

**Virginia Office of Broadband
Broadband Equity, Access, and Deployment (BEAD) Program**

Policy Notice for Subgrantee Transferring Awarded Locations to Another ISP

General Statement: The Commonwealth of Virginia, as a BEAD program Eligible Entity, must certify in its BEAD Final Proposal to the National Telecommunications and Information Administration (NTIA), that all unserved and underserved locations included in the NTIA approved post-challenge process results are covered by a provisional subgrant award.

The following policy notice is provided to meet the Virginia Office of Broadband's (VA OoB) commitment to and the NTIA requirement of a fair, open, equitable, and competitive subgrantee selection process. This policy reinforces that adequate safeguards are in place in Virginia's approved BEAD Initial Proposal Volume 2 to protect the integrity of the competition, including safeguards against collusion, bias, conflicts of interest, arbitrary decisions, and other factors that could undermine confidence in the subgrantee selection process for last-mile broadband deployments. These commitments are provided throughout Virginia's approved BEAD Initial Proposal Volume 2.

This policy, consistent with NTIA guidance, lists the VA OoB provisions for a BEAD project application or project subgrant award, to allow for 2 or more Internet Service Provider's (ISP) to cooperate on a BEAD program project.

Summary of Requirements of Virginia by NTIA – Provided for Informational Purposes Only

One sole ISP applicant may receive a BEAD subgrant and then subcontract to another ISP to deploy to a portion of the locations covered by the project. Because there will only be one BEAD subgrant agreement between the Eligible Entity (EE) and the applicant, all interested parties should be aware that the subgrantee is ultimately responsible for satisfying the terms of the subgrant. The project cannot be considered a priority broadband project if the subgrantee will be deploying fiber but the subcontractor will not be deploying fiber.

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

The Virginia OoB will implement NTIA guidance above for BEAD subgrantee(s) to subcontract project locations for deployment, thereby allowing for Subgrantee Transferring Awarded Locations to another ISP using the Key Provisions listed below.

Key Provisions:

1. **Transfer Timeline:** Locations must be subcontracted within five months after NTIA Final Proposal approval. Any subcontracting must be completed before the Department of Housing and Community Development (DHCD) issues a subaward agreement. Subcontracted locations and organizations must be documented in the BEAD Subgrantee Agreement between the DHCD and the subgrantee.

2. **Subcontract:** The subgrantee and subcontractor must have a subcontract in place which includes all BEAD related flow-down provisions from OoB to subgrantee to subcontractor.
3. **Inclusion of DHCD in Conversations:** The subgrantee and subcontractor may elect to include DHCD in discussions or conversations.
4. **Letter of Intent:** The subcontractor need not have submitted a letter of intent to participate under the BEAD program.
5. **Technology Consistency:** The broadband network technology used by the subcontractor must be the same as approved in the award announcement to the subgrantee.
6. **Funding:** No additional funds shall be granted from the OoB to the subgrantee for the subcontractor to perform contracted work.
7. **Location Assignment Limit:** No more than 50% of locations awarded to the subgrantee may be subcontracted in each ZCTA without prior written approval by DHCD. There is no limit on the number of subcontractors.
8. **Approval Rights:** The Office of Broadband reserves the right to provide prior approval for or deny any subgrantee awarded location transfers.
9. **Compliance:** The subcontractor must be compliant with all BEAD program requirements.
10. **Reporting:** The subgrantee is responsible for reporting the subcontractors progress made and purposes of enforcement, oversight, and monitoring of BEAD program requirements.
11. **Pre-arranged Assignments:** Applicants may elect to pre-arrange location subcontracts within applicant's project area application(s) before application submission and note this in their application.
12. **FOIA Exemption:** For private business entities submitting proprietary information to the BEAD program may request protection from Freedom of Information Act (FOIA) requests pursuant to § 2.2-3705.6(3). Such entities shall submit the request for DHCD to apply the FOIA exemption in § 2.2-3705.6(3) in writing to broadband@dhcd.virginia.gov. In the event a subcontractor is required to submit proprietary information, DHCD will consider direct submission of such information to DHCD and not require the information to go through the subgrantee for reporting purposes.