August 3, 2022

Alan Davidson
Assistant Secretary of Commerce for Communications and Information
National Telecommunications and Information Administration
U.S. Department of Commerce
1401 Constitution Avenue, NW
Washington, DC 20230

RE: Comments on Implementation of the Infrastructure Investment and Jobs Act, Docket No. 220105-0002

Dear Mr. Davidson:

Next Century Cities ("NCC")[1] respectfully submits these comments in response to the National Telecommunications Information Administration's ("NTIA") request for public input on the implementation of the broadband funding programs found within the Infrastructure Investment and Jobs Act ("IIJA"). While the IIJA entrusts the NTIA with a historic amount of funding to help close America's digital divide, these resources will not be able to address the broad scope of the problem. That reality makes it even more critical that IIJA funds are aimed directly at communities in need and foster ingenuity throughout the broadband landscape.

Program rules must reflect community-based insights from stakeholders with varying resources and expertise. Local and state leaders, particularly those who are new to managing broadband programs, would benefit richly from the NTIA's efforts to revamp its public outreach strategy. Over forty years into the agency's existence, the NTIA finally has the resources and opportunity to develop lasting partnerships with the state officials, local governments, and community-based organizations that could make federal broadband investments more effective and sustainable. Local leaders are uniquely invested in making digital equity a reality for their most disenfranchised residents including low-income households, people living with disabilities, non-English speakers, and hard-to-reach communities.

The NTIA should also enact rules that center the new Office of Internet Connectivity and Growth ("OICG") as a resource for providers, states, municipalities, and others that want to apply for IIJA funding. Utilizing the OICG as a one-stop-shop for eligibility, application, and consulting

[1] Next Century Cities is a nonprofit nonpartisan 501(c)(3) coalition of over 200 member municipalities that works collaboratively with local leaders to bring reliable and affordable broadband within reach for every resident in their communities.

resources will promote competitive applications from a diverse set of traditional and non-traditional (municipal, cooperatives, mesh, and others) broadband service providers.

For years, local and state leaders have been developing inventive ways to tackle access and adoption issues in their communities throughout the pandemic. We encourage NTIA officials to tap into their expertise. In the meantime, local leaders within Next Century Cities' network shared feedback on the questions identified below.

1. What are the most important steps NTIA can take to ensure that the Bipartisan Infrastructure Law's broadband programs meet their goals?

The successful rollout of IIJA programs relies on OICG's ability to create and maintain a centralized repository of information and useable resources for potential applicants. Applicants need easy access to information regarding eligibility, the application process, and continuing responsibilities after a grant has been approved. Making information readily available will help to eliminate barriers and increase the pool of strong applications.

Considering that applicants will most likely come from areas that already have designated staff or consultants to launch broadband programs, the NTIA should develop rules that encourage proposals from largely disconnected populations that may rely on unconventional partnerships. Naturally, building awareness in those communities requires strategic collaboration with state and local governments, nonprofits, community colleges, minority serving institutions, community groups, and other entities across the nation who have stepped-up to serve populations that the Broadband, Equity, Access, and Development ("BEAD") program was specifically designed to support.

The NTIA should look to municipal governments for examples of information repository models. Many established robust, dynamic, and accessible online and offline resources for residents and community organizations to get information about eligibility and enrollment in the Emergency Broadband Benefit Program ("EBBP"). For instance, in Seattle, Washington, Seattle Information Technology Department consolidated pertinent information into easy-to-understand and interactive EBBP resources. They also provided materials in eleven languages, an essential step for residents that are oftentimes overlooked.[2] Lowering administrative burdens increased applications and enrollment in the Seattle area. Taking the same approach here could have a similar effect by boosting IIJA grant applicants.

[2] Seattle Information Technology, *Low-Cost Internet Access for Residents,* https://www.seattle.gov/tech/services/internet-access/low-cost-home-internet-access-for-residents (Last Visited January 20, 2022).

2. How best can NTIA ensure that all voices and perspectives are heard and brought to bear on questions relating to the Bipartisan Infrastructure Law's broadband programs?

We recognize that including *all* voices and perspectives is an impossible standard, especially when soliciting and incorporate insights from local leaders into federal policy proposals is an infrequent practice. Still, it is critical for NTIA to consult with communities far beyond those in its current domain.

There are over nineteen thousand municipalities across the US.[3] Inaccurate broadband access data and absence of data on adoption makes it impossible to pinpoint every community that is in need. However, developing a strategic outreach plan that invites representatives from some of the most disconnected, economically depressed, and hard-to-reach areas to learn about IIJA funding programs and participate in broadband events would inject new problem-solvers into the agency's network.

Other government programs have benefitted from direct outreach to eligible participants. For instance, a 2017 study of the Medicaid program found that, even under a well-known national program, many eligible households lacked the knowledge to take active enrollment steps.[4] Additionally, research conducted by the National Institutes of Health found that targeted marketing that emphasizes participants' most relevant benefits can increase enrollment.[5]

NTIA has already begun to host listening sessions to collect feedback on how the IIJA programs should function. These are worthwhile efforts which may also need to be conducted via phone to reach local leaders in unserved and underserved communities. Further, NTIA is also well positioned to help state leaders develop consumer-focused plans that incorporate accountability measures, transparent processes, and success metrics. Communities that do not have strong relationships with their state broadband grant officers or peer-government mentors will turn to the NTIA for guidance especially when applications invoke eligibility questions, state and federal preemption issues, and broadband data deficiencies. Finally, using time and monetary resources to meet with local officials in their communities can alleviate dual burdens that regularly restrict or deter local participation.

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[3] *Number of cities, towns and villages (incorporated places) in the United States in 2019, by population size*, Statista (May 2021), https://www.statista.com/statistics/241695/number-of-us-cities-towns-villages-by-population-size/

[4] Jeffrey K. Hom, Christian Stillson, Roy Rosin, Rachel Cahill, Evelyne Kruger, and David Grande, *Effect of Outreach Messages on Medicaid Enrollment* (Jun. 2017), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5497892/.

[5] *Id.*

3. NTIA should require funding recipients to collect and maintain certain data to promote accountability.

Collected data should not only include pricing data for qualifying plans and the advertised speeds, but the actual broadband speeds delivered. NTIA should also consider collecting information related to the number of new subscriptions in previously unserved areas and how many consumers enrolled in BEAD sponsored low-cost offerings. This data would provide clear metrics that federal, state, and local leaders need to determine whether the programs that are funded meet the goals of the IIJA.

Further, subgrantees should be required to submit, and the NTIA should make public, agreements between grantees, subgrantees, and providers. Doing so would provide the public with access to the specifics of each deployment, providing another layer of accountability to both subgrantees and providers.[6]

7. How can NTIA ensure that all potential subrecipients have meaningful and robust opportunities to partner and compete for funding under the programs?

Historically, federal funding mechanisms and decision-making processes tend to provide more robust support for traditional service providers, focusing grant programs on incentives for private Internet Service Providers ("ISPs"). This practice overlooks local governments, cooperatives, and other utilities that have intervened to provide service options for residents and businesses in places where traditional ISP have no financial incentive to serve. Fortunately, local leaders across the nation have developed a variety of ways to expand Internet access in their communities.

Community-owned networks generally include broadband networks owned by municipal governments as well as telephone and electric cooperatives. They are most prevalent in areas in which incumbent providers cannot justify the cost of deployment. When faced with no other choice, many municipal governments found success in creating networks that provide high-quality, low-cost broadband service to residential and business consumers that would otherwise be unserved or underserved.

For example, community leaders and officials in Holland, Michigan, developed a robust public-private partnership through their fiber-to-the-premises ("FTTP") network. The network of fiber and conduit, owned and operated by the Holland Board of Public Works, grew out of a need to connect electric substations. Now it provides shared gigabit, active ethernet, and dark fiber service options.[7] The municipal board has developed relationships with seven for-profit and not-for-profit

[6] *See generally*, Comments of the City of Philadelphia.

[7] Holland Board of Public Works, Broadband, https://hollandbpw.com/en/broadband (Last visited January 20, 2022).

organizations to connect the greatest number of residents and businesses possible. Similarly, through inclusive NTIA guidance, more communities will be able to explore successful and durable partnerships.

The NTIA can ensure that all potential applicants have robust opportunities to partner and compete for funding under the BEAD program. Giving municipalities, cooperatives, and small to medium sized providers the same opportunities to cultivate partnerships as other federal programs have provided to incumbent providers will help boost community-wide collaborations that support long-term access and adoption strategies. Further, The NTIA should encourage providers to engage with localities when developing grant applications. Communities that can weigh-in on new deployment plans are more invested in the outcome and can help to ensure that every household is being served.

Promoting partnerships between localities and providers is critical for developing sustainable solutions to complex broadband deployment and adoption challenges that will continue to evolve with increasing benchmarks for connectivity. In the short-term, increasing partnership options for a local governments and community-based organizations also increases the likelihood that it will be able to develop competitive proposals in the forthcoming award cycle.

9. When should NTIA agree to waive the matching fund requirements?

NTIA should waive the matching requirement in situations where a community has a promising application, community-based partnerships to support its success, and demonstrable financial need. Matching funds may ensure applicants with resources, the most likely to obtain grant awards, have a vested interest in the project's success. However, those with fewer resources and development opportunities are unintentionally forced to the end of the line. If the goal is to not only support new projects but to develop new and sustainable ideas, then the NTIA will have to consider new ways to embrace under-connected communities.

Grant funding rules should be aimed at lowering barriers to entry. Waiving the matching requirement is one way to encourage communities, cooperatives, and other nonprofit organizations that would otherwise be unable to participate in the IIJA funding programs to submit their best ideas. In ordinary circumstances, when communities or other potential participants cannot meet grant program matching requirements, they must find a partner to help offset the cost. Oftentimes, financial constraints and extraordinary circumstances introduced by the pandemic limit a community's ability to explore potential partnership options in the face of exigent circumstances.

Simply, in situations where a state, locality, cooperative, or other nonprofit organization cannot meet matching requirements, they should have an opportunity to show how a grant award would jumpstart plans to connect their community. The NTIA's willingness to invest in innovative programs with new problem solvers comports with IIJA's stated goals.

13. What guidance or requirements should NTIA put in place with respect to network resilience and cybersecurity?

As new funding is made available for network deployments, the NTIA must create guardrails that help new builds and network upgrades withstand worsening natural disasters. Policies should also be designed to secure networks and help ward off cyberattacks. Robust resilience and security policies are necessary to protect consumers who rely on broadband connections to telework, distance learn, engage in telemedicine, and access critical public safety information.[8] Moreover, implementing baseline redundancy standards will help alleviate concerns for communities that frequently experience service disruptions during natural disasters, a time when connectivity matters the most.

The California Public Utilities Commission ("CPUC"), as highlighted in NCC's 2021 Network Resilience Report, implemented similar standards following the disastrous 2020 fire season. The CPUC examined the serious impacts of low connectivity rates during natural disasters and now requires the installation of emergency generators on cell tower sites to promote public safety or protect against unexpected power shutoffs. It also requires carriers to submit plans detailing their "ability to provide a minimum level of service such as 911 and basic Internet browsing."[9]

Likewise, NTIA should require grantees and subgrantees to develop resilience plans for responding to natural disasters outages and cyber threats. This kind of preparedness encourages providers and communities alike to proactively identify weaknesses in other parts of their communications and broadband infrastructure.[10] An additional step, the NTIA should require new deployments disseminate resilience and cybersecurity information with newly connected communities that may not know to ask. The minimal costs associated public awareness yields an exponential benefit to local officials and residents facing threats.

16. What risks are associated with treating areas with prior build out commitments as served?

It has long been established that broadband mapping conducted by the Federal Communications Commission ("FCC") largely overstates broadband connectivity from coast to coast. According to the FCC, a census block is considered served if a provider could, without undue burden, provide

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[8] *See*, Ryan Johnston, *Communities Responding to Natural Disasters Through Network Resilience* at 7-8, https://nextcenturycities.org/wp-content/uploads/March-2021-Publication-_-Network-Resilience-Paper-by-Ryan-Johnston-_-Final-Publication-1.pdf (Mar. 2021).

[9] *Id*. at 2-3.

[10] *Id*. at 7-8.

service to at least one household in the census block.[11] As such, some communities that have prior build-out commitments may not actually receive service.

State and local governments, cooperatives, and non-profit organizations must be given the opportunity to demonstrate that prior build-out commitments will not serve the areas they have applied to serve by providing quantitative data to a trusted and reliable source. Accordingly, the reviewing body should have a process in place to ensure that legitimate consideration has been given to their challenges. This approach will allow the NTIA or state level grant committees to assess whether an area has, or will have, sufficient service. Otherwise, faulty data will lock unserved and underserved areas of rightful grant opportunities.

18. To what other uses can the Broadband Equity, Access & Deployment Program funding be put?

The BEAD program is designed to provide Internet service in unserved and underserved areas, connect community anchor institutions, and provide low-cost service.[12] Funding for the distribution of Internet-enabled devices is also authorized.[13] Surprisingly, digital skills training is not a stated use, but it should be.

A critical piece of broadband adoption is not just the ability to access an Internet-enabled device, but for the user to benefit from broadband access, enabling them to contribute to a digital society.[14] This could include starting a business, opening a retirement account, creating video content with friends and family, or filing taxes online. These are critical capabilities that require digital literacy.

In San Antonio, Texas, local officials recognized the critical nature of how digital literacy buttressed broadband access and adoption. SA Digital Connects, a coalition headed by the municipality, released its 2021 Digital Equity Plan and Roadmap which not only outlined key access speeds and affordability goals but also carved out a specific goal of "support[ing] digital literacy, language resources, and other adoption programs that enable everyone to access and use the Internet."[15] Their research found that 44% of organizations providing connectivity services to the community claim recipients who list "lack of digital literacy skills" as a "barrier preventing them from fully utilizing the service the organization offers."

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[11] Federal Communications Commission, *FCC Form 477 Local Telephone Competition and Broadband Reporting Instructions*, at 18 (Dec. 31, 2019), https://us-fcc.app.box.com/v/Form477Instructions.

[12] *See* Infrastructure Investment and Jobs Act, H.R. 3684, 117th Cong., at § 60502(f)(1-6) (2021).

[13] *Id*. at § 60502(f)(5).

[14] *See Broadband and Device Adoption*, Next Century Cities (Sept. 28, 2021), https://nextcenturycities.org/issues/adoption/.

[15] *See*, San Antonio and Bexar County Digital Inclusion Roadmap at 24, SA Connects (June 2021), https://3f1d7687-a49b-4296-a150-7343e6c884bc.filesusr.com/ugd/46d543_b76cd52eec904e08991991b16e4ddaf1.pdf.

The City of San Antonio, like other communities, has taken a dynamic approach to tackling gaps in digital literacy. With supplemental support from this grant program, community-based investment in digital literacy would expand the reach of investments in digital infrastructure. Unquestionably, allowing BEAD funding to be used by communities and nonprofits that are skilled at building digital literacy programs facilitates IIJA's stated goal to increase broadband adoption.

19. What requirements should NTIA establish for states/territories to ensure that local perspectives are critical factors in the design of state plans.

A successful program rollout for the BEAD program relies on both the NTIA's and states' ability to forge partnerships with localities across the country. Next Century Cities has grown to understand that there is no single solution to the digital divide. Countless local options are necessary to serve specific and vastly different community needs. As a starting point, the NTIA should use its existing partnerships through BroadbandUSA to convene state and local leaders in ways that would promote collaboration.

It is also imperative that NTIA forge new partnerships. Relying on the small network of communities it has worked with in the past guarantees that IIJA investment will fall short of expectation. The NTIA should take note of the U.S. Census Bureau and Department of Commerce's efforts which included turning to a nationwide network of partners to support their efforts *from the start* of the 2020 Census process.[16] Through this program, the U.S. Census Bureau garnered a better understanding of the demographics of the country and the challenges faced by local communities. As it related to the BEAD program, the NTIA can capitalize on the census outreach model by collecting information from localities and encouraging state broadband leaders incorporate outreach to local leaders it into their state plans. The NTIA should then verify if state officials have initiated outreach to local officials when reviewing their state digital equity plans.

22. What factors should qualify an individual or household for a low-cost broadband option?

The goal of the BEAD program and other IIJA funding is to connect as many unconnected or underserved consumers as possible with broadband opportunities. For too many, affordability is the chief cause of their disconnectedness.[17]

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[16] U.S. Census Bureau, Partner with the U.S. Census Bureau, https://www.census.gov/partners.html (last visited Jan 14, 2022).

[17] Colleen McClain, *34% of lower-income home broadband users have had trouble paying for their service amid COVID-19*, Pew Research Center (June 3, 2021), https://www.pewresearch.org/fact-tank/2021/06/03/34-of-lower-income-home-broadband-users-have-had-trouble-paying-for-their-service-amid-covid-19/.

Currently, the Federal Communications Commission is in the process of transitioning from the Emergency Broadband Benefit to the Affordable Connectivity Program ("ACP"). Both programs are targeted at making broadband affordable for low-income consumers.[18] As the NTIA considers what should make a consumer eligible for a low-cost program under BEAD, it should look to the ACP for insight into eligibility criteria. For instance, a consumer is eligible for the ACP if they have an income that is at or below 200% of the federal poverty guidelines.[19] Participation in programs such as SNAP, Medicaid, WIC, or Lifeline is also proof of eligibility.[20] Tribal residents qualify if they participate in specific programs such as Tribal TANF or Food Distributions Programs on Indian Reservations.[21] Finally, a consumer is eligible if they have received a federal Pell Grant or free and reduced school lunches.[22] Starting with these baseline qualifications will ensure that consumers eligible for a low-income program under plans created with BEAD funding would not be at odds with participation in the ACP.

Conclusion

Local leaders are best-positioned to identify community-based needs and have used thoughtful strategies to connect their residents with affordable, high-quality broadband access. Through intentional collaboration and partnerships with local officials and community leaders, the NTIA can increase the impact that IIJA funding has on long-term broadband access and adoption programs. That is the only way to ensure that every resident in every community enjoys the fundamental benefits that broadband connectivity has to offer.

Respectfully Submitted,
Next Century Cities

[18] Federal Communications Commission, *Affordable Connectivity Program*, https://www.fcc.gov/acp (last visited Jan. 14, 2022).
[19] *Id*.
[20] *Id*.
[21] *Id*.
[22] *Id*.