

**INTERNET  
FOR ALL**

# Uniform Guidance Policy Notice Primer

*Broadband Equity, Access, and Deployment Program*

October 2024



This document is intended solely to assist applicants in better understanding the Broadband Equity Access, and Deployment (BEAD) grant program and the requirements set forth in the Notice of Funding Opportunity (NOFO) and follow-on policies and guidance for this program. This document does not and is not intended to supersede, modify, or otherwise alter applicable statutory or regulatory requirements, the terms and conditions of the award, or the specific application requirements set forth in the NOFO. In all cases, statutory and regulatory mandates, the terms and conditions of the award, the requirements set forth in the NOFO, and follow-on policies and guidance, shall prevail over any inconsistencies contained in this document.

# Uniform Guidance Policy Notice Primer

The following is intended solely as a summary of the [Uniform Guidance Policy Notice](#) (“Policy Notice”) that was issued on December 26, 2023. Should this summary and the Policy Notice differ, the Policy Notice governs.



## BACKGROUND & SUMMARY

On July 5, 2023, the National Telecommunications and Information Administration (NTIA) released a Request for Comment (RFC) seeking input on potential exceptions, adjustments, and clarifications (altogether referred to as “modifications” in this document) to certain provisions of the Uniform Guidance (2 CFR 200) in the Broadband Equity, Access, and Deployment (BEAD) program. As a result of the 60+ comments received, NTIA opted to move forward with certain modifications. On December 26, 2023, NTIA released the Uniform Guidance Policy Notice providing final guidance regarding modifications that will apply in the BEAD program.

**Figure 1** provides more information on the Uniform Guidance Policy Notice process. **Table 1** provides a summary of the modifications and impacts. The subsequent sections of this primer provide specific guidance on each major modification due to the Policy Notice including the rule, Policy Notice guidance, and talking points for conversations with subgrantees.

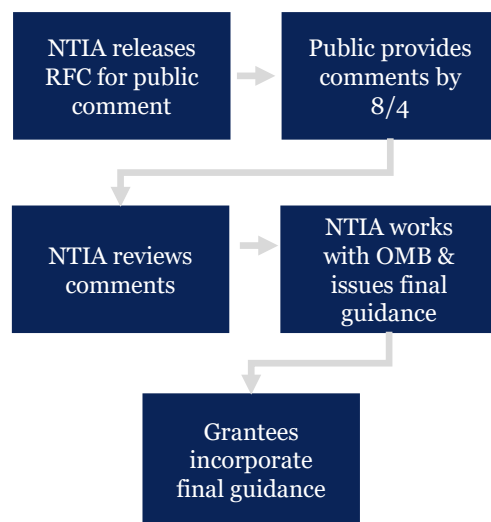


Figure 1: Uniform Guidance Policy Notice Process



## WHY DID NTIA APPLY MODIFICATIONS TO THE APPLICATION OF THE UNIFORM GUIDANCE IN THE BEAD PROGRAM?



The **scale and scope** of the BEAD program is **different** than typical federal grant programs that operate under 2 CFR 200.



As a result, stakeholders are concerned current rules may **deter participation** from, and **increase costs** to, Internet Service Providers (ISPs).



## WHAT TYPE OF PROJECTS DOES THIS AFFECT?

Modifications from the Uniform Guidance Policy Notice **only apply to majority purpose broadband deployment projects under the BEAD program**. As defined in Section I.C.(t) of the BEAD NOFO, the major purpose of a subgrant is a broadband infrastructure project(s) if more than 50% of the estimated total costs under the subgrant are necessitated by the broadband infrastructure project(s) activities of the subgrant. These modifications **do not affect** projects under other grant programs (e.g., Digital Equity).

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## SUMMARY OF MODIFICATIONS

**Table 1** provides a summary of the modifications from the Uniform Guidance Policy Notice. Note that while some modifications affect **all** BEAD deployment projects, other modifications **only** apply to fixed amount subawards for BEAD deployment projects.

*Table 1: Uniform Guidance Policy Notice Summary of Modifications*

Topic	Modification
<b><i>The following Uniform Guidance Policy Notice topics affect <u>all</u> BEAD majority purpose broadband deployment projects.</i></b>	
<a href="#"><u>Program Income</u></a>	<ul style="list-style-type: none"> <li>Allows subgrantees to retain program income (e.g., income from services provided over BEAD-funded networks) without restriction</li> </ul>
<a href="#"><u>Audit</u></a>	<ul style="list-style-type: none"> <li>States that non-federal entities are required to submit single audits or program-specific audits to the Federal Audit Clearinghouse</li> <li>Dictates that commercial entity subgrantees are not subject to 2 CFR 200.501(f) but are subject to 2 CFR 200.501(h) which establishes the pass-through entity as responsible for subgrantee audit compliance</li> <li>Notes that NTIA, Department of Commerce (DOC), or another authorized Federal agency may conduct audits at any time</li> </ul>
<a href="#"><u>Federal Interest Period</u></a>	<ul style="list-style-type: none"> <li>Creates Federal Interest Period of 10 years</li> </ul>

***The following actions apply only to BEAD fixed amount subawards whose majority purpose is a broadband infrastructure project.***

<a href="#"><u>Fixed Amount Subawards</u></a>	<ul style="list-style-type: none"> <li>Permits grantees to make fixed amount subawards for broadband infrastructure projects</li> <li>Subgrantees may do so regardless of whether (1) the value of the subaward exceeds the Simplified Acquisition Threshold of \$250k and (2) notwithstanding the BEAD program’s statutory match requirement</li> <li>Implications to budget modifications, match, monitoring, reporting, and drawdowns</li> </ul>
<a href="#"><u>Cost Principles</u></a>	<ul style="list-style-type: none"> <li>Cost principle rules do not apply to fixed amount subawards</li> </ul>
<a href="#"><u>Procurement Standards</u></a>	<ul style="list-style-type: none"> <li>Provides an exception to the procurement standard rules</li> </ul>
<a href="#"><u>Property Standards</u></a>	<ul style="list-style-type: none"> <li>Exceptions, adjustments, and clarifications for fixed amount subawards, including title, management and use requirements, liens, encumbrance and disposition</li> </ul>

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## MODIFICATIONS THAT IMPACT ALL BEAD DEPLOYMENT PROJECTS



### PROGRAM INCOME

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#### RULE

The [Uniform Guidance](#) describes program income as earned income “that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance.” The Uniform Guidance and [Department of Commerce Financial Assistance Standard Terms and Conditions](#) do not permit grantees or subgrantees to retain program income without restriction.

#### POLICY NOTICE GUIDANCE

Subgrantees **will be permitted to retain program income without restrictions**. Note that per the NOFO, subgrantees still may not claim profit and fees paid to the subgrantee by the grantee as allowable costs. The guidance allows subgrantees to, for example, retain program income derived from the servicing and use of supported networks and connections.

#### IMPACT

Grantees should consider the following impacts regarding program income modifications:

- Allowing subgrantees to retain program income **increases the incentive** for providers to participate in BEAD.
- Grantees are responsible for **confirming** that subgrantee budgets **do not** include profit or fees, both during subgrantee application and throughout monitoring.
- NTIA **will not require** grantees to report subgrantee program income.
- A profit, fee, or other incremental charge **above actual cost incurred** by a grantee or subgrantee is not an allowable cost under BEAD.



### AUDIT

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#### RULE

Under the Uniform Guidance, all non-federal entity subgrantees that expend \$750k or more in Federal award funds, in aggregate across all subgrants during the fiscal year, are subject to audit requirements in [Subpart F](#). Commercial entity subgrantees (e.g., most ISPs) are not subject to subpart F.

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## AUDIT CONT.

### POLICY NOTICE GUIDANCE

Audit rules **did not change** as a result of the policy notice. While commercial entities **still are not** subject to Subpart F, the Policy Notice clarifies that commercial entities are subject to the audit requirements stipulated in their subaward agreement. Grantees are encouraged to ensure compliance by commercial entity subgrantees through various methods including pre-award audits, monitoring, and post-award audits. Note that NTIA and the DOC Office of Inspector General, or another authorized Federal agency (e.g., the National Institute for Standards and Technology [NIST]), may conduct an audit at any time.

### IMPACT

Grantees should consider the following impacts regarding audit guidance:

- Grantees have **flexibility** in the level of auditing they will require for commercial entities. As part of a subgrant agreement, grantees **may require** commercial entity compliance with Subpart F.
- Grantees are responsible for ensuring **compliance** with program requirements and the **financial health** of the program through both monitoring and auditing.



## FEDERAL INTEREST PERIOD

### RULE

The Uniform Guidance requires real property and equipment acquired or improved with a subgrant to be held in trust for the beneficiaries of the BEAD Program. Additionally, the Department of Commerce Financial Assistance Standard Terms and Conditions provides that this trust relationship exists throughout the duration of the property's estimated useful life, as determined by the Grants Officer in consultation with the program office.

### POLICY NOTICE GUIDANCE

The Federal Interest Period for all real property or equipment acquired or improved as part of a subgrant for which the major purpose is a broadband infrastructure project **will continue for 10 years** after the year in which the subgrant for a project has been closed out in accordance with 2 CFR 200.344. All other previous guidance, outside of this specification, still applies.

**Example:** For all subgrants closed out in 2027, regardless of the month, the Federal Interest Period will last until December 31, 2037.

### IMPACT

See section on [Property Standards](#) for additional information.

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## MODIFICATIONS THAT ONLY IMPACT BEAD FIXED AMOUNT SUBAWARDS FOR DEPLOYMENT

### FIXED AMOUNT SUBAWARDS OVERVIEW

#### RULE

BEAD subgrants could only be issued under a cost reimbursable model where the subgrantee invoices the grantee and provides receipts on a regular basis (**Figure 2**).

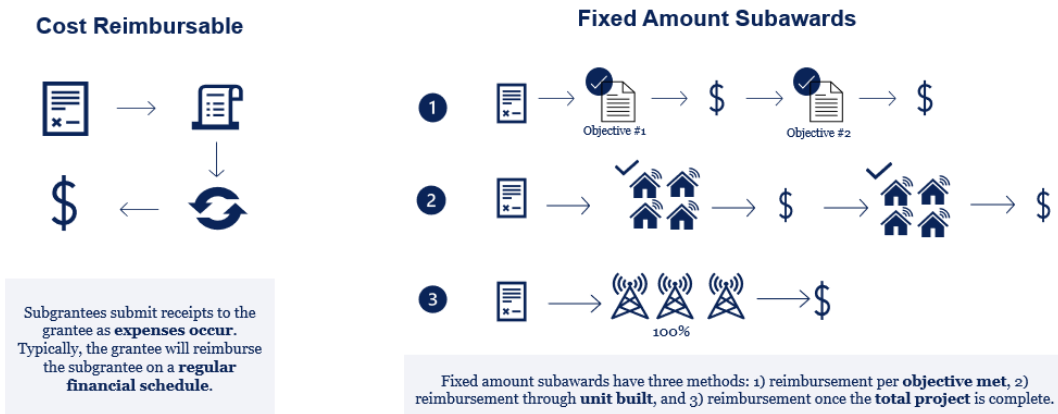


Figure 2: Cost Reimbursable vs. Fixed Amount Subawards

#### POLICY NOTICE GUIDANCE

Grantees may issue fixed amount subawards for BEAD projects **where the major purpose is broadband deployment (Figure 3)** regardless of whether the value of the subgrant exceeds the Simplified Acquisition Threshold for fixed amount subawards (\$250k). Additionally, while the Uniform Guidance provides that fixed amount subawards generally cannot be used in programs which require mandatory cost sharing or match, NTIA has opted to **keep all match requirements, even for fixed amount subawards**. Further, grantees may still choose to treat subgrants as fixed amount subawards, and retain the benefits, even if the grantee requires subgrantees to submit evidence of costs (i.e., receipts), so long as the subgrantee identified does not to exceed the allocated amount. Finally, as seen in **Figure 4**, several requirements within 2 CFR 200 are inapplicable if using a fixed amount subaward agreement.



Figure 3: Allowable Fixed Amount Subaward Projects

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## FIXED AMOUNT SUBAWARDS OVERVIEW CONT.

### IMPACT

Grantees should consider the following impacts regarding fixed amount subawards:

- Considering that fixed amount subawards agreements are based on performance and results, grantees should ensure the subgrant agreements are detailed with the requirements for a subgrantee to meet a milestone or objective to receive payment.
- Since fixed amount subawards do not require regular receipt review, this type of agreement may **decrease** administrative burden on the state.
- Per the Uniform Guidance Policy Notice, and as seen in **Figure 4**, fixed amount subawards may render inapplicable certain Uniform Guidance requirements, **providing increased flexibility** for both the grantee and subgrantee.



#### Cost Principles

*Modifies the requirement for fixed amount subawards to follow 2 CFR 200 Subpart E*



#### Procurement Standards

*Modifies the requirement for fixed amount subawards to follow 2 CFR 200.318-320 and 200.324-326*



#### Property Standards

*Modifies **some** requirements for fixed amount subawards related to 2 CFR 200*

*Figure 4 : Modified 2 CFR 200 Requirements for Fixed Amount Subawards*

**Note:** It is highly encouraged that grantees monitor for budget modifications anyway and encourage fixed amount subgrantees to report on any deviations. Any budget modifications found by or reported to the grantee **must** be reported to NTIA. Additional information on reporting requirements in the BEAD Semi-Annual Report is forthcoming.



## FIXED AMOUNT SUBAWARDS | MATCH

### RULE

The Uniform Guidance prohibits the issuance of fixed amount subawards in programs that require match.

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## FIXED AMOUNT SUBAWARDS | MATCH CONT.

### POLICY NOTICE GUIDANCE

Regardless of subgrant agreement type (i.e., cost reimbursable or fixed amount) BEAD subgrantees are still required to meet the program’s match requirements, as listed in statute and NOFO (**Figure 5**). Grantees must confirm that the subgrantee will provide match and how the subgrantee will provide match as part of their subgrantee selection and agreement process. Additionally, match must be reported by the subgrantee to the grantee proportional to each milestone met, unit built, or project complete (depending on how the subgrantee agreement is structured). This information must then be reported by the grantee to NTIA. Further, grantees are responsible for verifying match requirements as part of their subgrantee monitoring.

### IMPACT

Grantees should consider the following impacts regarding fixed amount subaward match:

- The guidance above sets the **minimum requirements** for grantees related to fixed amount subaward match. Note, grantees **may impose** additional requirements beyond what is required by NTIA on reporting and monitoring match.
- This revised guidance **will impact** upcoming reports. Additional guidance on how grantees must complete these updated reports **will be forthcoming**.

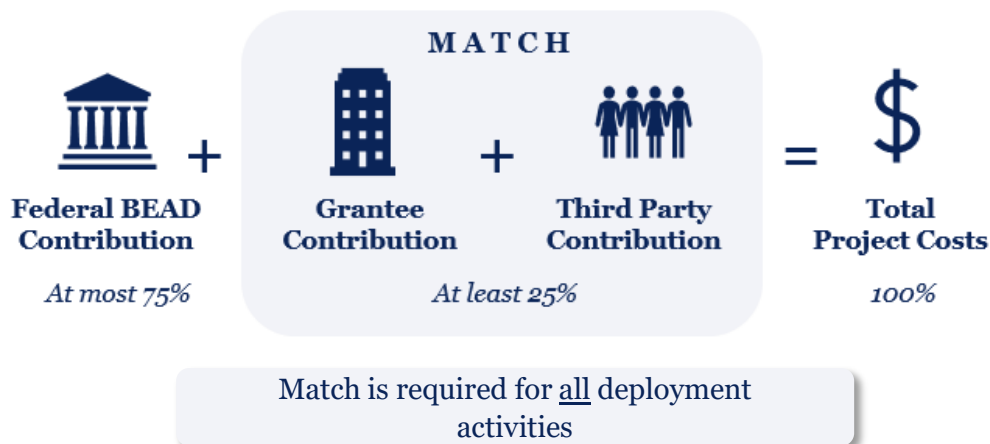


Figure 5: BEAD Match Calculation

**Note:** Match must be tied to each project and cannot be aggregated across the award and/or multiple projects. For additional information, see the [BEAD Match Primer](#).



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## COST PRINCIPLES

### RULE

The Uniform Guidance establishes principles that all grantees must use when determining allowable costs for subgrantees. The specific [cost principles](#) vary depending on the status of the subgrantee.

### POLICY NOTICE GUIDANCE

Cost principle requirements **do not apply to** fixed amount subawards. However, grantees may use the cost principles in 2 CFR 200 Subpart E, along with other available pricing information, as a guide when budgeting for the work that will be performed under the fixed amount subaward.

### IMPACT

Grantees should consider the following impacts regarding cost principles:

- Cost principles **modifications only apply to fixed amount subaward** projects. For cost reimbursable subgrant projects, 2 CFR 200 Subpart E still applies.
- Grantees may still treat subgrant agreements as fixed amount subawards, even if the subgrantees are required to provide routine evidence of costs (similar to a cost reimbursable model or in alignment with 2 CFR 200 Subpart E) so long as the subgrantee identified does not to exceed the allocated amount.
- Grantees should be careful when estimating budgeted costs for fixed amount subawards as subgrantees have **incentive to estimate costs conservatively** and keep the overage.



## PROCUREMENT STANDARDS

### RULE

The Uniform Guidance generally imposes [procurement](#) rules on grantees and subgrantees that use federal assistance funds to obtain property or services. The underlying objective of these rules is to ensure that procurement processes sufficiently guard against fraud, waste, and abuse.

### POLICY NOTICE GUIDANCE

Subgrantees that receive fixed amount subawards are **not required to comply** with the procurement standards in sections 200.318-320 and 200.324-326 of the Uniform Guidance. However, note that subgrantees may be required to comply with State/Territory-level procurement policies.

### IMPACT

Grantees should understand that this new guidance only applies to BEAD fixed amount subawards and will provide increased flexibility for grantees during subgrantee selection.



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## PROPERTY STANDARDS

### RULE

The Uniform Guidance states that real property, equipment, and tangible property acquired or improved via a federal award must be held in trust for beneficiaries of the program and that this trust relationship exists throughout the duration of the property's estimated useful life (the Federal Interest Period). Additionally, subgrantees must comply with all ownership, title, use, management, and disposition requirements throughout the Federal Interest Period.

### POLICY NOTICE GUIDANCE

Regarding **title**, any real property or equipment acquired or improved with BEAD fixed amount subaward funding **immediately vests** in the subgrantee once acquired and is subject to a 10-year Federal Interest Period according to 2 CFR 299.313(d).

Additionally, for fixed amount subawards, subgrantees **must follow their existing commercial practices** for managing equipment, rather than adhering to rules in the Uniform Guidance (2 CFR 200.313(d)). However, if a subgrantee **does not** have existing commercial practices for managing equipment, they **must comply** with Uniform Guidance standards.

The policy notice additionally emphasized that all fixed amount subawards **must generally comply** with the **use and disposition requirements** in 2 CFR 200.313(c)(4) and 313(e). However, subgrantees acquiring replacement equipment under 2 C.F.R. § 200.313(c)(4) may treat the equipment to be replaced as “trade-in” even if the subgrantee elects to retain full ownership and use over equipment. Regarding **liens**, subgrantees **must report liens** or other appropriate notices of record to their NIST Grants Officer. Specific requirements are provided in the BEAD General Terms and Conditions and Specific Award Conditions for each grant. Further guidance is also forthcoming.

Regarding **encumbrance**, fixed amount subawards may encumber project property only after notifying NTIA and the NIST Grants Officer. Additionally, encumbrance is subject to DOC receiving **either a first priority security interest (preferred)** or shared first priority security interest in the property. These security interests must ensure that, if the project property were foreclosed upon and liquidated, DOC would be entitled to receive the portion of the current fair market value of the property that is equal to the DOC's percentage of contribution to the project costs.

For **insurance** requirements, fixed amount subawards **must comply** with 2 CFR 200.310. Fixed amount subgrantees must also comply with 2 CFR 200.312, as applicable. Finally, the policy notice notes that the property standards set forth in 2 CFR 200.314-315 on supplies and intangible property, **do not apply** for fixed amount subawards.

### IMPACT

Grantees should understand that the goal of this framework is to provide additional flexibility to subgrantees, while continuing to ensure accountability. Additional information is forthcoming on these requirements and modifications.

