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Alan Davidson
Assistant Secretary of Commerce for Communications and Information & NTIA Administrator
Department of Commerce
1401 Constitution Ave., NW
Washington, DC 20230

Dear Assistant Secretary Davidson:

In November 2021, President Biden signed the *Infrastructure Investment and Jobs Act* (IIJA) into law to invest in American competitiveness and industrial capacity. A key provision of this legislation is the Broadband Equity, Access, and Deployment (BEAD) program, the largest broadband investment in American history. In its Notice of Funding Opportunity, the National Telecommunications and Information Administration (NTIA) included a requirement that BEAD applicants obtain a letter of credit as a precondition for funding. I write to request that the NTIA allow alternative methods of surety for BEAD program applicants.

Successful implementation of BEAD funding will ensure that every American has access to the digital tools they need to participate in the 21st century economy. Small internet service providers (ISPs), including non-profits, small commercial ISPs, and electric utilities are critical partners in expanding America's broadband network. Across Colorado, small ISPs have provided some of the fastest internet speeds in the state, and demonstrated their ability to successfully complete broadband projects.

NTIA's requirement that BEAD applicants provide a letter of credit of at least 25 percent of the overall grant amount will severely limit the ability of small ISPs to access this funding. To obtain this type of surety, most banks require collateral in cash equal to the full value of the letter of credit. This means that, when considering the 25 percent match that NTIA also requires, applicants will need over 40 percent of the grant's total value in cash in order to access BEAD funds. Given BEAD grants are expected to be in the millions of dollars, many small ISPs do not have the reserves they need to meet this requirement. For those that do, the requirement will deprive them of necessary working capital.

The letter of credit requirement is of particular concern to public entities in Colorado, which are likely prohibited from obtaining such a financial instrument. Article XI, Section 1 of the Colorado Constitution prohibits a county, city, town, township, or school district from pledging their credit to any person, company, or corporation, public or private. While the NTIA allows for letter of credit exemptions, it is unclear how its process will be administered. As currently designed, the process may discourage small providers and public entities from applying in the first place.

I appreciate the NTIA's commitment to protect taxpayer funds and ensure that every dollar of BEAD funding is well-spent. However, this commitment should not disproportionately prevent small providers, nonprofits, and public entities–many of whom are best placed to meet the needs of their communities–from accessing this vital funding. By allowing alternative methods to provide surety, including performance bonds and delayed disbursement of funds, the NTIA can meet its objective of preventing waste and fraud, while making funding available to a broader array of applicants.

I urge you to review and reform the BEAD program's letter of credit requirement and exemption process to ensure that these funds can be accessed by a wide range of internet service providers.

Sincerely,

Michael F. Bennet
United States Senator