

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Broadband Development and Connectivity**

Granting Unserved Municipalities
Broadband Opportunities 2.0 (GUMBO 2.0)
(LAC 4:XXI.Chapters 11-17)

The Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity has adopted LAC 4:XXI.Chapters 11-17 as authorized by R.S. 51:2370.21-2370.33, relative to the administration of the Granting Unserved Municipalities Broadband Opportunities 2.0 (GUMBO 2.0) grant program by the Office of Broadband Development and Connectivity.

The proposed GUMBO 2.0 program carries on the mission of the original GUMBO program but does so with new criteria as a result of a new federal funding source from Infrastructure Investment and Jobs Act (P.L. 117-58). This federal funding is from the U.S. Department of Commerce and administered by National Telecommunications and Information Administration (NTIA). As a result, this is a new rule for a new grant program.

According to the Federal Communications Commission, over 10 percent of Louisianans do not have access to broadband through ADSL, cable, fiber, or fixed wireless. In our rural communities, the number of these unserved residents rises to nearly 33 percent. Tragically, a third of rural Louisianans are without access to high-speed broadband, threatening their health, limiting their educational opportunities, and constraining their economic competitiveness in the digital world.

Failure to connect the unconnected, and any further delay in constructing broadband infrastructure to serve those residents without it, would continue the substantial risk of hardship currently faced by hundreds of thousands of residents throughout the state. Therefore, the Louisiana Office of Broadband Development and Connectivity shall provide grants to private providers of broadband services to facilitate the deployment of broadband service to unserved areas of the state, defined as areas without deployed internet access service providing transmission speeds of at least 100 Mbps download and 20 Mbps upload (100:20 Mbps) through wireline or fixed wireless. The GUMBO 2.0 grant program shall utilize the federal Broadband, Equity, Access, and Deployment program from P.L. 117-58 to fund eligible projects through a competitive grant application process. This Rule is promulgated in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and is hereby adopted on the day of promulgation.

The Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity has proposed LAC 4:XXI.Chapters 11-17 as authorized by R.S. 51:2370.21-2370.33, relative to the administration of the Granting Unserved Municipalities Broadband Opportunities 2.0 (GUMBO 2.0) grant program by the Office of Broadband Development and Connectivity. The Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity proposes this Rule to align the administrative Rule with the current State Plan approved by NTIA.

To view the approved state plan in its entirety, also known as the Initial Proposal, please visit <https://connect.la.gov/resources/>.

- For more detail on the below Chapter 11. Challenge Process, see the Initial Proposal Volume 1.
- For more detail on the below Chapter 13. Deployment Subgrantee Selection, see the Initial Proposal Volume 2: Section 2.4. Deployment Subgrantee Selection.
- For more detail on the below Chapter 15. Non-Deployment Subgrantee Selection, see the Initial Proposal Volume 2: Section 2.5. Non-Deployment Subgrantee Selection.
- For more detail on the below Chapter 17. Low-Cost Broadband Service Option, see the Initial Proposal Volume 2: Section 2.12. Low-Cost Broadband Service Option.

Title 4

ADMINISTRATION

Part XXI. Granting Unserved Municipalities

Broadband Opportunities

Subpart B. Granting Unserved Municipalities

Broadband Opportunities (GUMBO)

Chapter 1. Program Summary

§103. Definitions

BEAD—the Broadband Equity, Access, and Deployment Program, as administered by the National Telecommunications and Information Administration.

CRN—Sub Project Areas with Critical Resiliency Needs.

Economically Disadvantaged Areas—socially disadvantaged areas whose ability to participate in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to other areas who are not socially disadvantaged.

EHCT—extremely high-cost threshold.

Eligible Community Anchor Institutions—a community anchor institution that lacks access to Gigabit-level broadband service.

Eligible Locations—locations eligible for BEAD funding.

Fabric—Federal Communications Commission mapping fabric.

FTTH—Fiber to the Home.

GUMBO 2.0—Granting Unserved Municipalities Broadband Opportunities 2.0.

Limited Waiver—Build America Buy America limited waiver.

NOFO—notice of funding opportunity.

Priority Projects—Deployment projects that must be prioritized before non-deployment initiatives.

Reliable Service—broadband service that the Broadband DATA Maps show is accessible to a location via: fiber-optic technology, cable modem/ hybrid fiber-coaxial technology, digital subscriber line technology, or terrestrial fixed

wireless technology utilizing entirely licensed spectrum or using a hybrid of licensed and unlicensed spectrum.

Resolution of Consent—Support and permission from a federally-recognized tribe to build on their land.

SPA—sub-project area.

Speed of Network—advertised and actual Internet speed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370.21-2370.33.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 48:1504 (June 2022), amended LR 50:

Subpart B. Granting Unserved Municipalities Broadband Opportunities 2.0 (GUMBO 2.0)

Chapter 11. Challenge Process

§1101. Fair, Expeditious, and Evidenced-Based Challenge Process

A. Permissible Challenges. The office only allows challenges on the following grounds:

1. the identification of eligible community anchor institutions;
2. community anchor institution BEAD eligibility determinations.;
3. BEAD eligibility determinations for existing broadband serviceable locations (BSLs);
4. enforceable commitments; or
5. planned service;

B. Permissible Challengers. During the BEAD challenge process, the office only allows challenges from nonprofit organizations, units of local and tribal governments, and broadband service providers.

C. Challenge Process Overview. The challenge process conducted by the office includes four phases, spanning up to 90 days. Implementation efforts around the challenge process are supported through capable state contractor and support teams that provide GIS capabilities, data analytics and technical audit skills. Decisions will ultimately be made by the Executive Director and staff. The state of Louisiana uses the challenge process as described below:

1. Publication of Eligible Locations: Prior to beginning the challenge phase, the office shall publish the set of locations eligible for BEAD funding. The office shall also publish locations considered served, as they may be challenged.

2. Challenge Phase: During the challenge phase, the challenger submits the challenge through the office challenge portal. The office notifies the provider of the challenge through an automated email. After this stage, the location enters the “challenged” state.

a. Minimum Level of Evidence Sufficient to Establish a Challenge: The office verifies the address provided is a BSL.

b. Timeline: Challengers have 30 calendar days to submit a challenge from the time the initial list of unserved and underserved locations, community anchor institutions, and existing enforceable commitments are posted.

3. Rebuttal Phase: Only the challenged service provider may rebut the reclassification of a location or area with evidence, causing the location or locations to enter the “disputed” state. If a challenge that meets the minimum level of evidence is not rebutted, the challenge is sustained. A provider may also agree with the challenge and thus

transition the location to the “sustained” state. Providers must regularly check the challenge portal notification method (e.g., email) for notifications of submitted challenges.

a. Timeline: Providers have 30 calendar days from notification of a challenge to provide rebuttal information to the office.

4. Final Determination Phase: During the Final Determination phase, the office makes the final determination of the classification of the location, either declaring the challenge “sustained” or “rejected.”

a. Timeline: Following intake of challenge rebuttals, the office makes a final challenge determination within 30 calendar days of the termination of the challenge rebuttal. Reviews occur on a rolling basis, as challenges and rebuttals are received.

D. Evidence and Review Approach. The office ensures that the review of all applicable challenge and rebuttal information is completed in detail without bias, before deciding to sustain or reject a challenge. The office documents the standards of review to be applied and requires reviewers to document their justification for each determination. The office also requires that all reviewers submit affidavits to ensure that there is no conflict of interest in making challenge determinations.

E. Challenge Types

Code	Challenge Type	Description
A	Availability	The broadband service identified is not offered at the location, including a unit of a multiple dwelling unit (MDU).
L	Data cap	The round-trip latency of the broadband service exceeds 100 ms.
D	Technology	The only service plans marketed to consumers impose an unreasonable capacity allowance (“data cap”) on the consumer.
T	Business service only	The technology indicated for this location is incorrect.
B	Enforceable Commitment	The location is residential, but the service offered is marketed or available only to businesses.
E	Planned service	The challenger has knowledge that broadband will be deployed at this location by the date established in the deployment obligation.
P	Not part of enforceable commitment.	The challenger has knowledge that broadband will be deployed at this location by June 30, 2024, without an enforceable commitment or a provider is building out broadband offering performance beyond the requirements of an enforceable commitment.
N	Location is a CAI	This location is in an area that is subject to an enforceable commitment to less than 100 percent of locations and the location is not covered by that commitment. (See BEAD NOFO at 36, n. 52.)
C	Location is not a CAI	The location should be classified as a CAI.
R		The location is currently labeled as a CAI but is a residence, a non-CAI business, or is no longer in operation.

F. Area and MDU Challenge

1. The office administers area and MDU challenges for challenge types A, L, D, and T. An area challenge reverses the burden of proof for availability, latency, data caps and technology if a defined number of challenges for a particular category, across all challengers, have been submitted for a provider. The provider receiving an area challenge or MDU must demonstrate that they are indeed meeting the availability, latency, data cap and technology

requirement, respectively, for all (served) locations within the area or all units within an MDU.

a. An area challenge is triggered if six or more broadband serviceable locations using a particular technology and a single provider within a census block group are challenged.

b. An MDU challenge requires challenges by at least three units or 10 percent of the unit count listed in the Fabric within the same broadband serviceable location, whichever is larger.

2. Each type of challenge and each technology and provider is considered separately. If a provider offers multiple technologies, each is treated separately.

3. Area challenges for availability need to be rebutted with evidence that service is available for all BSL within the census block group. For fixed wireless service, the challenge system offers representative random, sample of the area in contention, but no fewer than 10, where the provider has to demonstrate service availability and speed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370.21-2370.33.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 50:

Chapter 13. Deployment Subgrantee Selection

§1301. Plan for Fair, Open, and Competitive Process

A. Eligible locations in the state are organized by the office into a set of pre-defined areas, or “sub-project areas.” Prospective subgrantees will define their proposed overall deployment projects, but such proposals must be submitted in the form of sets of SPAs. By including an SPA in an application, the provider commits to reach all included eligible locations.

B. Qualified prospective subgrantees may submit a Round 1 application, after SPAs are determined by the office.

1. A Round 1 application must include:

- a. the list of SPAs included in the application;
- b. the amount of BEAD funds requested;
- c. the proposed technology type for the project; and
- d. additional primary and secondary scoring

application elements including plans for affordability, fair labor practices, deployment timeline, speed of network, and any other supporting information required by NTIA.

2. Round 1 applications will be analyzed to identify any overlap between applications, with a limited number of selections made according to a prioritization approach. Any such selections will be subject to review and confirmation by the office that the applicant has the requisite operational, managerial, and financial capability to fulfill the subgrant in the specific SPAs included. Any other Round 1 applications that overlap with a Round 1 award will be deemed denied, but the applicant will be permitted to resubmit any non-overlapping SPAs as a new application in Round 2.

C. In Round 2, all remaining unawarded Round 1 applications will automatically be pulled forward and may not be withdrawn. Round 1 applications may be simply left as-is for Round 2, or the applicant may make certain changes including adding new SPAs to the application and/or changing the amount of requested BEAD funding. Any Round 1 applicant may also propose new Round 2 applications exclusively comprising SPAs that did not receive any applications in Round 1.

1. Round 2 applications then will be selected for funding as follows. First, all FTTH applications will be scored using the scoring rubric described below, with de-confliction of overlapping FTTH applications resolved.

2. Next, all non-FTTH applications available for SPAs not already selected for FTTH proposals will be scored and de-conflicted in the same fashion.

3. Prior to finalizing all the Round 1 and Round 2 selections, the office will review the overall set of awards that could be made based on these steps to assess whether 100 percent of unserved locations would be served by either priority or reliable service within the available BEAD allocation budget for the state.

a. If this assessment indicates that the level of service that would be provided to BEAD-eligible locations could be improved, the office will apply the extremely high location threshold (EHCT).

4. The office will conduct a final review of selected proposals to confirm that the total set of awards to each prospective subgrantee is consistent with the financial, operational and managerial capabilities submitted in the pre-qualification process, confidentially engaging with specific providers if needed to confirm or clarify any identified issues, and reserving the ability if necessary to select an alternative proposal if any concerns about the ability of the provider to deliver on all awards remain. The office will publicly announce all awards selected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370.21-2370.33.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 50:

§1303. Prioritization and Scoring Process

A. In Round 1, prospective subgrantees must specify the amount of requested BEAD funding for each application, expressed as a percentage of the total reference amount for all SPAs included in the application.

B. Prospective subgrantees also must submit scoreable application elements for affordability, fair labor practices, speed to deployment, inclusion of economically challenged or critical resilience SPAs, and network technical capabilities.

C.1. After Round 1 submissions, two categories of applications will be awarded:

a. FTTH applications that do not overlap with any other application of any technology type, and that request funding no greater than the reference funding levels for all included SPAs; or

b. FTTH applications that achieve a decisively higher score at least 100 points better than any overlapping application of any technology type (informally referred to below as “decisively higher score” applications).

2. Round 1 applications that overlap with awards made in either of these categories will be deemed withdrawn, although applicants will be permitted to re-submit any non-overlapping SPAs in Round 2.

D. Unawarded Round 1 applications will be automatically moved forward to Round 2 and may not be withdrawn. Prospective subgrantees in Round 2 then have the option to either let Round 1 applications stand as-is, or to make modifications as follows:

1. The addition of SPAs not already awarded in Round 1, subject to the limit that a given SPA may not be included

in more than two active applications from the same prospective subgrantee; and/or

2. A change to the requested subsidy amount (an increase no greater than the reference amount of funding available in any new SPAs added to an application in Round 2, or a decrease if not). Prospective subgrantees may not remove SPAs from any Round 1 application that is automatically carried forward to Round 2.

E. As in Round 1, new Round 2 applications may be made up of any combination of SPAs, subject to the constraint that such new Round 2 applications may comprise only SPAs that did not receive a Round 1 application. (Note that any unawarded SPA, whether it received any Round 1 interest, always also may be added to an existing Round 1 application.) Otherwise, such new Round 2 applications must follow the same approach as Round 1 applications.

F. After receiving all Round 2 submissions, the office will first rank all FTTH applications from highest to lowest score. By definition, Round 2 applications will not overlap with any previously awarded SPAs; therefore the highest scored Round 2 FTTH application will be provisionally awarded for all included SPAs at the total requested overall funding level. The office will then review each next-highest ranked FTTH application in order, applying the provisional selection and de-confliction rules between any overlapping FTTH applications.

G. After all available FTTH applications are resolved using this process, all non-FTTH applications will similarly be ranked from highest to lowest score, with reliable service (cable/HFC and licensed fixed wireless) applications being placed ahead of other terrestrial (unlicensed fixed wireless) applications. In addition, the secondary scoring criterion of speed of network will create an additional score-based prioritization as between non-FTTH applications.

H. Only after all priority projects have been either awarded in full, partially awarded based on deconfliction procedures or discarded due to overlap with a higher-scored priority project, will non-priority projects be evaluated. Overlapping non-FTTH applications will be selected and de-conflicted with each other using the same procedure.

I. Criteria and Maximum Points Available

Primary Criteria	Max points available	601
Number of Eligible Locations Included Within a Parish	35	Additional points for applications covering greater numbers of eligible locations within a given parish
Speed of Network	25	25 points for FTTH projects; non-FTTH scoring based on performance levels and scalability of non-FTTH networks

1. Primary Criteria—Minimal Bead Outlay

a. Each application in each of Round 1 and Round 2, will be scored based on the amount of requested BEAD funding as follows:

i. For applications requesting no more than the amount of reference funding set for the applicable round for all included SPA(s)

(a). Score = 300- [percent of reference funding requested, rounded to the nearest whole integer value].

ii. Applicants are permitted to request up to 200 percent of the reference amount. For applications requesting more than the amount of reference funding for all included SPA(s):

(a). Score = 100- [percent of reference funding requested – 100, rounded to the nearest whole integer value].

(b). The application system will not accept funding requests greater than 200 percent of the reference funding.

(c). The maximum score for any application requesting more than the reference funding will be 100.

b. Maximum awardable points: 300

2. Primary Criteria—Affordability

a. Following Louisiana statutory requirements. GUMBO 2.0 does not require subgrantees to offer any particular rate for any particular tier of service, although existing Louisiana law does impose certain requirements on existing in-state providers as described below. Instead, this federally mandated scoring category offers applicants the opportunity to obtain additional points via voluntary affordability commitments of their choosing, with scoring defined as follows:

i. This affordability scoring approach follows the provision of Louisiana law requiring that “[a] grant recipient that has offered broadband service to at least one thousand consumers for a period of at least five consecutive years shall offer broadband service at prices consistent with offers to consumers in other areas of the state.” This statutory Louisiana requirement shall be implemented as a subgrant condition, for a duration of time as required by final NTIA guidance, for any subgrant recipient meeting that definition, with “prices consistent with offers to consumers in other areas of the state” scored as an affordability commitment using the methodology below.

b. Affordability score for FTTH projects: 200 points. Following Louisiana law, and applying the mandatory federal requirement in the BEAD NOFO that a primary scoring criterion must be “[t]he prospective subgrantee’s commitment to provide the most affordable total price to the customer for 1 Gbps/1 Gbps service in the project area,” a base score of 200 points in this category will be awarded as follows.

i. Compliance with Louisiana law on Affordability, if applicable to the prospective subgrantee. Any

Primary Criteria	Max points available	601
Minimal BEAD Outlay	300	Based on percent of reference funding level requested for a total project area
Affordability	200	Based on the applicant’s commitment to support affordability in BEAD areas consistent with other areas of the state
Fair Labor Practices	101	Score based on compliance record
Secondary and Additional Criteria	Max points available	197
Speed to Deployment	12	Points for enforceable deployment plans faster than 48 months
Economically Disadvantaged Areas	25	Additional points for including economically challenged SPAs
Infrastructure Resiliency Commitments	100	Additional points for buried fiber and for commitments to designated SPAs lacking mobile broadband resiliency infrastructure

applicant that has offered broadband service to at least one thousand consumers for a period of at least five consecutive years that includes a commitment to provide 1 Gbps/1Gbps service in its proposed BEAD subgrant area at a price no higher than its offer to consumers for 1 Gbps/1 Gbps service in other areas of the state will receive a score of 200 points.

ii. Alternate Method of Achieving a Full Baseline Score. An applicant that has not offered broadband service to at least one thousand customers for a period of at least five consecutive years, or an applicant that does not otherwise offer 1 Gbps/1Gbps service, that includes a commitment to provide 1 Gbps/1Gbps service to all included locations in its application at a price no higher than the median price for all 1Gbps/1Gbps service offerings reported in the most recent year’s FCC Urban Rate Survey will receive a base score of 200 points.

c. Affordability score for non-FTTH projects: 200 points. For non-FTTH projects, the mandatory federal requirement in the BEAD NOFO is that a primary scoring criterion must be “[t]he prospective subgrantee’s commitment to provide the most affordable total price to the customer for 100 Mbps/20 Mbps service in the project area.”

i. Compliance with Louisiana law on Affordability, if applicable to the prospective subgrantee: 200 points. Any applicant that has offered broadband service to at least one thousand consumers for a period of at least five consecutive years that includes a commitment to provide 100 Mbps/20 Mbps service in its proposed BEAD subgrant area at a price no higher than its offer to consumers for 100 Mbps/20 Mbps service in other areas of the state will receive a score of 200 points.

ii. Alternate Method of Achieving a Full Baseline Score. An applicant that has not offered broadband service to at least one thousand customers for a period of at least five consecutive years, or an applicant that does not otherwise offer 100 Mbps/20 Mbps service, that includes a commitment to provide 100 Mbps/20 Mbps service to all included locations in its application at a price no higher than the median price for all 100 Mbps/20 Mbps service offerings reported in the most recent year’s FCC Urban Rate Survey will receive a base score of 200 points.

d. Use of FCC Urban Rate Survey. If applicable to a subgrantee using the alternate methods outlined above, the FCC Urban Rate Survey will be used as follows:

i. For each subgrant performance year covered by an applicable subgrantee commitment, the state will use the prior year’s FCC Urban Rate Survey broadband data for the state of Louisiana.

ii. On the first business day of the year, the state will determine that year’s median price for 1Gbps/1Gbps service and for 100 Mbps/20 Mbps service that will be applicable to the GUMBO 2.0 program for the coming year.

iii. If a given year’s survey results do not contain any service tiers precisely at 1Gbps/1Gbps or 100 Mbps/20 Mbps, the closest comparable service tier result will be used.

e. Other provisions.

i. The applicable affordability commitments shall be updated annually beginning upon final issuance of the subgrant.

ii. If at any point during the performance of a subgrant a subgrantee becomes subject to Louisiana’s statutory affordability requirement by virtue of having delivered broadband service to at least 1000 consumers for a period of five consecutive years, the required subgrant

affordability commitment shall be based on state law, as applicable.

f. Maximum awardable points: 200

3. Primary Criteria—Fair Labor Practices

a. Record of Compliance with Federal Labor and Employment Law. Any applicant that certifies a record of past compliance with Federal labor and employment law with respect to broadband deployment projects, as supported by submitted information as specified below, shall receive points as follows:

i. applicants able to certify a record of compliance for at least three years will receive 80 points.

ii. applicants also able to so certify a record of compliance for four years will receive 5 additional points.

iii. applicants also able to so certify a record of compliance for five or more years will receive 6 additional points.

iv. applicants that cannot certify compliance with Federal labor and employment law with respect to broadband deployment projects within the last three years, including new entrants that have not completed a broadband deployment project in that time frame, shall be eligible for points.

b. Plan for Ensuring Compliance with Federal Labor and Employment Law. Applicants shall receive points as follows.

i. Any applicant that provides a plan that meets the baseline compliance plan requirements as specified shall receive 10 points.

ii. Applicants may also achieve additional points, subject to the total category maximum of 101 points, based on including in their compliance plans additional elements as specified below:

(a). one additional element only: 40 additional points;

(b). two additional elements: 70 additional points;

(c). three or more additional elements: 90 additional points.

c. The table below summarizes the total points awarded for different combinations of past compliance records and prospective compliance plans under of this scoring approach.

Years of compliance	<3 years	3	4	5+
Baseline compliance plan	10	90	95	101
+ 1 additional element	50	101	101	101
+ 2 additional elements	80	101	101	101
+3 or more additional elements	100	101	101	101

d. Applicants shall be permitted to have a single statewide workforce plan that applies to all applications, or to propose different workforce plans for individual applications.

e. Maximum awardable points: 101

4. Secondary and Additional Criteria

a. Speed to Deployment

i. Any application that certifies, including binding commitments and assumption of contractual liability

for penalties established by the state for non-compliance, that deployment to all included eligible locations will be completed in less than the 48 months required by BEAD shall receive additional points as follows:

a. $[48 - (\text{number of months to complete deployment, rounded up to the next whole month})] / 4$

ii. Maximum awardable points: 12

b. Economically Disadvantaged Areas

i. Any application that includes ED-SPAs shall receive additional points as follows.

(a). 15 points: Include all ED-SPAs within a given parish.

(b). 1 point: Any individual ED-SPA, but not all within a parish

ii. Maximum awardable points: 25

c. Infrastructure Hardening and Resiliency Commitments

i. Any application for the deployment of fiber infrastructure to last-mile eligible locations that includes an enforceable commitment to the infrastructure hardening step of including at least 90 percent buried fiber plant, including 100 percent buried plant to eligible CAIs, unless a specific exception is granted, as specified in will receive 30 points.

ii. Any application involving the deployment of new wireless tower infrastructure that includes an enforceable commitment to the Wireless Tower Hardening specifications provided will receive 20 points. This point total shall be applied once for an entire application, irrespective of the number of such hardened towers included.

iii. In addition, any application that includes at least one critical resiliency need (CRN)-SPA and includes an enforceable commitment to deploy necessary mobile broadband infrastructure to achieve the resiliency requirements of the CRN designation, following all requirements as detailed shall receive additional points as follows:

(a). 40 points: Include all CRN-SPAs within a given parish.

(b). 10 points: Any individual CRN-SPA, but not all within a parish.

(c). Any award of points in this category is subject to the state's technical review of the satisfactoriness of proposed plans to fulfill specified resiliency capabilities, according to the specifications provided in section 2.11.1.D.

iv. Applications may receive points for any combination of commitments in these areas, but the total points available in this overall category to any application is capped at the maximum total awardable points level below.

v. Maximum total awardable points: 100.

d. Number of Eligible Locations within a Given Parish

i. During the review of each application, the state will total the number of eligible locations within all included SPAs in each Louisiana parish within the application and identify the highest such count.

ii. Applications shall receive additional points based on this highest count value as follows.

(a). 10 points: An application that includes at least 500 eligible locations within a single parish.

(b). 20 points: An application that includes at least 2000 eligible locations within a given parish.

(c). 30 points: An application that includes 5000 eligible locations or more within a given parish.

(d). 35 points: An application that includes 100 percent of eligible locations within a given parish, only if the applicable highest count value is greater than 2000 eligible locations.

iii. Maximum total awardable points per application: 35

e. Speed of Network

i. FTTH applications shall receive 25 points in this category.

ii. Non-FTTH applications only shall be scored based on certified speed and latency performance commitments that are enforceable subgrant conditions and subject to verification after deployment to all eligible BSLs as well as on length of useful life of the proposed infrastructure and future scalability.

(a). Speed and latency performance characteristics, as certified by the applicant and subject to technical review and verification by the state, shall receive points as follows.

Minimum downstream/upstream speed (Mbps)	Maximum latency (milliseconds)	Points awarded
100/20	100	2
200/50	100	4
400/100	100	10
1000/250	100	20

(b). To receive points in any of these categories, the state's technical review must confirm that the proposed network design has the ability deliver the above performance levels to all eligible locations within an application, including reasonable assessment of how the proposed network can add incremental capacity in a cost-effective manner as new customers are added.

(c). Total awardable sub-category points for non-FTTH networks: 20

iii. For non-FTTH technologies, the length of useful life and future scalability, as certified by the applicant and subject to technical review and verification by the state, shall receive points as follows.

(a). Useful life of funded infrastructure, as assessed by the state:

(i). <5 years: 0 points

(ii). 5-10 years: 1 point

(iii). 10+ years: 2 points

(b). Cost-effectiveness of future scalability to significantly performance levels of proposed technology, as assessed by the state:

(i). ineffective: 0 points

(ii). somewhat cost effective: 1 point

(iii). very cost effective: 2 points

(c). Total awardable sub-category points for non-FTTH networks: 4

iv. Maximum awardable Speed of Network points: 25.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370.21-2370.33.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 50:

§1305. Prioritizing Unserved Service Projects

A. A GUMBO 2.0 application is defined as a set of SPAs. The inclusion of an SPA in an application carries an obligation to deploy to all eligible locations in the SPA if the application is awarded. All application plans and

commitments such as for affordability, technology type, and performance level must apply to all eligible locations within included SPAs.

B. The office may, prior to making final subgrant awards, remove certain locations from a subgrant in order to ensure compliance with the BEAD-required prioritization of all unserved locations first, then underserved locations, and then CAIs. In such cases, the state would adjust the subgrant award amount to account for the removal of certain locations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370.21-2370.33.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 50:

§1307. Prioritizing Eligible CAIs

A. Deployment to all eligible CAIs shall be prioritized before making funds available for non-deployment projects.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370.21-2370.33.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 50:

§1309. Compliance with EHP and BABA Requirements

A. Projects must be in adherence to the requirements of any applicable laws.(?) Build America, Buy America Act (BABA), the National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 et seq.) and National Historic Preservation Act (NHPA) (54 U.S.C. § 300101 et seq.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370.21-2370.33.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 50:

§1311. Definition of Eligible Project Areas

A. All prospective subgrantees shall define their overall application areas as a set of pre-defined sub-project areas. A project area is the overall proposed deployment area included in an application, comprising the eligible locations within the set of SPAs included in the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370.21-2370.33.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 50:

§1313. Ensuring Universal Coverage in Subsequent Funding Rounds

A. If coverage gaps remain after the first rounds, to close these remaining coverage gaps, the office may begin targeted outreach and negotiation strategy with the proximate providers and/or newly awarded subgrantees with the greatest apparent ability to make targeted extensions of service to individual locations passed over in the main GUMBO 2.0 process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370.21-2370.33.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 50:

§1315. Tribal Government Consent

A. Prospective subgrantees with plans to build within any of the tribal lands shall provide a Resolution of Consent or other formal demonstration of consent from each tribal government's tribal council or other governing body, upon whose tribal lands the infrastructure will be deployed. The office will require that the resolution of consent, or any

substitute document used at request of the tribal government, be submitted by the prospective subgrantee at the time of application along with other relevant documents demonstrating that holistic local coordination occurred. This will ensure that the proper documentation is obtained for submission and approval of the final proposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370.21-2370.33.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 50:

§1317. Identification of Extremely High Cost Per Location Threshold

A. The EHCT will be determined based on funding requirements for actual subgrant proposals received in the state of Louisiana. The GUMBO 2.0 EHCT mechanism therefore will permit the office, pursuant to BEAD rules, to select certain non-FTTH applications instead of FTTH if the overall result is to expand the number of eligible locations receiving access to at least reliable broadband service to the extent doing so fully with priority projects proves impossible based on actual subgrant proposals received.

B. The office may set the final EHCT value at a level above the per-location cost of all awarded FTTH applications for purposes of Final Proposal submission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370.21-2370.33.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 50:

§1319. Use of Extremely High Cost Per Location Threshold

A. An EHCT will be identified and utilized as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370.21-2370.33.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 50:

§1321. Ensuring Minimum Financial Capability

A.1.To submit a grant application, prospective subgrantees shall provide details to complete a review of financial capability, including but not limited to the following.

a. Obtain the five years of financial statements, pro forma statements or financial audits submitted by each applicant or the financial statements for each year that the applicant has been in business if less than five years. Ensure that the complete financial statements were submitted. If financial statements are not available, search for the applicant's SEC Form 10-K filing. Using the audited financial statements, reviewed the unaudited financial statements for reasonableness. Review the financial statements, if audited, to determine if there is a going concern disclosure in the audit report.

b. Determine whether the applicant's business status is active in Louisiana, whether the applicant has filed for bankruptcy, and whether the company is involved in any lawsuits.

c. Determine the funding sources for the project.

d. Review the balance sheet, statement of operations and statement of cash flows to determine if the applicant is steady and/or growing. Use EBITDA margin to assist in this analysis. Calculate the current ratio (current assets/current liabilities). Calculate the debt to assets ratio (total debts/total assets).

2. Documentation related to the requirements above will be collected and reviewed by qualified personnel to ensure a clear plan for determination of participation is in place.

B. Required Qualifications for Financial Obligations. The office will require prospective subgrantees to certify that they are qualified to meet the obligations associated with a project, that the prospective subgrantees will have available funds for all project costs that exceed the amount of the grant, and that they will comply with all requirements, including service milestones. Disbursement of funding to subgrantees after the initial 10 percent draw is only done upon completion of a technical and compliance audit at specific established thresholds of the number of locations served out of the total number to be served by a project (10 percent, 35 percent, 65 percent, 85 percent, 100 percent). Each subgrantee shall certify that it has and will continue to have sufficient financial resources to cover its eligible costs for the project until such time as the office authorizes additional disbursements.

C. Required model letter of credit in accordance with related guidance from NTIA.

D. For applicants obtaining a performance bond, the office will require applicants to follow all requirements and related guidance from NTIA including those specified in the limited waiver.

E. Required Audited Financial Statements. Each prospective subgrantee shall submit financial statements from the prior fiscal year that are audited by an independent certified public accountant. If the prospective subgrantee has not been audited during the ordinary course of business, in lieu of submitting audited financial statements, it must submit unaudited financial statements from the prior fiscal year and certify that it will provide financial statements from the prior fiscal year that are audited by an independent certified public accountant.

F. Required Business Plans and Financial Analysis. Prospective subgrantees shall submit business plans and related analyses that substantiate the sustainability of the proposed project. This can be provided in the form of pro forma statements or analyses, inclusive of cash flow and balance sheet projections and should include at least three years of operating cost and cash flow projections post targeted completion of project. Additionally, prospective subgrantees should provide pertinent resumes of key staff assigned to a proposed project and a matrix illustrating how the skills of lead staff with business plan deliverables. Evaluation of business plans and related analyses will be completed by qualified personnel to ensure there is appropriate capacity and expertise to adequately review the documentation and provide a third-party perspective of the prospective subgrantee. Reviews could include, but not be limited to the following:

1. executive summary assessment
2. project description review
3. market analysis review
4. competitive analysis review
5. technical and operational plan review
6. risk assessment review
7. legal and regulatory compliance
8. management team review
9. sustainability and environmental impact review

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370.21-2370.33.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 50:

§1323. Supporting Documentation for BEAD Subgrantee Selection Process

A. The office shall incorporate specific intake questions and publish them for applicants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370.21-2370.33.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 50:

§1325. Ensuring Managerial Capability

A. To submit a grant application, prospective subgrantees shall provide the details listed below related to managerial capability.

1. Resumes for Key Personnel Requirement. To submit a grant application, prospective subgrantees shall provide resumes for all key management personnel, documentation will be collected and reviewed by qualified personnel.

2. Readiness to Manage Proposed Project Requirement. To submit a grant application, prospective subgrantees shall provide the details listed below related to managerial capability.

a. Project organizational chart(s) and corporate relationships detailing all parents, subsidiaries, and affiliates.

b. A narrative describing the prospective subgrantee's readiness to manage a broadband services network. This narrative should include at a minimum the experience and qualifications of key management set to undertake this project, its experience undertaking projects of similar size and scope, recent and upcoming organizational changes including mergers and acquisitions, and relevant organizational policies.

c. A matrix illustrating how the skills of lead staff align with business plan deliverables.

3. Documentation related to the requirements above will be collected and reviewed by qualified personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370.21-2370.33.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 50:

§1327. Ensuring Technical Capability

A. To submit a grant application, prospective subgrantees shall provide details related to technical capability.

B. Documentation related to the requirements below will be collected and reviewed by qualified personnel.

1. Technical Qualification for Implementation and Credentialed Workforce. Prospective subgrantees must submit certification to ConnectLA that they are technically qualified to complete and operate the Project and that they can carry out the funded activities in a competent manner, including that it will use an appropriately skilled and credentialed workforce. Documentation to be provided by the prospective subgrantee includes, but is not limited to the following:

a. documentation of current licensing with governing bodies to operate in Louisiana;

b. attestation of current Louisiana licensing for any engineers who certify design, diagrams, project costs, etc;

c. demonstration of experience designing and delivering similar projects of size, complexity and timeline.

2. Proposed Project Workplan Requirement. Prospective subgrantees shall submit certification to ConnectLA that they are technically qualified to complete and operate the project and that they can carry out the funded activities in a competent manner, including that it will use an appropriately skilled and credentialed workforce. Documentation to be provided by the prospective subgrantee includes, but is not limited to the following:

a. project plan description that clearly identifies the steps (including but not limited to planning, design, implementation and operation) of the capital investment schedule. Project planning should also include at a minimum network design, diagrams, project costs, timelines, evidence of build-out within the timeline identified;

b. attestation that the proposed network can deliver broadband service that meets the requisite performance requirements to all locations served by the Project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:21-33.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 50:

§1329. Ensuring Compliance with Applicable Laws

A. To submit a grant application, prospective subgrantees shall provide details related to compliance with applicable laws.

1. Compliance with Federal, State, and Local Laws. To submit a grant application, prospective subgrantees shall provide the details listed below related to compliance with applicable laws:

2. Detailed history of compliance with all applicable Federal, State of Louisiana and local laws for previous broadband projects funded by federal and state programs, including disclosure of any default on any federal or state obligation associated with grants for broadband deployment.

B. Any GUMBO 2.0 subgrantee also subject to deployment obligations elsewhere in Louisiana, including from programs such as RDOF, Enhanced-ACAM, ReConnect or any other similar program included in the BEAD de-duplication process, must make an enforceable commitment as part of its GUMBO 2.0 subgrant agreement not to default or otherwise fail to fulfill any such deployment obligation in the state of Louisiana. The penalty for breach of this commitment shall be, as reimbursement for funding that could have been awarded but for other federal program funding, payment to the state in the amount equal to the total investment cost of all defaulted locations, as measured by the eligible entity tool provided to the state by NTIA.

C. Worker-Led Health and Safety Committees. To submit a grant application, prospective subgrantees shall provide the details listed below related to compliance with applicable laws:

1. policies and procedures to ensure compliance with occupational safety and health requirements including worker-led health and safety committees that management will meet with upon reasonable request. Details from NTIA's Workforce Planning Guide may be utilized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370.21-2370.33.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 50:

§1331. Ensuring Operational Capabilities

A Required Operational Qualifications. To submit a grant application, prospective subgrantee shall provide the details listed below related to operational capability.

1. A prospective subgrantee will provide operational details including but not limited to the following:

a. years providing internet service;

b. current subscribers (households, businesses and community anchor institutions)

c. completed federally funded deployment projects, with their source of funding and timeframe for completion or non-completion;

d. penalties paid by the prospective subgrantee, a subsidiary or affiliate of the prospective subgrantee or the holding company of the prospective subgrantee relative to deployment projects;

e. the number of times prospective subgrantee has ever been a defendant in a state of Louisiana criminal proceeding or civil litigation relevant to qualifications to deployment broadband infrastructure; and

f. whether the prospective subgrantee has ever defaulted on a federal or state obligation to deploy broadband infrastructure and if so, to provide a summary.

B. Required Number of Years in Operation. To submit a grant application, prospective subgrantee shall provide the details listed below related to operational capability:

1. A prospective subgrantee that has provided a voice, broadband, and/or electric transmission or distribution service for at least two consecutive years prior to the date of its application submission or that it is a wholly owned subsidiary of such an entity, must submit a certification that attests to these facts and specifies the number of years the prospective subgrantee or its parent company has been operating.

C. Required Compliance with FCC Form 477, Rules, and Regulation. To submit a grant application, prospective subgrantee shall provide the details listed below related to operational capability:

1. If the prospective subgrantee has provided a voice and/or broadband service, it must certify that it has timely filed their Federal Commission Form 477s and the Broadband DATA Act submission, if applicable, as required during this period, and otherwise has complied with the commission's rules and regulations. Alternatively, a prospective subgrantee should explain any notice of funding opportunity pending or completed enforcement action, civil litigation, or other matter in which it failed to comply or was alleged to have failed to comply with commission rules or regulations.

D. Required Operating and Financial Reports for Electric Transmission or Distribution Services. To submit a grant application, a prospective subgrantee shall provide the details listed below related to operational capability.

1. If the prospective subgrantee has operated only an electric transmission or distribution service, it must submit qualified operating or financial reports that it has 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.

E. Required Operational Capabilities for New Entrants. To submit a grant application, prospective subgrantee shall provide the details listed below related to operational capability.

1. For a new entrant to the broadband market, a prospective subgrantee must provide 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370.21-2370.33.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 50:

§1333. Ensuring Ownership

A. To submit a grant application, prospective subgrantee shall provide details related to ensuring ownership.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370.21-2370.33.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 50:

§1335. Disclosure of Other Publicly Funded Projects

A. To submit a grant application, prospective subgrantees shall provide the details listed below related to disclosure of other publicly funded projects.

1. Disclosure of Existing or Future Publicly-Funded Projects. To submit a grant application, prospective subgrantees shall provide the details listed below related to public funding.

a. Each prospective subgrantee shall disclose, for itself and for its affiliates, any application the prospective subgrantee or its affiliates have submitted or plan to submit, and every broadband deployment project that the prospective subgrantee or its affiliates are undertaking or have committed to undertake at the time of the application using public funds, including but not limited to funds provided under:

- i. Families First Coronavirus Response Act (Public Law 116- 127; 134 Stat. 178);
- ii. CARES Act (Public Law 116-136; 134 Stat. 281);
- iii. Consolidated Appropriations Act, 2021 (Public Law 116-260; 134 Stat. 1182);
- iv. American Rescue Plan of 2021 (Public Law 117-2; 135 Stat. 4);
- v. Federal Universal Service Fund high-cost program (e.g., RDOF, CAF);
- vi. any eligible entity or local universal service or broadband deployment funding program.

b. The prospective subgrantee shall disclose if any details as noted above change or adjusts in any way after the submission of an application.

2. Detailed Information for Existing or Future Publicly-Funded Projects. To submit a grant application, prospective subgrantees shall provide the details listed below related to public funding:

- 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 the prospective subgrantee or its affiliates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370.21-2370.33.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 50:

Chapter 15. Non-Deployment Subgrantee Selection §1501. Fair, Open and Competitive Non-Deployment Selection Process

A. If funds remain for nondeployment, two main items will be prioritized:

1. Priority 1 (20 percent of funds available for non-deployment) – Creation of the Louisiana CASH Program to be administered by a state agency with experience executing federal programs, such as the Department of Children and Family Services, Office of Community Development, Department of Health or Louisiana Board of Regents or other.

2. Priority 2 (80 percent of funds available for non-deployment). In line with the BEAD Notice of Funding Opportunity, additional non- deployment activities related to the following will be accepted:

- a. user training with respect to cybersecurity, privacy and other digital safety matters.
- b. remote learning or telehealth services/facilities.
- c. digital literacy/upskilling (from beginner level to advanced).
- d. computer science, coding and cybersecurity education programs.
- e. implementation of eligible entity digital equity plans (to supplement, but not to duplicate or supplant, planning grant funds received by the eligible entity in connection with the Digital Equity Act of 2021).
- f. broadband sign-up assistance and programs that provide technology support.
- g. multi-lingual outreach to support adoption and digital literacy.
- h. prisoner education to promote pre-release digital literacy, job skills, online job acquisition skills, etc.
- i. digital navigators.
- j. direct subsidies for use toward broadband subscription, where the eligible entity shows the subsidies will improve affordability for the end user population (and to supplement, but not to duplicate or supplant, the subsidies provided by the Affordable Connectivity Program).
- k. costs associated with stakeholder engagement, including travel, capacity-building or contract support.
- l. other allowable costs necessary to carrying out programmatic activities of an award, not to include ineligible costs described in Section V.H.2 of the NOFO.
- m. Activities related to the incorporation of “smart” technologies and capabilities into farming practices, due to Louisiana being a heavy agriculture-producing state and the unique competitive advantage of spearheading specific smart technologies in this sector.

B. Below is a description of the process that adheres to these principles.

1. Announcement and Public Notice. The availability of funding for eligible non-deployment activities will be published. This announcement will include detailed information about the application process, eligibility criteria

and evaluation criteria. Notice will be made available for at least a 60-day period.

2. Eligibility Screening. There will be an initial screening of the applications to determine their eligibility based on the criteria outlined in the program guidelines. This screening will ensure that the applicants meet the basic requirements for participation.

3. Evaluation Criteria. There will be a set of objective evaluation criteria that will be used to assess the applications. These criteria will be established in advance and communicated to all potential applicants.

a. Priority will be given to applicants with effective models for addressing the existing skill gaps in our labor force as well as other workforce training and readiness initiatives, including those that provide equitable instruction and outreach to all working-age individuals.

4. Review Panel. A review panel comprising subject matter experts, industry professionals and other relevant stakeholders, including “lived experts” such as affected residents, representatives from community anchor institutions or community leaders from faith-based, business based and non-profit organizations will be utilized. The panel members will have the necessary expertise to evaluate the applications based on the predetermined evaluation criteria. Panel members shall disclose any conflicts of interest that may arise from their participation in the process.

5. Evaluation Process: The review panel will individually review and evaluate each application based on the established criteria. They may use a scoring system or a qualitative assessment to ensure consistency and objectivity in the evaluation process.

6. Transparency and Public Input. A list of selected subgrantees will be published online, along with a summary of the evaluation process.

7. Appeals/Protest Process. An appeals process will be used that allows applicants to seek a review of the selection decision if they believe there were procedural errors or inconsistencies in the evaluation process. The protest process, official decisions and provider appeals shall be conducted in accordance with La. R.S. 51:2370.27(F) and 2370.28. The period for protesting an award shall not exceed seven days from the announcement of awards. The appeals process will provide a fair opportunity for applicants to present their case, and a separate review panel or independent entity may be involved in the appeal evaluation. Detailed announcements that include information about the application process, eligibility criteria and evaluation criteria will be published to ensure that numerous stakeholder groups or potential applicants are aware of the availability of funds and the steps necessary to apply.

C. Below is a scoring system that will be used as part of the subgrantee selection process for eligible non-deployment activities in the BEAD program:

1. Effect on Broadband Availability (30 points). Evaluate the potential effect of the proposed activities on improving broadband availability and access in underserved areas. Evaluate factors such as the number of households or businesses that will benefit, location within economically disadvantaged areas, the expected increase in broadband speeds and the overall significance of the project in addressing the digital divide.

2. Feasibility and Viability (25 points). Assess the feasibility and viability of the project. Consider the technical and operational aspects, including the proposed timeline,

budget and resources required for successful implementation. Evaluate the applicant's capacity to carry out the project effectively, including their track record, partnerships and relevant experience including:

a. financial capability including certification applicant is financially qualified, letter of credit or performance bond (as consistent with NTIA's Limited Waiver requirements) as applicable to non-deployment subgrant awards, audited financial statements, sustainability/business plan;

b. managerial capability including resumes for key individuals and narrative describing experience and readiness to carry out the project;

c. technical capability including certification applicant is technically qualified to complete and operate the project and detailed project plan;

d. compliance with laws including demonstrating ability to comply with all applicable laws;

e. operational capability including appropriate certifications or attestations to operational experience;

f. ownership information as described;

g. other public funding including disclosure of other broadband deployment projects.

3. Project Management Plan (20 points). Evaluate the quality of the project management plan presented by the applicant. Evaluate the clarity and comprehensiveness of the plan, including objectives, milestones, deliverables and risk mitigation strategies. Assess the applicant's ability to execute the project efficiently and effectively.

4. Partnerships and Collaboration (15 points). Assess the strength and relevance of the applicant's partnerships and collaborations. Evaluate the involvement of local community organizations, government entities, educational institutions and other stakeholders. Evaluate how these partnerships contribute to the success and sustainability of the project.

5. Budget and Cost-Effectiveness (10 points). Evaluate the proposed budget and cost-effectiveness of the project. Assess the reasonableness of the budget in relation to the proposed activities and expected outcomes. Evaluate the cost-effectiveness of the project in terms of the number of beneficiaries and the expected impact on broadband access.

6. The total score for each application will be calculated by summing up the scores from each criterion. The applicants with the highest overall scores will be selected as subgrantees for eligible non-deployment activities in the BEAD program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370.21-2370.33.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 50:

§1503. Non-Deployment Project Plans

A. Selection Process and Initiatives

1. The following needs will be prioritized and metrics evaluated.

a. Return on investment for the state and its residents: the initiative will have a generational effect on residents of the state and will address the digital divide sustainably and permanently.

b. Addresses identified component of the digital divide: the non-deployment initiative addresses a component of the digital divide beyond access to broadband

infrastructure that is supported by data from the Louisiana Digital Equity Plan.

c. Innovative solutions—the non-deployment initiative addresses an aspect of the digital divide without a current solution or supplements an existing solution in an innovative manner.

d. Capacity and experience: organizations in the prospective pool of subgrantees generally have the experience and organizational capacity necessary to administer a potentially significant program.

B. Addressing Residents' Needs. Nondeployment initiatives will be prioritized in accordance with addressing residents' needs regarding—access to healthcare, education, employment and essential services.

C. Stakeholder Engagement Alignment. Grant applicants must conduct stakeholder engagement with local and tribal governments, as well as their citizens, to provide regular updates on project applications, award status, and construction status.

D. Effectiveness of Non-Deployment Activities to Meet BEAD Goals. Non-deployment funds must be used to satisfy the requirements of the BEAD program and may be used supplement funding from the Digital Equity Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370.21-2370.33.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 50:

§1505. Ensuring the Priority of Universal Coverage

A. Awards are not final until approval of the final proposal and ensuring universal coverage of BSLs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370.21-2370.33.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 50:

§1507. Ensuring General Qualifications

A. Prior to entering into any subgrantee agreement, applicants will certify they are:

1. Capable of carrying out activities funded by the subgrant in a competent manner in compliance with all applicable federal, state and local laws.

2. Have the financial and managerial capacity to meet the commitments of the subgrantee under the subgrant, the requirements of the program and such other requirements as have been prescribed by the assistant secretary or ConnectLA.

3. Have the technical and operational capability to provide the services promised in the subgrant in the manner contemplated by the subgrant award.

B. To submit a grant application, prospective subgrantees shall provide the details listed below related to the items defined above.

C. To participate, prospective subgrantees must demonstrate suitable organizational and management capabilities. To determine whether applicants meet this criterion, prospective subgrantees and private sector partners must meet requirements defined by the assistant secretary and/or ConnectLA. Minimum compliance standards, methodology for review of standards and evidence/documentation required to make a determination of award are documented as part of the proposed scoring and review criteria listed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370.21-2370.33.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 50:

Chapter 17. Low-Cost Broadband Service Option §1701. Required Subgrantee Low-Cost Broadband Service

A. GUBMO 2.0 applicants and subgrantees may request a modification to their low-cost service option from the \$30 target effective rate as follows.

1. In no case may the offered rate exceed the \$65 average rate for comparable service plans in Louisiana as reflected in the 2023 FCC Urban Rate Survey, as adjusted for annual inflation as described below.

2. Modifications to offered rates to a level between \$30 and the \$65 not to exceed (NTE) level may be granted based on evidence supporting the newly proposed rate:

a. Per-subscriber costs in an area indicating that the target effective rate above would be financially unsustainable; and/or

b. The impact on average revenue per user (ARPU) and total project revenue of the target effective rate above would be financially unsustainable given actual or projected subscriber adoption patterns.

i. If a modification request is granted, the new modified level shall remain the maximum Not to Exceed offered rate for the provider for the duration of the federal interest.

B. All subgrantees ~~to~~ must offer to eligible households at locations included in a subgrant award a low-cost broadband service option as follows:

1. an end-user effective rate of \$30 per month for a service offering of 100 Mbps downstream, 20 Mbps upstream, and a minimum latency of 100 milliseconds.

2. GUMBO 2.0 applicants and subgrantees may request modifications to this rate based on evidence of financial non-viability, but the rate must always be at or below the initial \$65 not to exceed level, subject to adjustment for inflation as provided below;

3. is available to all households eligible for the Affordable Connectivity Program or a successor program as modified by congress;

4. the rate specified or subsequently modified, as well as the other provisions identified in this section, for this service option will be a contractual requirement of awardees for the duration of the federal interest, as specified by NTIA;

5. in the event that the FCC during the period of this obligation revises the federal definition of broadband to a performance level that is higher than the 100/20 standard required currently for BEAD, that new federal definition shall become the required performance standard;

6. allows the end user to apply the ACP benefit to the service price and encourages customers to participate in the ACP or successor program(s);

7. the specified price may be adjusted once per year based on the to the consumer price index, up to a maximum annual upward adjustment of 3.0 percent or the prior year level, as defined by the U.S. Bureau of Labor Statistics, beginning with an adjustment in the first new calendar year after the date of approval of this Initial Proposal Volume 2 by NTIA;

8. is not subject to data caps, installation or other non-recurring charges, surcharges or usage-based performance reductions, and is subject only to the same acceptable use policies to which subscribers to all other broadband internet

access service plans offered to home subscribers by the participating subgrantee must adhere;

9. in the event the provider later offers a low-cost plan with higher speeds downstream and/or upstream, permits Eligible Subscribers that are subscribed to a low-cost broadband service option to upgrade to the new low-cost offering at no cost;

10. to make households within subgrant service areas aware of the availability of the low-cost plan via public awareness campaign activities, as mandated by NOFO IV.C.2.c.iv.

C. Service Initiation Cost

1. Installation fees or any other non-recurring charge may not be assessed for households adopting the low-cost service option.

D. Basic Service Characteristics

1. Providers will be held to performance requirements as established by the BEAD program, with download speeds of at least 100 Mbps and upload speeds of at least 20 Mbps.

2. Provides typical latency measurements of no more than 100 milliseconds.

3. Is not subject to data caps, surcharges or usage-based performance reductions, and is subject only to the same acceptable use policies to which subscribers to all other broadband internet access service plans offered to home subscribers by the participating subgrantee must adhere.

E. Affordable Connectivity Subsidy

1. Subscribers using the low-cost broadband service option must be ACP eligible or eligible for a successor program enacted by Congress, and must also be permitted to apply the prevailing ACP subsidy amount toward the plan's rate.

F. Ability to Upgrade to New Low-Cost Option

1. The rate specified, as well as the other provisions identified in this section, for this service option will be a contractual requirement of awardees for the duration of the federal interest, as specified by NTIA. In the event that the FCC, during the period of this obligation, revises the federal definition of broadband to a performance level that is higher than the 100/20 standard required currently for BEAD, that new federal definition shall be the required performance standard.

2. In the event the provider later offers a low-cost plan with higher speeds downstream and/or upstream, permits Eligible Subscribers that are subscribed to a low-cost broadband service option to upgrade to the new low-cost offering at no cost.

3. If the provider voluntarily offers other low-cost plans elsewhere in the state of Louisiana, the provider must make the same offer(s) available on identical terms to households associated with all eligible locations included in the BEAD subgrant award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370.21-2370.33.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 50:

§1703. Certification for Subgrantee Participation in ACP

A. All subgrantees shall participate in the Affordable Connectivity Program or any successor program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2370.21-2370.33.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 50:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed Rule has the potential to produce a positive impact on family stability, functioning, and earnings and a family's budget as described in R.S. 49:972 through broadband access offering enhanced employment opportunities, higher wages, business development, improved access to healthcare, and educational opportunities.

Poverty Impact Statement

The proposed Rule should produce a foreseeable, positive impact on the state's children, individuals, and families as defined by R.S. 49:973.B. In particular, the positive impact on factors influencing poverty will be evident through enhanced employment opportunities, higher wages, business development, improved access to healthcare, and educational opportunities.

Small Business Analysis

Pursuant to R.S. 49:978.5, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered and cared for when creating this proposed Rule.

Should a small business not have the financial reporting capabilities and documents required within the Rule for the purposes of applying for the grant program, the office is granted the ability to accept other equivalent documents, at its discretion. Otherwise, this proposed Rule is not anticipated to have an adverse impact on small businesses within the state that apply for or are ultimately grant recipients of the program; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

It is likely that a private provider of broadband service provides such service to individuals with developmental disabilities. The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session, as the proposed Rule implements a grant program that will fund, through federal appropriations at a minimum of 80 percent of total costs, broadband infrastructure projects in previously unserved areas of the state. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Veneeth Iyengar, Executive Director, Office of Broadband Development and Connectivity, P.O. Box 94095, Baton Rouge, LA 70804-9095. Interested persons may also submit written comments by email to connect@la.gov. The deadline for receipt of all written comments is on February 9, 2024 at 4:30 p.m. Mr. Iyengar is responsible for responding to inquiries regarding this proposed Rule.

Veneeth Iyengar
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Granting Unserved Municipalities
Broadband Opportunities 2.0 (GUMBO 2.0)**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule creates the Granting Unserved Municipalities Broadband Opportunities 2.0 (GUMBO 2.0) grant program within the Office of Broadband Development and Connectivity of the Division of Administration, pursuant to the authority set forth in La. R.S. 51:2370.21-2370.33. The rule provides for subgrantee selection criteria, project area eligibility requirements, application procedures, application scoring, awards, and compliance.

The proposed rule is anticipated to result in implementation costs to state government, specifically the Office of Broadband Development and Connectivity, and in the amounts of \$95 M in grant awards and \$5 M in professional services during state fiscal year 2024. To implement the rule, the Office of Broadband Development and Connectivity has been appropriated federal funds from the Infrastructure Investment and Jobs Act dollars for the purposes of expanding broadband infrastructure throughout the state. The federal appropriation to the state is \$1.35 B, of which the office intends to utilize \$100 M for fiscal year 2024. This would allow the office to award \$95 M in grants and expend up to \$5 M to administer the rule. The Office of Broadband Development and Connectivity intends to solicit third-party professional services to perform independent application evaluation and scoring, as well as to engage in grant recipient compliance processes.

Anticipated federal appropriation is \$100 M in FY 25 and \$200 M in FY 26.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule has the potential to impact, positively, revenue collections of state and local governmental units, however, said positive impact is indeterminable at this time. What is determinable is that for fiscal year 2024, up to \$100 M in federal grant funding and appropriation is available through the state for the purposes of broadband infrastructure construction to expand broadband access. In the short and medium term, potential economic activity as it relates to broadband technology infrastructure construction has the potential to positively impact revenue collections of state and local governmental units through increased sales tax collections and income taxes. Over the long term, potential economic activity as it relates to increased broadband access has the potential to positively impact revenue collections of state and local governmental units through increased sales tax collections, income tax revenue, and property tax revenue as a result of lower unemployment, higher wages, and business development.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

For cost considerations, the proposed rule is anticipated to create optional, minor costs for directly affected persons, small businesses, or non-governmental groups. This would take the form of broadband service packages offered by private providers to prospective broadband recipients provided the opportunity to subscribe to broadband service. Recent national averages for broadband subscriptions range from \$50 to \$75 per month. The possible economic benefits to directly affected persons, small businesses, or non-governmental groups is substantial, yet indeterminable. Increased broadband access has the potential to transform smaller, rural communities consisting

of persons, small businesses, or non-governmental groups, through increased economic output, namely in the form of enhanced employment opportunities, higher wages, business development, improved access to healthcare, and educational opportunities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is a positive estimated effect on competition and employment as a result of the proposed rule, although indeterminable. The proposed rule is intended to implement the GUMBO 2.0 grant program. The grant program will fund broadband infrastructure projects throughout the state in areas that are classified as "unserved," defined as areas not having access to broadband services (at least 100/20 Mbps) through wireline or fixed wireless technology. The effect on competition and employment as a result of these projects should be a positive one, driving enhanced economic output, over the short-, medium-, and long-term. Factors enhancing economic output would include enhanced employment opportunities, higher wages, business development, improved access to healthcare, and educational opportunities.

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