

Attachment – Additional Questions for the Record

Chairman Latta

1. Under NTIA's leadership, BEAD will focus on deploying fixed broadband services to unserved areas. There will be a role for fixed wireless services in BEAD, and the FCC's 5G Fund is the largest federal government program that is focusing on addressing the mobile wireless needs of consumers in rural and remote areas. How can the NTIA and FCC work together to ensure that these two programs complement each other to achieve Congress' goals?

Response: NTIA's BEAD program is focused on providing high-quality fixed broadband Internet service to all U.S. States and territories, while the FCC's 5G fund is focused on support for mobile broadband Internet services. As you note, in the BEAD program, we expect Eligible Entities will use a mix of technologies, including fixed wireless, to connect their unserved and underserved locations. In addition, the BEAD Notice of Funding Opportunity recognizes the unique characteristics of fiber to "ensure that the network built by the project can easily scale speeds over time to ... meet the evolving connectivity needs of households and businesses" and "support the deployment of 5G, successor wireless technologies, and other advanced services."¹ Driving more broadband, including fiber, deeper into our communities will support both connecting more households to broadband, but also supports advanced wireless services.

NTIA will continue to communicate with Eligible Entities and share relevant information regarding other federal broadband programs to ensure funding is used efficiently across programs.

There is a proposal at the United Nations to create a new, multilateral forum to discuss digital cooperation, which could effectively replace the current multistakeholder approach for Internet governance with a governments only body. Similar proposals have been made in the last few years by the Russian Federation, for which there have been numerous articles by David Ignatius in the Washington Post. This is quite concerning in the context of the UN Secretary General's Global Digital Compact and the WSIS+20 review, which are happening accordingly in 2024 and 2025. Within the current model, all governments participate on equal footing, and no government controls the Internet as a global network of networks.

2. What is NTIA doing to ensure that these efforts do not succeed in eliminating the enormous societal and economic benefits created under the multistakeholder approach for Internet governance?

Response: NTIA supports efforts to promote access to the Internet worldwide, while protecting Internet freedom in multistakeholder and multilateral forums such as ICANN, the Internet Governance Forum (IGF), the International Telecommunication Union (ITU),

¹ Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, § 60102(a)(2)(I) (2021) (herein "IIJA").

and the International Telecommunications Satellite Organization (ITSO). In particular, NTIA helped launch the Declaration for the Future of the Internet, which upholds the principles of protecting human rights and fundamental freedoms of all people; promoting a global Internet that advances the free flow of information; advancing inclusive and affordable connectivity so that all people can benefit from the digital economy; promoting trust in the global digital ecosystem, including through protection of privacy; and protecting and strengthening the multistakeholder approach to governance that keeps the Internet running for the benefit of all. NTIA accomplishes all of this work through its strong interagency relationships with the State Department, the Federal Communications Commission, the Office of the U.S. Trade Representative, the Federal Trade Commission, other Commerce bureaus, and others across the Federal government. With respect to the Global Digital Compact, NTIA is working continually with the State Department to push back against this proposal at the United Nations and elsewhere.

The Honorable John Joyce

Following up on my questions regarding rate regulation and NTIA's authority to impose price controls when approving state plans for BEAD, I would like you to reassure me and the committee that NTIA has not encouraged or attempted to influence states to assign a specific price or to freeze prices in order to gain NTIA's approval of the state's plans. You responded to me by correctly noting the IJJA statute is "very clear that [NTIA] is not to engage in rate regulation and we will not," but you then went on to indicate or suggest NTIA would approve a state plan that seeks to do exactly what you just said the statute prohibits NTIA from doing. For example, instead of confirm NTIA would reject state plans that include price caps or freezes you said to me you "have given states a tremendous amount of flexibility about how they want to implement these rules." In light of your qualifications and in light of how clear we in Congress were that the BEAD program did not authorize the regulation of rates for broadband, I would like you to answer the following questions:

1. Do you believe NTIA has the authority to approve a state plan that requires providers offer broadband at a price set forth by the state as part of (i) the low-cost plan requirement, (ii) the middle-class affordability requirement, (iii) affordability scoring requirement, or (iv) any other requirement under BEAD? If so, please explain how any such approval by NTIA would not run afoul of the clear ban on rate regulation set forth in the Infrastructure Investment and Jobs Act.

Response: NTIA is committed to implementing the BEAD Program in accordance with the Infrastructure Investment and Jobs Act (IJJA). IJJA does not authorize NTIA to regulate the rates charged for broadband service.² Consistent with the statute, NTIA is not setting rates, and nothing in the BEAD Program Notice of Funding Opportunity (NOFO) regulates rates.

IJJA requires BEAD Program subgrantees "to offer not less than 1 low-cost broadband service

² *Id.* at 60102(h)(5)(D).

option for eligible subscribers” as a condition of receiving BEAD funding.³ Rather than defining “low-cost broadband service option,” Congress provided Eligible Entities the flexibility to propose a definition and provided NTIA the statutory responsibility to consult and approve – not propose or set – that definition.⁴

In accordance with this statutory directive, NTIA expected that Eligible Entities would propose a variety of definitions for a “low-cost broadband service option,” each of which would reflect the needs of residents within their respective jurisdictions. NTIA’s BEAD NOFO provided guidance on the multiple factors NTIA will consider in determining whether to approve an Eligible Entity’s proposed definition, including the expected cost to an Eligible Subscriber.⁵ While the NOFO provides an example of a definition for “low-cost broadband service offers,” the NOFO makes clear that “different Eligible Entities face different circumstances” and that “NTIA will review and consider any definition proposed by an Eligible Entity in accordance with the terms of the BEAD statute.”⁶

Per the statutory requirement to consult and approve each Eligible Entity’s definition of “low-cost broadband service option,”⁷ NTIA will work with each Eligible Entity as it crafts a definition that best-suits their needs. As noted in the NOFO, NTIA is committed to considering any definition proposed by an Eligible Entity provided that the definition meets the standards laid out in the BEAD statute. In fact, NTIA is already evaluating a variety of definitions for “low-cost broadband service option” that Eligible Entities have proposed in their respective BEAD Program Initial Proposals.

In IJA, Congress recognized that affordability is critical to closing the digital divide and tasked NTIA, and Eligible Entities, with ensuring that every person in America has access to affordable, reliable, high-speed Internet service. The BEAD NOFO, including its provisions related to low-cost plans, middle-class affordability plans, and criteria for Priority Broadband Projects, provides Eligible Entities the flexibility to best ensure affordability for its residents.

2. Have you or anyone from NTIA held discussions with state contacts regarding what NTIA would approve or not approve in a state plan for (i) the low-cost plan requirement, (ii) the middle-class affordability, or (iii) the affordability scoring requirement? If so, what have you or others at NTIA told the state contacts?

Response: As NTIA provides this technical assistance, we are committed to doing so in accordance with IJA. IJA does not authorize the NTIA to regulate the rates charged for broadband service.⁸ Consistent with the statute, NTIA is not setting rates, and nothing in the BEAD Program NOFO regulates rates.

³ *Id.* at § 60102(h)(4)(B).

⁴ *Id.* at § 60102(h)(4)(B), (5)(B).

⁵ *Id.* at § 60102(h)(5)(B)(iii); National Telecommunication and Information Administration; Notice of Funding Opportunity; Broadband Equity, Access, and Deployment Program at 67, available <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>.

⁶ *Id.* at 67, 68.

⁷ *Supra* note 4.

⁸ *Id.* at 60102(h)(5)(D).

The Honorable Randy Weber

My home district near Houston is home to the largest CBRS network in the world -almost 4 square miles-at DOW Chemical. We've seen how beneficial shared spectrum, like CBRS, is for the industrial and manufacturing sectors; companies like the Taiwan Semiconductor Manufacturer Company and John Deere also use the technology.

1. Does the NTIA hold any concerns about the cost of building out lower-power bands like CBRS or using similar technologies to deploy auctioned spectrum, particular insofar as it may affect the deployment of higher-power bands used in mobile technologies?

Response: No. As NTIA's Institute for Telecommunication Sciences (ITS) May 2023 report found, the Citizens Broadband Radio Service (CBRS) is a great success, as evidenced by the growth in band utilization.

2. Are there any technologies you believe could enable industry and government to share spectrum and avoid those concerns?

Response: As a result of ongoing innovations in wireless technologies, demand for spectrum access continues to grow rapidly. In the private sector, next-generation Wi-Fi networks, large satellite constellations in low Earth orbit, rapidly increasing space launch cadences, aggregated data transfer requirements, 5G and 6G broadband networks, private wireless networks, autonomous vehicles, and other advanced systems are driving demand for wireless bandwidth. Federal spectrum access requirements to meet government missions are also growing. Dynamic spectrum sharing, when possible, is one key to meet these growing demands, and the United States is uniquely positioned to embrace a whole-of-Nation approach to advance the state of technology for dynamic forms of sharing as recognized in the National Spectrum Strategy.

For example, CBRS allows for dynamic spectrum sharing between the Department of Defense (DoD) and commercial spectrum users. The DoD users have protected and prioritized use of the spectrum. When the government is not using the airwaves, companies and the public can gain access through a tiered shared access arrangement. This means the DoD can use the same spectrum for its critical missions while companies can use it for 5G and high-speed Internet deployment. According to a May 2023 report from NTIA's ITS, CBRS is a great success. Researchers reviewed aggregated data on CBRS devices and found the number of devices nationwide grew by 121 percent over the 21-month analysis period – reflecting enormous growth in CBRS. We understand that one important emerging use of CBRS spectrum is for private networks—often used in modern manufacturing and other business facilities.

Under the National Spectrum Strategy, we are looking to build the next generation of dynamic spectrum sharing. While CBRS is a success, efficiently using spectrum in the future will require us to take advantage of recent technological advancements in areas

such as Artificial Intelligence and edge computing. The USG—including NTIA, DoD, and the FCC—is setting measurable goals to advance the state of dynamic forms of sharing by May 2025.

As you probably know, the FCC is looking at ways to make sure that the U.S. In-space Servicing, Assembly, and Manufacturing (ISAM) industry has the spectrum resources needed to lead the world in commercial space applications. These ISAM services are being used by both Federal agencies and the commercial industry, and the federal government is, by far, the heaviest user of spectrum in space.

3. What opportunities do you see for expanded use of traditionally Federal spectrum by the commercial space sector, and what steps are being taken by the NTIA to coordinate with Federal users to ensure commercial ISAM services can coexist with federal and civil missions?

Response: Stable and predictable spectrum access is critical to the development of new space-based services. Based on NTIA’s understanding, In-space Servicing, Assembly, and Manufacturing (ISAM) operations focused on servicing activities (which were of most immediate interest to commenters in the FCC proceeding) are generally characterized by large peaks in spectrum demand for relatively short periods of time, such as during rendezvous, proximity operations, or docking. This spike in spectrum demand can be based on the need to downlink significant video data and to provide robust real-time command and control. Between these peaks, the spectrum needs of such ISAM operations tend to be minimal, largely focused on routine telemetry and station keeping.

NTIA believes some ISAM needs can be met in the near-term within current spectrum allocations. We will work with both Federal agencies, the FCC, and the private sector to ensure that in the longer-term sufficient spectrum for ISAM operations is available.

4. Does NASA's allocation have sufficient spectrum to accommodate the number and variety of commercial LEO platforms anticipated in the coming years?

Response: Please see below.

This Committee and the FCC have worked with NTIA to allow for secondary allocation in the various Federal bands used by launch and reentry vehicles to streamline spectrum management for an increasing number of flights. These efforts, however, do not include the docking and undocking activities associated with arrival and departure from the International Space Station or future commercial habitats.

5. Are there any issues with including docking or undocking in a secondary allocation, and if so, how might those be addressed?

Response: Please see below.

6. Has your agency been engaged with NASA on how to ensure that adequate spectrum will be allocated for the future commercial space activities anticipated to provide services to the U.S. Government?

Responses #4-6: The National Spectrum Strategy (NSS), released on November 13, 2023, identifies over 2,700 MHz of spectrum across five spectrum bands for in-depth study for potential new uses by both the private sector and Federal agencies. NTIA also sought and received written comments and guidance from Federal agencies and hosted a government-only listening session to gather additional feedback. The goal is to expand opportunities for spectrum access and harmonious coexistence, by whatever licensing or allocation mechanism, for all sectors (e.g., terrestrial, satellite, in-space, launch, aviation, public safety, scientific research, Federal missions). For example, the NSS, at the behest of NASA, identifies 500 MHz between 18.1-18.6 GHz for study for expanded Federal and non-Federal satellite operations, consistent with the U.S. position at the 2023 World Radiocommunication Conference (WRC-23), which would add space-to-space allocations to this band (among others). The NSS Implementation Plan, released on March 12, 2024, calls for NTIA, FCC, and NASA to co-lead the study with the final report due in May 2025.

NTIA also appreciates the desire of commercial providers to respond to ever increasing consumer demand and to deliver innovative spectrum-based services. This is an exciting time for the satellite industry, and we can understand the interest in ensuring sufficient spectrum access for continued growth and innovation. Given the nature of some of these proposed activities, this primarily is an issue for the Federal Communications Commission's (FCC) consideration, as NTIA coordinates and authorizes Federal satellite operations. NTIA understands the urgent needs of the satellite industry and tries to pre-coordinate use of Federal spectrum to help facilitate the process. NTIA looks forward to continuing to work with the FCC and satellite industry to streamline access where possible.

The Honorable Rick Allen

The only labor requirement in the IIJA for the BEAD program is for companies to certify that they are following federal labor and employment laws and to certify they will remain in compliance with them. However, in the NTIA NOFO, you have added a laundry list of pro-union "suggestions" for states to adopt including Davis Bacon prevailing wages, project labor agreements and union peace agreements. I was a construction contractor before I came to Congress. I know that if you drive up the cost of labor your construction project will suffer the cost.

1. Has NTIA conducted any studies or analyses to determine how many fewer unserved households will be connected because of these increased costs? If not, why not?

Response: Workforce development is critical to the success of the Broadband Equity, Access, and Deployment (BEAD) program. As contemplated in the Notice of Funding Opportunity (NOFO), Eligible Entities must have programs that will promote training,

development, and deployment of a qualified workforce. The NOFO lists certain criteria Eligible Entities must consider when selecting subgrantees, including the use of fair labor practices, fair wage practices, project labor agreements, and proper classification of workers. This is not a list of requirements, but a list of considerations we urge Eligible Entities to think through as they consider how their state's workforce will build out high-speed Internet infrastructure. Eligible Entities have significant discretion in the way they implement the BEAD Program. NTIA will continue to encourage Eligible Entities to help to ensure every unserved location and underserved location in the United States has access to reliable, affordable, high-speed Internet service, and that the tens of thousands of jobs created by this program are good, well-paying jobs.

2. Ensuring interoperability between public safety agencies was a principal objective in establishing FirstNet. What steps has FirstNet taken, or does it plan to take, to ensure that its users can communicate effectively with public safety agencies that use networks other than AT&T-FirstNet?

Response: Please see below.

3. What is FirstNet doing to ensure that all aspects of communications are fully interoperable, including ensuring consistent levels of priority as communications traverse different networks and ensuring that all public safety agencies, regardless of the network they use, can fully utilize the applications that are important to their mission?

Response: Please see below.

4. Nationwide Adoption Milestone -AT&T's contract with FirstNet requires it to serve certain numbers of public safety users within specified timeframes. How many public safety users is AT&T required to serve by the end of its contract term? Do these users include the tow-truck companies, school districts, airports, and television news media outlets noted in one of the recent GAO reports?

Responses #2-4: Interoperability—the ability of FirstNet users to communicate with each other across carriers and various technology platforms—is a top priority for the program. FirstNet—the nationwide public safety broadband network— fulfills congressional requirements in the Middle Class Tax Relief and Job Creation Act of 2012 (PL 112-96) (Act) that the network be based on a single, national network architecture with a core network and radio access network based on commercial standards. Consistent with Congress's mandate, the FirstNet network is built to open, non-proprietary, commercially available 3GPP (“Third Generation Partnership Project”) standards—the same standards applicable to commercial 4G LTE networks—and connects to both the public Internet and Public Switched Telephone Network. This means FirstNet is interoperable and communications (calls, texts, data) are exchanged freely among FirstNet users across jurisdictions and public safety disciplines, as well as between FirstNet users and subscribers of other networks. Those communications also receive the benefit of FirstNet's priority and preemption

services while moving across the FirstNet network. Public safety’s traffic is separated from non-public safety traffic via the FirstNet Core and is always prioritized over commercial traffic. The FirstNet Authority has no control over the services provided while public safety communications are navigating through other commercial networks.

Additionally, the FirstNet program has taken steps to expand interoperability beyond the requirements of the Act. For example, FirstNet’s Rapid Response is a mission-critical push-to-talk solution for FirstNet users based on 3GPP standards that allows LTE-to-land mobile radio (LMR) interoperability.

In 2023, FirstNet’s initial five-year network deployment was completed in all 50 states, five territories, and the District of Columbia. These deployment goals had been memorialized in state plans, extensively coordinated with public safety, and approved by governors in each state and territory. Today, FirstNet coverage extends to more than 99 percent of the U.S. population, covering 2.91 million square miles. In its May 2023 Order renewing the First Responder Network Authority’s (FirstNet Authority) Band 14 license, the Federal Communications Commission (FCC) determined that “FirstNet . . . satisfied the requirement . . . to build and operate an ‘interoperable’ nationwide network.”

Currently, FirstNet is used by over 27,000 public safety agencies and organizations, with more than 5.3 million connections to the network. Consistent with the user eligibility requirements under the Act (as confirmed by the FCC) and based on extensive consultation with public safety stakeholders, FirstNet connections include both primary and extended primary users. Primary users are public safety entities that act as first responders (i.e., law enforcement, fire protection services, emergency (9-1-1) call dispatching and government Public Safety Answering Points, emergency planning and management offices, and ambulance safety services). These public safety users always have priority and preemption on the FirstNet network to allow first responders to communicate with minimal or no interruption, essentially giving their data ‘lights and sirens’ to cut through network congestion. Extended primary users are agencies or organizations that do not qualify as primary users, but provide public safety services (e.g., mitigation, remediation, overhaul, clean-up, restoration) in support of primary users during or after an incident. Extended primary users do not have the level of priority or preemption that primary users have on a routine basis but can be temporarily elevated, based on operational needs, by primary users to experience the full benefits of the network. This framework ensures that FirstNet users have the level of access to and use of the network necessary for a given response.

5. The power grid is undergoing a digital transformation, like many other sectors of American industry. With this digital transformation, the power grid is becoming increasingly distributed, connected, and automated. This means that utilities are deploying a growing number of wireless communications devices onto their grids to

improve resiliency and redundancy, incorporate distributed and intermittent generation resources, and ensure asset security. These devices require a wireless broadband network, and a wireless broadband network requires spectrum.

Multiple utilities today are evaluating how to deploy their own private wireless systems with broadband capabilities to support this need, driven by the critical roles these devices fulfill. With private systems, utilities can obtain the degree of reliability, coverage and resilience required for grid operations, conditions of service that are not readily available from commercial wireless providers. More importantly, private wireless broadband systems allow utilities to attain the level of cybersecurity protection essential to defending the power grid and other critical infrastructure facilities from intrusions and attacks, including the ability to "island" utility systems from the public Internet if needed. The lack of available spectrum for use by utilities to deploy broadband-capable wireless networks is a significant impediment. Currently, no block of spectrum has been set aside that utilities can easily and cost-effectively license for deploying their own wireless systems. Unlicensed spectrum presents security and reliability concerns for utility operations that are mission-critical for the grid. Shared spectrum has these same reliability challenges, as current sharing regimes do not provide the level of certainty of spectrum access and availability for operating mission-critical systems. Indeed, existing utility microwave communications in the 6 GHz band have already been put at risk for interference due to forced sharing with unlicensed Wi-Fi devices. With spectrum auctions for licensed use, there is no assurance that utilities will obtain the spectrum needed to operate their networks, as the spectrum is awarded, in the end, to the highest bidder. The pacing of a spectrum auction, from announcement that the auction will occur to the start of the auction, is often misaligned with utility-decision-making. The areas licensed at auction may not coincide closely with a utility's service area, and utilities may not succeed in winning spectrum to cover the geography important to their operations. And winning bids in spectrum auctions frequently results in an expense that is too unpredictable and costly to be borne by utility customers, as the goal of auctions has been to generate the highest prices possible for the spectrum being offered. The Presidential Fact Sheet of November 13, 2023, released along with NTIA's National Spectrum Strategy, notes the "... landmark National Spectrum Strategy and a Presidential Memorandum on modernizing U.S. spectrum policy, that together, lay out a blueprint for American innovation, competition, and security in advanced wireless technologies. This blueprint includes new actions to improve spectrum management and spectrum access - including a study of more than 2,700 megahertz of spectrum for potential repurposing that will help ensure that both the public and private sectors have the spectrum resources they need to deliver the critical services to every community in America." The Presidential Memorandum on Modernizing U.S. Spectrum Policy, also released on November 13, 2023, states: "This memorandum directs my Administration to build on prior innovation by promoting efficient and effective spectrum use by both agencies and non-Federal users. My Administration's goal is to accelerate United States leadership in wireless communications and other spectrum-based technologies and to unlock innovations that benefit the American people, while ensuring necessary access to spectrum for

agencies and private- sector users, such as for scientific, public safety, critical infrastructure, and national security uses, now and into the future." (emphasis added). In the National Spectrum Strategy itself, there is also some language that acknowledges the importance of technological innovations in communications as integral to the Federal Government's priorities for critical infrastructure, among other sectors.

I would like to further understand, from the perspective of the National Spectrum Strategy, where and how are the needs of utilities, of critical infrastructure, for spectrum to operate their systems, being incorporated? Also, how do you foresee those needs being addressed in the Implementation Plan?

Response: The public utilities industry provided comments to NTIA as part of the agency's extensive public outreach on the development of the National Spectrum Strategy (NSS) and its implementation plan. The team at NTIA met several times with representatives of the industry, and we understand their concerns.

Importantly, Pillar 2 of the NSS calls for the creation of a new collaborative process bringing the private sector—including utilities—and Federal agencies together to address these kinds of issues on an ongoing basis. We also hope that advances in the implementation of Citizens Broadband Radio Service (CBRS) may help address some needs of the utilities industry.

The Honorable Russ Fulcher

1. For all Americans to fully realize the benefits of the BEAD investment, it is critical that BEAD funding be distributed as quickly as possible, consistent with the law. Can you please provide the Committee with a detailed timeline of when you anticipate the funding being available to subgrantees so that deployment can commence?

Response: The Internet for All mission is to connect everyone in America to affordable, reliable, high-speed Internet service. NTIA is committed to acting with urgency to achieve that critical goal. At the same time, we have a duty to deploy the funds Congress has entrusted to NTIA as effectively and efficiently as possible. We believe we have struck the right balance between "going quickly" and "maximizing efficient deployment." The result is that this is a multiyear project. While it will take years to achieve our goal, NTIA is proud of what it has already accomplished to further this objective.

In June of 2023, NTIA announced each Eligible Entity's BEAD Allocation, starting a 180-day period for Eligible Entities to submit their Initial Proposals for use of the allocated funds. Eligible Entities will have one year after NTIA's approval of their Initial Proposal to conduct a subgrantee selection process and submit their Final Proposals to NTIA. As established in Section 60102(h)(4)(C) of the Infrastructure Investment and Jobs Act, subgrantees that receive BEAD Program funds for network deployment after NTIA approves an Eligible Entity's Final Proposal must deploy the

planned broadband network and begin providing services to each customer that desires broadband service within the project area not later than four years after the date on which the subgrantee receives the subgrant from the Eligible Entity, extendable to five years under certain circumstances. We expect that non-deployment projects will be awarded and executed on a comparable timeline.

NTIA has already made considerable progress in implementing other Internet for All programs. In the BEAD program, each Eligible Entity applied for and received up to \$5 million in initial planning funds and are in the process of submitting a Five-Year Action Plan that establishes the State or Territory's broadband goals and priorities and serves as a comprehensive needs assessment that inform the State or Territory's Initial Proposal. All Eligible Entities met the December 27, 2023, deadline to submit their respective Initial Proposals to NTIA. NTIA is now reviewing these Initial Proposals to ensure compliance with the underlying statute and Notice of Funding Opportunity, acting with the care and urgency that this effort demands.

2. Will you commit to moving expeditiously to disburse the funding to the states and working with states to ensure money is distributed quickly as well? Where can my office and Congress more generally be of help in the interagency coordination process to help here? You noted in an answer to a question on environmental reviews of the BEAD program, a desire to look for ways to "streamline" permitting on the environmental review process, including a new team, and coordinating with land use agencies.

Response: The BEAD Program will fund broadband deployment in every state and territory, leading to a significant influx of permitting activities for Federal and state permitting agencies. Therefore, NTIA is engaging on several permitting priorities, including implementing an Interagency Broadband Permitting Coordination Strategy; providing mapping and data tools to Federal partners and Eligible Entities; issuing guidance and technical assistance on environmental review and permitting; and convening Interagency Regional Permitting Meetings. At NTIA's request, the Advisory Council on Historic Preservation (ACHP) amended a broadband program comment to reduce the burden and increase the predictability of historic preservation reviews required for communications projects. On April 2nd, NTIA established 30 new Categorical Exclusions and adopted six additional Categorical Exclusions to streamline NEPA reviews. NTIA looks forward to continuing to work with Congress as we pursue our shared goal of Internet for All.

3. In the questions around technology neutrality, thank you for both emphasizing the range of technologies -- and including LEO -- that are all very important and necessary for rural areas by state plans. Can you keep my staff apprised, as you work with land use and other federal agencies to get these broadband technologies through the approval and deployment processes out of the IIA broadband funding, especially as we go into 2025 and 2026? Please consider us a resource for help.

Response: The Internet for All initiative is a multi-year effort. NTIA looks forward to continuing to engage with Congress, as we collaborate with Federal and state partners—including stakeholders involved in land use and permitting—to implement these historic programs.

4. Connecting to the Department of Commerce's Office of Inspector General (OIG) on Tribal Broadband Connectivity Program, Commerce's OIG issued an alert in July 2023 identifying an increased risk of fraud for 88 of the initial Tribal Broadband Connectivity Program grants totaling \$1.6 billion. NTIA allowed tribal grant recipients to self-certify whether broadband was available, even though the law required NTIA to consult with the FCC and USDA to determine whether broadband was currently available or planned to be available using other federal funding programs. The OIG's report recommended NTIA validate past awards to confirm whether proposed broadband service areas were unserved or whether funding of other federal programs was duplicated. Has NTIA reviewed the initial 88 grants to determine if there was duplicate federal funding? If so, what were the results of the review? Considering the OIG report, what changes has NTIA implemented to ensure this will not happen again as NTIA begins to disperse the remaining \$1B from the TBCP in 2024?

Response: The National Telecommunications and Information Administration (NTIA) administers the Tribal Broadband Connectivity Program (TBCP). NTIA recognizes the importance of ensuring that TBCP funds are directed where they are most needed and has been reviewing TBCP grants to ensure funds are distributed to the areas most in need. NTIA is working with other agencies to take steps to address concerns about potential overlap. Those actions could include measures like applying special award conditions or amending the scope of awards.

NTIA's second TBCP NOFO makes changes to Tribal Government Certifications and NTIA's policy on the topic, which include, but are not limited to: 1) Enhanced Tribal Government Certification requirements: Applicants must disclose the presence/absence of service and all current and/or terminated Enforceable Buildout Commitments, and broadband facilities capable of delivering qualifying broadband service to the proposed project area locations; 2) Requires Evidence of FCC Challenge Process: Applicants must provide evidence of a challenge to the FCC's Broadband Map if the FCC map/data does not reflect the Tribal Government certification as unserved; and 3) Specifies NTIA's service verification process: Details NTIA's data-based service and duplication verification process for applicants' proposed service areas relying on NTIA's National Broadband Availability Map (NBAM), the FCC's National Broadband Map, and coordination with all relevant Federal agencies.

The Honorable August Pfluger

The National Spectrum Strategy notes that the Emerging Mid-band Radar Spectrum Study (EMBRSS) report indicates the lower 3 gigahertz band could be shared if certain interference protections were adopted. Moreover, the strategy tasks NTIA with studying

ways to make that band available for dynamic sharing.

1. Can you provide a clear timeline on when NTIA's work will be complete? How will it consider the needs of outside commercial stakeholders that will use the band? How will it build on what was learned from the EMBRSS report?

Response: The EMBRSS study correctly concluded when it looked solely at sharing 3.1 – 3.45 GHz band with the private sector that sharing would be extremely challenging under current conditions. However, the study only considered sharing as directed by Congress in the Infrastructure Investment and Jobs Act. The National Spectrum Strategy (NSS) identifies this band for further study to “explore dynamic spectrum sharing and other opportunities for private-sector access in the band, while ensuring DoD and other Federal mission capabilities are preserved, with any necessary changes.” Under the NSS and the NSS Implementation Plan, NTIA and DoD will co-lead studies that will assess the possibilities for expanded and/or more efficient uses of the spectrum to enable non-Federal, or shared Federal and non-Federal access. These studies are expected to be completed two years after the agencies participating in the studies receive funding from the Spectrum Relocation Fund (SRF), which is estimated to take six months, with the final report due in October 2026. The Implementation Plan outlines engagement with commercial and other non-Federal stakeholders via a multi-stakeholder process.

2. How do these proposed standards differ from what is currently being used in the CBRS band?

Response: We know from the EMBRSS study that current Citizens Broadband Radio Service (CBRS) techniques are not sufficient to scale to allow significant non-Federal sharing with current uses of the 3.1-3.45 GHz band. Therefore, we intend to study whether dynamic spectrum sharing and other opportunities would allow expanded Federal/non-Federal sharing.

The National Spectrum Strategy references your intent to study the 7 to 8 gigahertz band (7125- 8400 MHz), which includes "a variety of mission-critical Federal operations in this band that will make it challenging to repurpose portions of the band while protecting incumbent users from harmful interference."

3. When EMBRSS report was done, what were key takeaways for implementing and improving future spectrum studies of this 7 to 8 GHz band?

Response: As directed by Section 90008 of the Infrastructure Investment and Jobs Act of 2021, Public Law 117-58, the EMBRSS report focused on the 3.1 to 3.45 GHz band, and DoD focused the study on spectrum sharing. The multistakeholder process employed during the 3.1-3.45 GHz study demonstrated the value of private sector and Federal government engagement, as reflected in the NSS Implementation Plan. The discussions concerning this band reinforced the need for the National Spectrum Strategy to identify the 7125-8400 MHz band for a wide-ranging, thorough study, and to continue to ensure that the private sector was part of the study process.

4. How will you build on existing technical analysis to expedite your review?

Response: To help develop the NSS implementation plan for the 3.1 to 3.45 GHz band study, NTIA reviewed the EMBRSS report and coordinated with the DoD and other Federal stakeholders to determine the next steps beyond the EMBRSS study with the complementary goals of furthering U.S. economic competitiveness while ensuring a strong national security. Furthermore, various elements of the EMBRSS study will be leveraged to expedite the NSS study. These elements include system technical parameters, frequency usage information, operating locations, and operational characteristics for further assessment of sharing scenarios. Having these elements in place will save significant time, as obtaining this type of information from scratch typically accounts for about 1/4 of the time required to conduct a study. (The relocation and compression aspects of the study will require new technical analyses to address these repurposing scenarios, including identification of suitable bands to which Federal systems may be relocated if necessary.)

5. How will the NTIA involve industry experts in the study process?

Response: NTIA is committed to involving industry in the band study process. Building upon the outline in the Implementation Plan, NTIA is working to bring in a third party to help to manage our collaboration with non-Federal stakeholders which will be on-going throughout the band studies.

6. Will you be considering compression, repacking, retuning, and segmenting the band?

Response: Yes, the Implementation Plan calls for consideration of compression and relocation scenarios. For all Federal systems in the 3.1-3.45 GHz band, the study will include: (1) consideration of coexistence (sharing) and moving systems out of the band or to alternate locations; (2) compressing the frequency usage within the band; (3) consideration of what could be done below 3.1 GHz; and (4) any other mechanisms and possibilities with the potential to allow for expanded or more efficient uses of the spectrum.

9-1-1 has been an essential public safety tool for more than 40 years. With advancements in communication technology, more 9-1-1 operators are choosing to invest in Next Generation 9-1-1 services to deliver and process calls and offer digital voice, photo, video, and text services.

7. Can you please tell us about your efforts to ensure implementation and the interoperability of Next Generation 9-1-1?

Response: The National Telecommunications and Information Administration's (NTIA) Office of Public Safety Communications (OPSC) is our lead office

supporting efforts to upgrade the Nation's 9-1-1 systems to Next Generation 9-1-1 (NG 9-1-1). In addition to providing best practices to 9-1-1 officials regarding the implementation of NG9-1-1, OPSC and the National Highway Traffic Safety Administration's National 911 Program of the U.S. Department of Transportation jointly administered past grant programs to support state, local, Tribal, and territorial planning and implementation to upgrade 9-1-1 systems. NTIA particularly supports upgrades that would improve attributes to the Nation's 9-1-1 systems such as interoperability, reliability, resiliency, security, and multimedia capabilities. NTIA will be performing outreach to public safety stakeholders in 2024 regarding these desired 9-1-1 system attributes.

8. Mr. Davidson, more generally speaking, in what ways can NTIA improve the process by which NTIA coordinates with the FCC regarding spectrum policy?

Response: In August 2022, NTIA and the Federal Communications Commission (FCC) announced an updated Memorandum of Understanding (MOU) between our agencies on spectrum coordination. This was the first update to the MOU in nearly 20 years, and it is already paying dividends as the two agencies navigate complex issues together. From my perspective, the working relationship between the agencies on spectrum issues has never been better than it is today.

The Presidential Memorandum and the National Spectrum Strategy build on this success by establishing an improved spectrum decision-making process both within the executive branch and between the private sector and the public sector.

9. My understanding is that the World Radiocommunication Conference outcome allows the fight for the 6 GHz band to now be country by country in some parts of the world. We all know China is relentless and will continue to fight for a global designation in the band. How does NTIA, in coordination with other parts of the U.S. government, plan to continue to fight for the U.S. position on 6 GHz?

Response: At the World Radiocommunication Conference 2023 (WRC-23), the U.S. delegation successfully preserved opportunities for unlicensed technologies in the 6 GHz band by allowing deployment without the need for further studies. U.S. companies are leading developers of Wi-Fi technology and by avoiding the need for further studies we have enabled them to advocate for regulators around the world promptly to make this spectrum available for next generation Wi-Fi deployment. We certainly anticipate that the appropriate government agencies will assist in this endeavor.

The Honorable Kat Cammack

1. What accountability, if any, exists at the federal level for the various broadband programs that have been distributed? Federal guidance (and in Florida, state law) make it clear that duplicative investments in areas that have received a previous

federal award are prohibited.

Response: To coordinate interagency activities and reduce duplication of funding, NTIA’s Office of Internet Connectivity and Growth (OICG) works directly with Federal and state partners to obtain and share grant awards and pending application areas (as appropriate) in a common mapping tool called the National Broadband Availability Map (NBAM). This mapping database tool allows Federal agencies to share information on awards made and pending awards to identify potential areas of duplication and make informed funding decisions. In an additional measure to prevent duplication of funding and support interagency collaboration, NTIA, the U.S. Department of Agriculture (USDA), the Department of the Treasury (Treasury), and the Federal Communications Commission (FCC) signed a Memorandum of Understanding (MOU) to govern the exchange of broadband data. Additionally, NTIA facilitated meetings with Federal agencies and provided input on necessary functionality and data elements to the FCC’s Broadband Funding Map. To ensure a holistic overview of broadband investments, OICG will continue to collaborate with the FCC on integrating the information from the FCC’s map with other data sources (such as state broadband deployment) and provide tools to states as they implement their awards.

2. While we can agree preventing duplication when it comes to taxpayer dollars is a good thing, there are programs outside the purview of my home state of Florida, and the NTIA, that are creating a growing amount of concern. In other words, rural communities are concerned about missing opportunities afforded by BEAD, because they are considered "served" because of a federally funded project that is supposed to be underway. These are the very same communities we should be concerned about the most. How is NTIA tracking the various state and federal broadband buildout programs and ensure that ill-planned programs are not preventing BEAD buildout?

Response: The BEAD Program NOFO makes clear that Broadband Serviceable Locations (BSLs) subject to a binding Federal commitment are not eligible for BEAD funding.⁹ However, Eligible Entities may request waivers of BEAD NOFO rules, and the standard for a waiver is that the request must be “in the best interest of the Federal government” and “for good cause shown.” NTIA is working closely with BEAD Program Eligible Entities as well as our Federal partners to help to ensure every unserved location and underserved location in the United States has access to reliable, affordable, high-speed Internet service. In addition, NTIA’s BEAD Program NOFO requires that Eligible Entity submit an Initial Proposal describing, among other things, a BEAD “challenge process” under which a unit of local government, nonprofit organization, or broadband service provider may challenge a determination made by the Eligible Entity in the Initial Proposal as to whether a particular location or community anchor institution is eligible for BEAD funds, including whether a particular location is unserved or underserved.

3. How is NTIA working with the Federal Communications Commission (FCC) to

⁹ National Telecommunication and Information Administration; Notice of Funding Opportunity; Broadband Equity, Access, and Deployment Program at 36, available <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>.

understand their mapping and the determination of served or unserved areas? The FCC map of Florida shows areas in Florida as served, whereas the map produced by Florida indicates that several of these areas are not served. How will this impact Florida's use of its BEAD allocation?

Response: The Infrastructure Investment and Jobs Act (IIJA) directed NTIA to allocate BEAD funding across states, territories and the District of Columbia using data from the Federal Communications Commission's (FCC's) National Broadband Map. The FCC's National Broadband Map is a significant improvement over prior efforts to map broadband availability, and for the first time ever, the FCC has created a map with location-specific data. On June 26, 2023, President Biden announced each Eligible Entity's BEAD Program funding allocation based on that data.

At the current stage of BEAD Program implementation, Eligible Entities now have a significant role to play in determining whether a particular location or community anchor institution is eligible for BEAD Program funds, including whether a particular location is unserved or underserved. NTIA's BEAD Program NOFO requires that Eligible Entity submit an Initial Proposal describing, among other things, a BEAD "challenge process" under which a unit of local government, nonprofit organization, or broadband service provider may challenge a determination made by the Eligible Entity in the Initial Proposal as to whether a particular location or community anchor institution is eligible for BEAD funds, including whether a particular location is unserved or underserved.

4. Allocations were distributed before the FCC and states, including Florida, were able to finalize mapping of unserved and underserved locations. How can you be sure that the funds are sufficient as states are being given aggressive planning deadlines?

Response: The IIJA directed NTIA to allocate BEAD funding across states, territories and the District of Columbia using data from the FCC's National Broadband Map. The FCC's National Broadband Map is a significant improvement over prior efforts to map broadband availability, and for the first time ever, the FCC has created a map with location-specific data. On June 26, 2023, President Biden announced each Eligible Entity's BEAD Program funding allocation based on that data.

We expect every Eligible Entity to participate in other Federal and state broadband funding programs to meet the overarching goal of the BEAD program. To help support this effort, NTIA has assigned a Federal Program Officer to each Eligible Entity to help them navigate NTIA's programs and support them in identifying other opportunities for funding across the Federal government. Of course, how Eligible Entities spend the BEAD money will matter too. The BEAD Notice of Funding Opportunity (NOFO) provides Eligible Entities with significant flexibility in determining which projects will ultimately receive support.

At the current stage of BEAD Program implementation, Eligible Entities now have a significant role to play in determining whether a particular location or community anchor institution is eligible for BEAD Program funds, including whether a particular location is

unserved or underserved. NTIA's BEAD Program NOFO requires that Eligible Entity submit an Initial Proposal describing, among other things, a BEAD "challenge process" under which a unit of local government, nonprofit organization, or broadband service provider may challenge a determination made by the Eligible Entity in the Initial Proposal as to whether a particular location or community anchor institution is eligible for BEAD funds, including whether a particular location is unserved or underserved.

NTIA is working closely with BEAD Program Eligible Entities as well as our Federal partners to help to ensure every unserved location and underserved location in the United States has access to reliable, affordable, high-speed Internet service.

5. I understand that the Affordable Connectivity Program (ACP) will soon run out of money. Any extension of ACP must include reforms to ensure the program is targeted at the right people. I also understand that the BEAD program requires providers to include a low-cost broadband plan and that many providers plan to use ACP to meet this requirement. If Congress is not able to reach a deal to extend ACP, how will you work with providers on this requirement?

Response: The Biden-Harris Administration is committed to connecting everyone across America to affordable, reliable, high-speed Internet service, and the Affordable Connectivity Program (ACP) is at the heart of the Biden-Harris Administration's efforts to make the goal of Internet for All a reality. ACP is important for the success of NTIA's broadband infrastructure programs because users need to be able to afford to get online and providers need the certainty that they will have customers, especially in rural and low-income communities, before they deploy their networks.

Pursuant to IIJA, NTIA's BEAD program requires that participating Internet Service Providers offer a low-cost option. ACP helps ensure that providers can deliver on this requirement in all corners of the country, and ultimately meet the broader goal of connecting everyone in America to affordable, reliable, high-speed Internet service. Building on the demonstrated successes of the ACP program, the 2025 Budget includes the Administration's pending supplemental request for \$6 billion to extend the ACP program through 2024, and the Administration will work with Congress to secure additional funding for this important need in 2025 and beyond.

6. Will the lack of ACP lead to rate regulation of broadband plans?

Response: The Biden-Harris Administration is committed to connecting everyone across America to affordable, reliable, high-speed Internet service, and the ACP is at the heart of the Biden-Harris Administration's efforts to make the goal of Internet for All a reality. ACP is important for the success of NTIA's broadband infrastructure programs because users need to be able to afford to get online and providers need the certainty that they will have customers, especially in rural and low-income communities, before they deploy their networks.

IJA does not authorize the NTIA to regulate the rates charged for broadband service.¹⁰ Consistent with the statute, NTIA is not setting rates, and nothing in the BEAD Program NOFO regulates rates.

The Honorable Jay Obernolte

1. Assistant Secretary Davidson, Open-source AI systems present great utility for academia and government work in their own AI development and research. We are awaiting the results of your AI accountability policy report and the AI report on open-source AI risks and benefits. Can you give us an update on these reports and what we should expect?

Response: The National Telecommunications and Information Administration (NTIA) released the Artificial Intelligence (AI) Accountability Report on March 27, 2024. This report focuses on building an ecosystem of accountability across stakeholders and stages of AI system development and incorporates feedback received in NTIA’s April 2023 AI Accountability Request for Comment. The report also provides policy recommendations for lawmakers and stakeholders on the mechanisms that can create earned trust in AI systems.

President Biden’s Executive Order on AI directs NTIA to review the risks and benefits of dual-use foundation models with widely available model weights and develop policy recommendations to maximize those benefits while mitigating the risks. To meet the requirements of the Executive Order, NTIA will review: 1) the risks associated with actors removing safeguards or modifying dual-use foundation models with widely available open weights; 2) the benefits of these open model weights to competition, AI innovation, and research; and 3) potential regulatory mechanisms to manage the risks and maximize the benefits of the open model weights. On February 26, 2024, NTIA published a Request for Comment seeking feedback on these topics from all stakeholders and interested parties. Comments were due to NTIA by March 27, 2024. NTIA plans to release our findings in a report to the President in Summer 2024.

¹⁰ IJA at 60102(h)(5)(D).