

The Largest U.S. Investment in Broadband Deployment Ever

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Digital Beat

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One aim of the new Infrastructure Investment and Jobs Act (<https://www.congress.gov/bill/117th-congress/house-bill/3684>) is to ensure that every American has access to reliable high-speed internet service. Here we begin a multi-part series (https://www.benton.org/digital-beat?tid_3=21072) looking at the major broadband-related provisions of the legislation. First up: over \$42 billion for broadband deployment grants to the states. We look at why new broadband maps are so critical to these efforts, what the grants can be used for, the process for states to receive the support, and a timeline moving forward.

Broadband Equity, Access, and Deployment Program (And the Need for Better Broadband Maps)

The U.S. Department of Commerce's National Telecommunications and Information Administration (<https://www.ntia.gov/>) (NTIA) has six months to create the Broadband Equity, Access, and Deployment Program to support projects to construct and deploy broadband networks. Congress has allocated **\$42.45 billion** for the program which will prioritize expansion of broadband in rural areas and states that rank below other states on broadband access and deployment.

A key element in the implementation of the program is broadband mapping taking place at the Federal Communications Commission. The FCC is in the process of updating its current broadband maps with more detailed and precise information on the availability of fixed and mobile broadband services. The Broadband Deployment Accuracy and Technological Availability (DATA) Act, signed into law in March 2020, requires the FCC to change the way broadband data is collected, verified, and reported. Specifically, the FCC must collect and disseminate granular broadband service availability data (broadband maps) from wired, fixed-wireless, satellite, and mobile broadband providers. To do this, the FCC is required to establish the Broadband Serviceable Location Fabric (a dataset of geocoded information for all broadband service locations, atop which broadband maps are overlaid) as the vehicle for reporting broadband service availability data. Additionally, the FCC must put forth specified requirements for service availability data collected from broadband providers, and it must create a challenge process to enable the submission of independent data challenging the accuracy of FCC broadband maps.

In December 2020, Congress allocated \$65 million for the FCC to implement the Broadband DATA Act. And, earlier this year, Acting FCC Chairwoman Jessica Rosenworcel created a Broadband Data Task Force to coordinate the FCC's mapping efforts. As reported by C|Net (<https://www.cnet.com/home/internet/the-fccs-broadband-map-wont-be-ready-for-a-year-this-data-company-has-already-built-one/>), the FCC says it's been making progress (<https://www.fcc.gov/reports-research/reports/broadband-progress-reports>) on its mapping effort over the past six months. The agency has selected a system developer to build and implement the map, and it has released a detailed public notice seeking comment on technical aspects of the mobile challenge and verification processes. In August, the agency released a mobile LTE broadband and voice coverage map (<https://www.fcc.gov/BroadbandData/MobileMaps/mobile-map>). It includes a snapshot of

the type of precise mobile broadband data available, based on new standardized parameters, that the FCC will collect through its Broadband Data Collection program (<https://www.fcc.gov/BroadbandData>). But the bottom line is: the new broadband maps needed for the Broadband Equity, Access, and Deployment Program are not expected until 2022.

Who is Eligible for Equity, Access, and Deployment Program Grants?

Each of the 50 U.S. states is eligible for Equity, Access, and Deployment Program support as are the District of Columbia, Puerto Rico, American Samoa, Guam, the United States (https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=47-USC-80204913-1109092309&term_occur=999&term_src=title:47:chapter:8:subchapter:III:section:942) Virgin Islands, and the Northern Mariana Islands.

What are Equity, Access, and Deployment Program Grants For?

These funds may be used for:

- broadband deployment to unserved and underserved areas,
- connecting eligible community anchor institutions,
- data collection, broadband mapping, and planning,
- installing internet or Wi-Fi infrastructure or providing reduced-cost broadband within a multifamily residential building (priority given to unserved households or locations with high concentrations of families with incomes below 150 percent of the poverty line),
- broadband adoption (including providing affordable internet-capable devices), and
- additional uses determined necessary by the NTIA.

States may use no more than five percent of their funding for planning and pre-deployment activities. No more than two percent can go to administration.

Subgrantees

States may use Broadband Equity, Access, and Deployment Program grants to competitively award subgrants for all the above bulleted uses. States may not exclude cooperatives, nonprofit organizations, public-private partnerships, private companies, public or private utilities, public utility districts, or local governments from eligibility for such grant funds. Entities that have previously received government funding to expand broadband service are not excluded from this new funding. And entities that receive this funding will not be excluded from future government broadband funding. These funds are meant to supplement, not supplant a state's broadband deployment funding.

Matching Funds

States are to require subgrantees to provide a 25 percent match (unless they receive approval from NTIA to reduce the match). Matching funds may:

- be provided by an eligible entity, a unit of local government, a utility company, a cooperative, a nonprofit organization, a for-profit company, a regional planning or governmental organization, a Federal regional commission or authority (think Appalachian Regional Commission, Delta Regional Authority, Denali Commission, and the Northern Border Regional Commission), or any combination thereof;
- be in-kind contributions; and
- include funds previously allocated in the Families First Coronavirus Response Act, the CARES Act, the Consolidated Appropriations Act, 2021, and the American Rescue Plan Act of 2021.

Broadband Network Quality of Service Requirement

Subgrantees must use the funds to deploy broadband networks that provide service:

- at a speed of **not less than 100 megabits per second for downloads and 20 megabits per second for uploads;**

- with a latency that is sufficiently low to allow reasonably foreseeable, real-time, interactive applications;
- with network outages that do not exceed, on average, 48 hours over any 365-day period; and
- ***provide access to broadband service to each customer served by the project that desires broadband service.***

Low-Cost Plans

Importantly, these new networks will also be required to **offer at least one low-cost broadband service option for eligible subscribers**. Each state (in consultation with NTIA and subgrantees) will define what “low-cost broadband service option” means for this purpose and the NTIA will determine who the eligible subscribers are and approve state definitions of low-cost broadband service options. In addition, within two years, the NTIA (in consultation with the FCC) will establish a website that:

- allows a consumer to determine, based on financial information entered by the consumer, whether the consumer is eligible
 - to receive a Federal or State subsidy with respect to broadband service; or
 - for a low-income plan with respect to broadband service; and
- contains information regarding how to apply for the applicable benefit.

Interconnection

Networks will be built with interspersed conduit access points at regular and short intervals with the ability to reach interconnection points to ensure the technical feasibility and financial sustainability of a project.

Prioritizing Use of Funds

States are to prioritize use of funds on **first, unserved locations, second**—after ensuring coverage of all unserved areas—**underserved areas**, and **third**—after addressing all unserved and underserved areas—**community anchor institutions**. Further, states are to **prioritize persistent poverty counties and high-poverty areas**, the **speed** of the proposed broadband service, the **expediency** with which a project can be completed, and a demonstrated record of and plans to be in compliance with Federal labor and employment laws.

Network Availability

Subgrantees are required to inform the state and the community once the network is deployed. Further, subgrantees will carry out public awareness campaigns in service areas, campaigns that are designed to highlight the value and benefits of broadband service in order to increase the adoption of broadband service by consumers.

If, at some point, the subgrantee is no longer able to provide broadband service to locations covered by the subgrant, it must sell network capacity to other broadband service providers or public sector entities at a reasonable, wholesale rate on a nondiscriminatory basis.

Reporting Requirements

Not later than **90 days** after receiving these funds, states are required to submit reports to the NTIA that:

- describe planned and actual use of funds,
- outline the planned and actual process of subgranting,
- identify oversight and accountability mechanisms, and
- provide any other information required by NTIA.

Not later than **one year** after receiving these funds (and semi-annually thereafter until the funds have been expended), states must submit reports to the NTIA that:

- describe how the state expended the grant funds,
- describe each service provided with the grant funds,

- describe the number of locations at which broadband service was made available using the grant funds, and the number of those locations at which broadband service was utilized, and
- certify that the state complied with program requirements.

No later than **one year after a state has used all of its grant funds**, it must submit a report to the NTIA that:

- describes how the eligible entity expended the funds,
- describes each service provided with the grant funds,
- describes the number of locations at which broadband service was made available using the grant funds, and the number of those locations at which broadband service was utilized,
- certifies that the state complied with program requirements, and
- includes each report that the state received from subgrantees. Subgrantees are required to submit semiannual reports to the states to track the effectiveness of the use of the funds provided. These reports are to:
 - include a list of addresses that will be served,
 - identify whether the address is residential, commercial, or a community anchor institution,
 - describe the types of facilities that have been constructed and installed,
 - describe the peak and off-peak actual speeds of the broadband service being offered,
 - describe the maximum advertised speed of the broadband service being offered,
 - describe the non-promotional prices, including any associated fees, charged for different tiers of broadband service being offered,
 - include any other data that would be required to comply with the data and mapping collection standards of the FCC, and
 - any other information required by the NTIA.

The NTIA and FCC will collaborate to standardize and coordinate reporting of locations at which broadband service was provided using grant funds.

What is the Process for States to Get the Funding?

Congress has set up a three-step process for states to receive their infrastructure money: submitting and gaining approval for **1) a letter of intent, 2) an initial proposal, and 3) a final proposal (collectively, a “covered application”)**. If a state fails to submit or gain approval for a covered application, a political subdivision or consortium of political subdivisions in a state may submit an application in place of the state.

When the FCC completes its broadband maps, NTIA will send a notice to each state that 1) contains the estimated amount of funding available to the state and 2) invites the state to submit initial and final proposals for grants.

NTIA will also distribute, subject to approval of covered applications, \$4.245 billion (10% of total allotment) to states using a formula concerning a state's percentage of nationally unserved locations in high-cost areas. Each state will receive at least \$100 million. The remaining \$37.356 billion will be distributed to states using a formula concerning a state's percentage of nationally unserved locations. The U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands will all get an equal share of \$100 million (\$25 million each).

Letter of Intent

The NTIA will determine what information will be in the letter of intent, but Congress offers some suggestions:

- details of the state's existing broadband program or office including activities, the number of rounds of broadband grants the state has awarded, the state's plan and goal for broadband availability, the amount and source of funding the state has available for broadband

deployment (or data collection and local planning), the number of full- and part-time employees that administer this funding, the goals for this new federal funding, and the process that will be used to distribute and oversee the funding to subgrantees;

- the known barriers or challenges to developing and administering a program to administer the federal grants;
- the additional capacity needed to implement the NTIA's requirements including enhancing the capacity of the broadband program with technical assistance, new hiring, or collecting more data;
- how the above needs were identified and how the funds will be used to address them; and
- details about any relevant partners including organizations that may inform deployment and adoption planning.

When filing a letter of intent, the state may request not more than five percent of the amount allocated to it for:

- research and data collection, including initial identification of unserved locations and underserved locations;
- the development of a preliminary budget for pre-planning activities;
- publications, outreach, and communications support;
- providing technical assistance, including through workshops and events;
- training for employees of the broadband program or office or employees of political subdivisions, and related staffing capacity or consulting or contracted support; and
- with respect to an office that oversees broadband programs and broadband deployment in a state, establishing, operating, or increasing the capacity of such a broadband office.

Action Plans

Any state receiving broadband deployment funds from NTIA must submit a five-year action plan informed by collaboration with local and regional entities and detailing investment priorities and alignment of planned spending with economic development, telehealth, and related connectivity efforts.

The NTIA will set the requirements for the action plan, but Congress suggests that it should:

- address local and regional broadband service needs,
- propose solutions for deploying affordable broadband service,
- include localized broadband deployment data, including locations to prioritize,
- ascertain how best to serve unserved locations ("whether through cooperatives or public-private partnerships"),
- identify the needed technical assistance, and
- assess the amount of time it will take to buildout universal broadband service in the state.

Initial Proposals

NTIA will set up an online application form to allow a state to submit an initial proposal that:

- outlines long-term objectives for deploying broadband, closing the digital divide, and enhancing economic and job creation including information from the state's action plan and any comparable strategic plan developed by the state;
- identifies steps to support local and regional broadband planning processes or other ongoing deployment and digital divide efforts;
- describes coordination with local governments and local and regional broadband planning processes;
- identifies existing broadband deployment or digital divide efforts in the state funded by the federal government or the state;
- includes a plan to competitively award subgrants; and

- **identifies each unserved or underserved location and community anchor institution in the state.**

NTIA will set requirements for states to coordinate with local and county governments for initial and final proposals, allowing political subdivisions to 1) submit plans to the state for consideration and 2) comment on the state's initial proposal before it is submitted to the NTIA.

A state may submit only one initial and one final proposal to the NTIA which will then review the proposal to make sure it is complete, complies with the requirements of the program and the purposes of the law, and is in the public interest. If NTIA approves the initial proposal, it will make 20 percent of the state's allocated funding available. (NTIA will have the discretion to increase the funding at that time.) If the initial proposal is incomplete or not approved by NTIA, the state may change and resubmit the proposal for approval. (This process may continue until NTIA approves the state's proposal.)

Final Proposals

After NTIA approves a state's initial proposal, the state may submit a final proposal for the remainder of funding allocated to the state. The final proposal will include:

- a detailed plan for how the state will allocate funds for broadband deployment to unserved and underserved locations and align this funding with use of other federal, state, or private broadband deployment funding. (States are required to align use of these funds with funds available from other federal programs that support broadband deployment and access.)
- a timeline for implementation,
- an oversight and accountability process, and
- a description of coordination with local governments along with local and regional broadband planning processes.

If approved by NTIA, the state would receive the remainder of its funds in this program. If the final proposal is not approved, the state may change and resubmit it to the NTIA for approval.

Technical Support

As part of the Equity, Access, and Deployment Program, NTIA will provide technical support and assistance to states including:

- development of grant applications,
- development of plans and procedures for distribution of funds, and
- cybersecurity resources.

What's the Timeline?

NTIA has six months to issue a notice of funding opportunity that:

- notifies states of the establishment of the program and the minimum amount of funding they will receive;
- invites states to submit letters of intent in order to participate in the program and receive funding for planning and pre-deployment activities; and
- contains details about the program including requirements for covered applications for grants and allowed uses for awarded funds.

When the FCC completes its broadband maps (likely in 2022), NTIA will send a notice to each state that 1) contains the estimated amount of funding available to the state and 2) invites the state to submit initial and final proposals for grants. NTIA will also distribute, subject to approval of covered applications, \$4.245 billion (10% of total allotment) to states.

Subgrantees have four years after being awarded a subgrant to begin offering service to each customer unless the state grants an extension of the deadline. (Construction must be underway or there must be extenuating circumstances that require an extension.)

The \$42.45 billion allocated for the Equity, Access, and Deployment Program is available until the funds are expended.

See more on the Infrastructure Investment and Jobs Act (https://www.benton.org/digital-beat?tid_3=21072)

The Infrastructure Bill is About More than Money (<https://www.benton.org/blog/infrastructure-bill-about-more-money>)

The Largest U.S. Investment in Broadband Deployment Ever (<https://www.benton.org/blog/largest-us-investment-broadband-deployment-ever>)

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