

BEAD PREQUALIFICATION FAQs



To support openness, fairness, and competition in its BEAD grant efforts, DTI accepted questions about the substance of the Prequalification Application until May 31, 2024. Answers are provided in this document for the reference of all applicants; questions have been condensed, consolidated, and edited for clarity.

Question 1

Will the geographic project boundaries of the Grant Areas be shared during the prequalification phase?

No, the project areas will not be announced during the Prequalification Phase. They will be announced prior to the Scoring Phase of the BEAD application process. DTI anticipates sharing the Grant Areas immediately in advance of release of the BEAD grant materials. DTI will undertake the Grant Area Determination Process after NTIA approves the results of Delaware's Challenge Process.

Question 2

When will the list of unserved and underserved Broadband Serviceable Locations (BSL) be shared after the Challenge Process?

At this time, we do not have an estimate of when the unserved and underserved BSLs will be announced. The list will be shared after the conclusion of the NTIA review process.

Question 3

Which options is DTI choosing to adopt from the NTIA Notice of Programmatic Waiver with regards to the letter of credit requirement?

As per the Initial Proposal Volume 2, section 4.12.2, subgrantees must obtain the required letter of commitment and letter of credit from an eligible financial institution in an amount no less than 25 percent of the subaward amount, per NTIA's requirements.

DTI has adopted the second and third options presented in the NTIA waiver as follows:

- 1. Entities that are unable to obtain a letter of credit may obtain a performance bond meeting the full amount of the subgrantee's share of their BEAD obligation.*
- 2. Whether the entity utilizes a letter of credit or a performance bond in lieu of a letter of credit, subgrantees may reduce the amount of the letter of credit or performance bond by a commensurate amount as the subgrantee meets service milestones specified by DTI (outlined in the Initial Proposal Volume 2, section 4.12.2).*

Question 4

Will a performance bond letter of commitment be required during prequalification?

No. Applicants that elect to utilize the performance bond option instead of the letter of credit are not required to present the letter of commitment during Prequalification Phase. They will be required to present this letter during the Scoring Phase.

During Prequalification, prospective applicants using the performance bond option must certify that they 1) are aware of and understand the performance bond obligations and processes for the Program and 2) have the qualifications and resources to obtain the required letter of commitment and performance bond.

Question 5

When will pro forma statements or analyses be required?

DTI will require a pro forma business case analysis during the Scoring Phase as part of the required project-specific financial documentation.

Question 6

Must applicants obtain the Legal Opinion from external counsel? Can the Legal Opinion be obtained from an attorney licensed in another jurisdiction?

Per the Initial Proposal Volume II, 4.12.7, Compliance with applicable laws: DTI's prequalification phase will require applicants to provide a legal opinion by an attorney licensed in Delaware, that the organization is aware of the federal and state laws applicable to BEAD-funded broadband deployment projects and that the organization possesses the qualifications and resources to perform BEAD-related commitments in compliance with all applicable federal and state laws.

If they desire, Applicants may submit two separate legal opinions. "National" (non-Delaware) counsel can submit a letter affirming awareness of applicable federal laws. However, an attorney licensed in Delaware must submit a Delaware-law-specific letter. There will be no exceptions to this requirement.

Question 7

Will prospective applicants be required to deliver the workforce plans during the prequalification phase? Regarding the public disclosure of workforce plans and labor commitments (referenced in the Initial Proposal Volume II, 8.4), when will prospective applicants be required to make such disclosures—during the Prequalification Phase or during the Scoring Phase?

A workforce plan narrative is required as part of the Prequalification Phase

Question 8

Delaware's Initial Proposal Volume II, at pages 32-33, contains requirements for Letters of Credit and Bonds for both the Prequalification Phase and Scoring Phase. The following questions relate to those requirements:

Question: What is DTI’s definition of “subaward amount and what is the full amount of the Applicant’s share?

In the Initial Proposal Volume II, section 4.3.1, the subaward is the amount of federal funds that are contributed to the awarded project that flow through the subrecipient (DTI) and from there to the approved applicant. The Applicant is required to provide at least 25% in matching funds.

Question: Given that Applicants won’t know the financial parameters of their potential future awards at the time they submit their Prequalification Phase applications, how should they determine or estimate the “subaward amount” and “the full amount of the Applicant’s share of their BEAD obligation” for purposes of the percentages required to be addressed in the commitment letters that are required to be submitted during the Scoring Phase?

Applicants should generate very high-level estimates and will not in any way be held to such estimates during the Scoring Phase. All pricing commitments occur during the Scoring Phase.

Question: If the financial parameters of an Applicant’s awards exceed those addressed in the commitment letters submitted by the Applicant during the Scoring Phase for bonds and letters of credit, will Applicants be required to obtain new or revised commitment letters?

Yes.

Question: Is it correct that Delaware will require the letter of commitment for the performance bond to be in the “full amount of the Applicant’s share of their BEAD obligation” even though the bond itself will only be required for “25 percent of the subaward amount?”

No. As part of the Prequalification Phase, DTI will require prospective Applicants to certify that they are aware of and understand the letter of credit and performance bond obligations and processes for the BEAD program. Participants in the Prequalification Phase must further certify that they have the qualifications and resources to obtain the required letter of commitment and letter of credit from an eligible financial institution in an amount no less than 25 percent subaward amount, per NTIA’s requirements.

Question: May the Initial Proposal Volume II, which was approved by NTIA, be read to indicate that the NTIA requirement stated in the NTIA Letter of Credit Waiver Notice that performance bonds equal 100 percent of the subaward amount has been modified for purposes of Delaware’s program to allow for bonds that cover only 25 percent of the subaward amount?

A Letter of Credit in the amount of no less than 25% of the subaward amount is required to be submitted. If the applicant is unable to attain a LOC, a performance bond of no less than 25% of the subaward amount is required to be submitted.

Question: What are the actual amounts that Delaware will require to be secured through the letter of credit and through the bond, stated, for each, as the minimum allowable

percentage (25%?) of a referenced amount (subaward amount? applicant's share of their BEAD obligation?)?

A Letter of Credit in the amount of no less than 25% of the subaward amount is required to be submitted. If the applicant is unable to attain a LOC, a performance bond of no less than 25% of the subaward amount is required to be submitted.

Question: If an Applicant intends to obtain a letter of credit from a parent company, is the Applicant still required to submit the referenced "letter of commitment from a qualified financial institution?" If so, would that letter of commitment from the financial institution reference the capabilities of the parent company or of the Applicant?

Yes, a letter of commitment from a qualified financial institution is still required, which should reference the parent company's capabilities to meet the applicant's requirements.

Question: If an Applicant intends to obtain a letter of credit from a parent company, is the Applicant still required to use NTIA's model letter of credit, or may that document be adapted as necessary to reflect that the letter of credit is being issued by the parent company?

Yes.

The Delaware Initial Proposal Vol. II, p. 32, provides that "[l]etters of credit from a parent company to the prospective Applicant, Applicant, and/or subgrantee can be used [to] meet this requirement, as long as the letter (or accompanying documentation, if signed by a person with authority within the entity) verifies that the entity has immediate access to funds necessary to meet all BEAD requirements."

Question 9

Delaware's Initial Proposal Volume II at page 22 bases its affordability scoring relative to the price of 1 Gbps symmetrical service. Providers generally define 1 Gbps speed as a number close to, but not precisely, 1 Gbps, due to factors such as "overhead" usage that consume part of the theoretical top speed. Would a "close to" gigabit speed be acceptable?

Yes, DTI will accept gigabit speed connections that are able to deliver at least 80 percent of gigabit speed in 80 percent of randomized tests.

Question 10

To fulfill the requirement that project elements be reviewed by a Professional Engineer (PE), will the state accept certification by an ISP's lead Network Engineer with experience in building and maintaining broadband networks? If not, can a PE be licensed in a jurisdiction other than Delaware?

No, per the Initial Proposal Volume II, 4.12.6.6, Certification of a Professional Engineer: To support DTI's own analysis of an applicant's technical capabilities, as well as the reasonableness and benefits of the proposed project, applicants will be required to produce a certification by an

independent Professional Engineer during the Scoring Phase. DTI will require that the certifying engineer holds all required professional licenses from the state of Delaware.

Question 11

Will DTI accept a PE certification from an engineer licensed in a state other than Delaware?

No. PE certification must be from a PE licensed in Delaware. The process for gaining certification in Delaware for a PE certified in a different state is relatively straightforward, but it should not be difficult to find an independent PE certified in Delaware. Please consult https://www.dape.org/Pages/pe_requirements.

Question 12

The Initial Proposal Volume II includes a requirement that the professional engineer be “independent.” Use of an “independent” professional engineer could require an outside review of each project and introduce delay into any subsequent revisions of the certified materials for any given project during the negotiations phase. Will DTI remove the requirement that the professional engineer be “independent” for applicants that have a demonstrated history of providing broadband services in Delaware and that have professional engineers on staff?

The requirement for the certifying engineer pertains only to the Scoring Phase, so there will not be any adjustments needed during negotiations. If an applicant is submitting multiple projects, all such projects can be reviewed efficiently at the same time.

Question 13

Will applicants be required to provide a new certification by a PE every time project parameters change as part of the award negotiation process?

No.

Question 14

Some of the prequalification questions state that “applicant [is] required to certify in a separate template document” (referred to as the “Certifications Template”). Will the Certifications Template afford applicants the option to provide additional narrative information, if needed, about each certification?

No. Applicants must certify or not certify based on the requirements as specified.