

Virginia Office of Broadband (OOB)

Broadband Equity, Access, and Deployment (BEAD) Program

Policy Notice on OOB's Process of Identification and De-Obligation of Non-Broadband Serviceable Locations

General Statement: This policy notice is provided to fulfill the Virginia Office of Broadband's commitment to and the National Telecommunications and Information Administration's (NTIA) requirement for a fair, open, equitable, and competitive subgrantee selection process. This policy reinforces the safeguards identified in Virginia's approved BEAD Initial Proposal Volume 2 to protect the integrity of the competition, including measures 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.

Identification of Mischaracterized Broadband Serviceable Locations (BSLs)

Requirements of Virginia by NTIA – Provided for Informational Purposes Only

The Commonwealth of Virginia, in its BEAD Final Proposal submission to NTIA, must certify that all unserved and underserved Broadband Serviceable Locations (BSL or location) included in the approved post-challenge process results are covered by a provisional award. The Commonwealth of Virginia may de-obligate a location from this requirement by giving context/documentation that a (BSL or location) does not need service for **Mischaracterized Unserved and Underserved Locations** or **No Demand for Service**. Examples of locations being mischaracterized as BSLs include non-residential locations like haybales or ponds, and examples of locations that lack demand could be properties where the owner refuses broadband deployment due to religious beliefs or other valid reasons.

For a mischaracterized BSL, as the Eligible Entity the OOB is **required** to file a location challenge with the FCC and submit documentation with the Final Proposal submission to show that the unserved or underserved location is not a BSL. Documentation may include:

- declarations by local or tribal governments within whose jurisdiction the location is located,
- photographic evidence geocoded to identify that a specific location ID should not be a BSL,
- other evidence filed with the FCC to challenge the status of a location as a BSL.

For BSL's that have No Demand for Service, as the Eligible Entities, the OOB can certify coverage if they document acceptable evidence indicating no demand for broadband service at the location. This may include:

- certifications from service providers about access refusal,
- declarations from property owners, or government entities prohibiting construction of communication facilities.

All declarations or evidence of Mischaracterized Unserved and Underserved Locations or No Demand for Service must accompany the Final Proposal to NTIA and be dated no earlier than twelve months before the Final Proposal Submission Date.

Requirements of BEAD Applicants in the Commonwealth of Virginia during the Subgrantee Selection Process

Based on Virginia's requirements from NTIA, the OOB provides the following guidance for identifying **Mischaracterized Unserved and Underserved Locations** or **No Demand for Service**.

In the supplemental attachment fields of the Centralized Application Management System (CAMS), BEAD applicants seeking de-obligation from providing broadband access must submit two attachments:

1. **Location ID List and Justification:**
 - a. Include a list of Location ID numbers for each mischaracterized unserved or underserved location, and/or locations with no demand for service.
 - b. Provide a brief narrative for each Location ID, justifying the de-obligation request.
2. **Supporting Evidence:**
 - a. Attach evidence supporting the de-obligation, consistent with the allowed evidence outlined for the Commonwealth of Virginia's submission to NTIA in its BEAD Final Proposal.
 - b. Label supporting evidence with the corresponding Location ID number.

The Commonwealth of Virginia reserves the right to request applicants and provisional awardees to reformat these attachments to meet NTIA submission requirements.

The Office of Broadband will consider Supplemental Location ID and Supporting Evidence attachments only if the applicant was provisionally awarded under the BEAD subgrantee selection process. The Office of Broadband will review these locations submitted by the provisional awardee within the ZCTA or at locations where the applicant was provisionally awarded. If the submitted locations meet these criteria and pass the OOB's review, the locations and corresponding evidence will be included in Virginia's BEAD Final Proposal.

Due to the processing requirements of the BEAD subgrantee selection process, the OOB will not change the denominator used to evaluate applicants proposing to provide broadband access to 95% of BEAD eligible locations within each ZCTA, based on the proposed de-obligated locations. For example, if there are 100 BEAD eligible locations in a ZCTA, the applicant must propose to serve, at minimum, 95 of those locations in their application, regardless of any proposed de-obligations from service access requirements.

Requirements of BEAD Subgrantees in the Commonwealth of Virginia during Project Implementation/Construction

The OOB acknowledges that Non-BSLs, including Mischaracterized Unserved and Underserved Locations or No Demand for Service locations, are likely to be identified during deployment by subgrantees. The OOB will continue to communicate NTIA's requirements and provide guidance to subgrantees upon release by NTIA. The OOB encourages subgrantees to document these locations during the construction phase to be prepared to petition NTIA for de-obligation of such locations, with assistance from the OOB.