

Virginia Office of Broadband

Broadband Equity, Access, and Deployment (BEAD) Program

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

General Statement: The following policy notice is provided to meet the Virginia Office of Broadband's (VA OoB) commitment to and the National Telecommunications and Information Administration's (NTIA) requirement of a fair, open, equitable, and competitive subgrantee selection process. This policy reinforces the 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.

Identification and De-Obligation of Mischaracterized Broadband Serviceable Locations (BSLs) or Non Broadband Serviceable Locations

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

The Commonwealth of Virginia, in its BEAD Final Proposal to NTIA, must certify that all unserved and underserved locations included in the approved post-challenge process results are covered by a provisional award. The Commonwealth of Virginia may de-obligate a location from this requirement by giving context/documentation that a BSL does not need service because it is a **Mischaracterized Unserved and Underserved Location** or **Non Broadband Serviceable Location**. Below is a list of reason codes based on the respective category as recently published in [NTIA's Final Proposal Guidance 1.2 \(See Page 89\)](#).

Mischaracterized Unserved and Underserved Location Reason Codes ("Reason")

1. Location should not have broadband service
2. Location does not need mass-market broadband service
3. Location has been removed from the Fabric by the FCC, or is listed as BSL = FALSE
4. Location is already served by an enforceable commitment
5. Location is already served by a non-subsidized service
6. Other
7. Insufficient Funds

Non-Broadband Serviceable Location Codes (If Reason Code 1 is Selected)

- D. Location has been demolished and is not expected to be rebuilt
- B. Residential location is not habitable
- U. Location is a support structure (e.g. a garage, parking structure, barn, silo, storage shed) to a nearby building
- M. Location is intended to be mobile (e.g. it is an RV or boat)
- R. Location is not a building, but a land formation, such as a large rock or collection of hay bales
- Z. Location is not serviceable for another reason

For a mischaracterized Broadband Serviceable Location (BSL) and locations that have No Demand for Service, Virginia is **required** to file a location challenge with the FCC for relevant locations and submit evidence with the Final Proposal submission to show that the unserved or underserved location is not a BSL or has no demand for service. Each type of evidence must be justified an allowable reason code. The allowable reason codes are listed in parenthesis next to each evidence type below.

- L. Attestation by unit of local or Tribal government (1)
- G. Attestation by government entity owning location (1, 2)
- F. Attestation by federal government agency (2)
- P. Photographic evidence (1, 2)
- S. Evidence of subscription (5, 2)
- N. Network diagram (5)
- O. Attestation by private property owner (1, 2)
- T. Network speed test (5)
- X. Other Evidence (1, 2, 4, 5)

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

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

Based on the requirements of Virginia to NTIA, as provided above, the Va OoB provides the guidance below for the identification of **Mischaracterized Unserved and Underserved Locations** or **No Demand for Service**.

In the supplemental attachment fields in the Centralized Application Management System (CAMS), BEAD applicants interested in seeking de-obligation from providing broadband access to such locations must submit two attachments. The first attachment should, using the template provided on dhcd.virginia.gov/bead, provide the required information for each location that the applicant is interested in seeking de-obligation of. This required information includes, the Location ID Number in the FCC's Broadband Serviceable Location Fabric Version 3.2 (the location ID of the location in the BEAD eligible list of locations), the reason code, the Non-BSL-Code (if applicable), the location type, the evidence type, and the funding program (if applicable). See the template provided at dhcd.virginia.gov/bead for more information, additional requirements and submission instructions. All fields are mandatory unless stated otherwise. The second attachment shall include evidence supporting such de-obligation consistent with the allowed evidence outlined above for the Commonwealth of Virginia to submit to NTIA in its BEAD Final Proposal. The Commonwealth of Virginia reserves the right to request applicants and provisionally selected subgrantees to reformat these attachments to meet NTIA submission requirements.

The Office of Broadband will only consider these attachments if/where the applicant was provisionally awarded under the BEAD subgrantee selection process. The Office of Broadband will review these locations submitted by the provisionally awarded subgrantee within the ZCTAs or at locations where the applicant was provisionally awarded. Provided the submitted locations meeting these criterion pass the

Va OoB's review, the locations and corresponding evidence will be submitted in Virginia's BEAD Final Proposal.

Due to the immense processing requirements of the BEAD subgrantee selection process, the Va OoB will not change the denominator at which an applicant is being evaluated for proposing to provide broadband access to 95% of BEAD eligible locations within each ZCTA based on the proposed de-obligated locations. For example, if there are 100 BEAD eligible locations in a ZCTA, the applicant must propose to serve, at minimum, 95% of those locations in their application, regardless of if the applicant is seeking to de-obligate locations from service access requirements.

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

The Va OoB fully acknowledges that Non-BSLs, including Mischaracterized Unserved and Underserved Locations or No Demand for Service locations, will also be (and are more likely to be) identified when an awarded subgrantee is building out the network. The Va OoB will continue to communicate NTIA's requirements and provide guidance on the broadband service access requirements of NTIA. The Va OoB encourages awarded subgrantees to document these locations during the construction phase to be prepared to petition NTIA for de-obligation of such locations with assistance from the Va OoB.