

Virginia Office of Broadband

Broadband Equity, Access, and Deployment (BEAD) Program

Policy Notice on Va OoB's Process of Considering and Granting Performance Based Sub-Awards

General Statement: The following policy notice is provided to meet the Virginia Office of Broadband's (VA OoB) commitment to and the National Telecommunications and Information Administration's (NTIA) requirement of a fair, open, equitable, and competitive subgrantee selection process. This policy reinforces the 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.

Availability of Fixed Amount Sub-Awards

The Commonwealth of Virginia's approved BEAD Initial Proposal Volume 2 includes the following language.

Grant funds will be available to subgrantees after the effective date of the contract and can be requested by submitting a remittance request. Remittance requests must be submitted for reimbursable expenses. Subgrantees will submit remittance requests and match documentation. The last 10% of the grant award (not 10% from every granted remittance request) shall be retained until all contract obligations have been met. The subgrantee must complete and submit a Cost Performance Index (CPI) form with every remittance. The Office of Broadband reserves the right to deny any remittance requests or request further explanation from projects with a CPI value of less than .9. Alternatively, the Office of Broadband will consider subgrantee requests receive remittances of BEAD funding based on performance of contract milestones.

This Policy Notice is being provided to elaborate on the last sentence of this excerpt. The sections below outline the conditions a subgrantee must meet in order to be granted a performance based sub-award agreement, meaning a Fixed Amount Sub-Award. These terms are used interchangeably in this document.

Description of a Fixed Amount Sub-Award

A fixed amount subaward is a type of subgrant agreement where payments are based on meeting specific requirements of the federal award (e.g., performance and results), rather than actual costs incurred. This type of award reduces some of the administrative burden for the recipient (Va OoB) and subrecipient (ISPs).

The Va OoB currently manages Virginia Telecommunication Initiative Subawards on a cost-reimbursable basis, under which subgrantees submit remittance requests with required documentation. The Va OoB, through the Commonwealth of Virginia's process, issues reimbursement for accepted requests proportional to the amount of state/match funding committed to the project. This process requires documentation and submission of project expenditures for each remittance request, as well as full documentation during the interim and final financial compliance review. The Va OoB also utilizes a Cost

Performance Index (CPI) equation along with a milestone timeline to ensure project progress is appropriate with the remittance request submitted for consideration.

Conditions To Be Met to Access Performance Based Sub-Award Agreements

The Va OoB recognizes the administrative efficiency of Fixed Amount Sub-Award Agreements, but also acknowledges the enhanced risk of ensuring project expenditures meet federal eligibility requirements under BEAD.

In order for a subgrantee to be considered for a Performance Based, Fixed Amount Sub-Award Agreement, the following conditions must be met. A provisionally selected subrecipient must request to enter such agreement in writing via email to broadband@dhcd.virginia.gov after Virginia's Final Proposal approval under BEAD and within 1 month of the pre-contract meeting scheduled by the Office of Broadband.

To be eligible for this type of sub-award agreement, the subgrantee has a demonstrated record of compliance with other broadband expansion programs or can sufficiently demonstrate to the Va OoB financial, operational, managerial, and technical capability to take on a performance based fixed amount sub-award.

The Va OoB will consider requests submitted for performance based, fixed amount sub-awards on a case-by-case basis for subgrantees and make such decision in its own discretion.

Conditions To Be Met if a Performance Based Sub-Award Agreement is Granted

If a subgrantee is approved for a Performance Based Sub-Award Agreement for implementation of a BEAD subaward, the following compliance mechanisms and process components will be complied.

- The subgrantee must maintain internal documentation of project-based expenditures for random inspection from time-to-time by the Va OoB during project implementation.
 - In the event that internal documentation does not meet the standards required by the Va OoB under the BEAD Program, this determination will be issued by the Va OoB in its sole discretion to the subgrantee and additional spot checks may be required. The primary criterion in such review is to ensure that expenses are eligible under the rules of the BEAD program, and that costs are related to the project. In extreme circumstances of documented non-compliance or reporting inaccuracies, the Va OoB reserves the right to require full documentation of expenses be submitted with each remittance request.
- In the pre-contract phase, the subgrantee must submit a performance-based milestone timeline, which includes a remittance schedule and remittance amount associated with each milestone, for the Va OoB's consideration. The Va OoB will consider these documents and outline required edits to ensure remittance schedules are appropriate with actual project progress and delivery. The Va OoB will provide an example of this upon request in the pre-contract phase.
- The subgrantee, with each according remittance request, must submit documentation as required by the Va OoB to document completion of the scheduled activity aligning with the remittance request.
 - These requirements will be outlined in the subgrantee agreement.
 - These remittance requests must be scheduled no more than 6 months apart per the remittance schedule.

- Each remittance request aligning with a scheduled activity must include a summary of project expenditures to date by category. This information must be provided in a form provided by the Office of Broadband and certified by a 3rd party engineer and Chief Financial Officer, or equivalent, in an organization.
- The Va OoB reserves the right to request partial or full documentation of expenditures, as well as partial or full proof of vendor payment, at any time during consideration of a remittance.
- The Va OoB reserves the right to apply additional requirements based on the demonstrated technical, managerial, operational, and financial capability of a subgrantee.