemption for sub items f, g, and h.

Concurrent to this 31-day process, other interested parties and organizations may submit rebuttals to the challenges submitted by Alternative Technology providers. While there are no specific requirements for rebuttals, the VA OoB encourages organizations that submit rebuttals to consider including customer speed tests, attestations, and other relevant information to document that the Alternative Technology provider may not meet the requirements of providing broadband access to locations in the rebutter's areas of interest.

Following review of evidence submitted under this process, the VA OoB will issue a determination if the Alternative Technology challenge is credible. If a challenge is deemed as credible, locations where no bids for providing Reliable Broadband Service were received below the Extremely High Cost Per Location Threshold will be ineligible for BEAD subawards in Virginia's BEAD application process on the basis of this credible challenge<sup>1</sup>.

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<sup>1</sup> See Paragraph 1 of Section 3 of [NTIA's Alternative Technology Guidance](#)

Please note that if a challenge is not deemed credible by the Va OoB, the Alternative Technology providers may still apply to serve the eligible locations in Virginia's BEAD application process and are not disqualified from participating. However, in order to participate, the Alternative Technology provider must have submitted a BEAD Letter of Intent in accordance with the process outlined in Virginia's BEAD Volume 2 as approved by NTIA. Alternative Technology providers with pending challenges may participate and submit proposals to serve locations even if they are subject to a pending challenge determination.

### LEO Capacity Subgrant Section

On January 2, 2025 the NTIA published the [BEAD Alternative Broadband Technology Policy Notice](#), which elaborates on the requirements in the [BEAD NOFO](#). The Policy Notice outlines the steps that the Virginia Office of Broadband (OOB) must follow when deciding whether to award BEAD subgrants for Alternative Technology broadband deployment projects. Below are the key provisions on how the VA OOB will utilize its allowable flexibility to invite LEO applicants to participate in the Commonwealth's BEAD process.

- Recipients of LEO Capacity subgrants must begin providing broadband service to each location that desires broadband service no later than four years from the date of the subgrant
  - "Providing service" begins after the recipient certifies to the VA OOB that the recipient can initiate broadband service within 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
- Recipients agree to a 10 Year Period of Performance, which starts when the subgrantee certifies to the VA OoB that broadband is available to every location in the project.
  - Recipients must continue to offer access to broadband service to each BSL served by the project throughout the period of performance, even if the subscriber at the location changes
- Prospective subgrantees seeking a LEO Capacity Subgrant should submit their estimated cost for reserving capacity in the project area to the VA OOB to inform their analysis of cost reasonability
  - Recipients' cost estimates should include any needed subsidy for the subscriber premises equipment to comply with low-cost broadband service requirements
  - Recipients should ensure that any other initial non-recurring charges at the location are comparable to those of terrestrial technologies
  - May include capitalized subsidy offered to the subscribers of network to offer competitively priced services over the 10-year period of performance
- The Va OoB will be reimbursing LEO subgrantees based on where capacity is reserved.
  - 50% of funding will be advanced when service is reserved for each location
  - The remaining 50% of funding will be distributed in equal installments over the

subsequent 4 years<sup>2</sup>. These installments will be made on a quarterly basis.

- Example: If a LEO's award under BEAD statewide is \$10,000,000, then \$5,000,000 will be remitted when service is available to each location that desires broadband service. The number of whole quarters remaining in the 48-month period following the date of the subgrant will determine the size of each installment. If there are 10 whole quarters remaining in the 48-month period following the date of the subgrant, then the size of each quarterly remittance will be \$500,000.
- These quarterly remittances will be remitted at the end of each quarter following submission of a quarterly report, the content of which will be prescribed in the subgrantee agreement.
- This quarterly report requirement will continue for 10 years from the date upon which the LEO subgrantee certifies to the Va OoB that broadband is available to every location covered by the project, as this is the period of performance required by NTIA for LEO subgrants.
- The Letter of Credit requirement will be administered to incentivize providers to reach out to potential subscribers to encourage adoption
  - Consistent with this reimbursement model, the LEO provider may reduce its Letter of Credit or performance bond by 50% at the point of certification that service is available to each location in the project area
  - The Letter of Credit can be reduced by an additional 25% of the original amount after the subscription rate reaches at least 25% of all locations in the project area and may be closed out once the subscription rate reaches 50%
  - Regardless of the subscription rate, the Letter of Credit may be terminated four years after the LEO Capacity Subgrantee certifies that it can initiate broadband service within 10 business days of a request to any covered BSL in the project area.

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<sup>2</sup> Note, NTIA guidance establishes that this Period of Performance as 10 years for LEO subgrants. For consistency with other subawards, the Va OoB proposes to align the LEO subaward payments within the 4-year period of performance timeframe of other subawards. LEO subgrants will be managed over a 10-year period of performance as required in NTIA guidance. The Virginia Office of Broadband will adjust this approach to guidance if not approved by NTIA.