

ONE HUNDRED NINETEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-3641
Minority (202) 225-2927

November 25, 2025

The Honorable Arielle Roth
Assistant Secretary of Commerce for Communications and Information
National Telecommunications and Information Administration
U.S. Department of Commerce
1401 Constitution Ave. NW
Washington, DC 20230

Dear Administrator Roth:

We write to express our significant concerns with the National Telecommunications and Information Administration's (NTIA) implementation of the Broadband Equity, Access, and Deployment (BEAD) Program under the Trump Administration. It is evident that NTIA's implementation of the BEAD Program violates the letter of the Bipartisan Infrastructure Law and ignores the intent of Congress, jeopardizing the bipartisan goal of delivering fast, reliable, and affordable internet to everyone in America. We also remind you that any executive order issued by the President cannot override existing laws passed by Congress.

In January 2025, the Trump Administration inherited the BEAD Program on the cusp of connecting every American household and business to fast, reliable, and affordable internet service. States and territories spent considerable time and resources developing plans to connect unserved and underserved communities; the final proposals of three states had already been approved, with most others well on their way to completion. Rural communities were especially poised to finally receive the same future-proof infrastructure that today connects urban centers and densely populated suburbs. The program was on track to accomplish that feat under budget and according to parameters that Congress established on a bipartisan basis. But for reasons that defy logic and the law, both Secretary Lutnick and you have taken consistent steps to sabotage BEAD and abandon Congress's bipartisan commitment to expand affordable, high-speed internet access to everyone in America.

As you are aware, the Bipartisan Infrastructure Law requires NTIA to prioritize projects that "provide broadband service that meets speed, latency, reliability, and consistency in quality of service," and that "can easily scale speeds over time to meet the evolving connectivity needs of households and businesses."¹ However, the changes made by NTIA in its BEAD

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

Restructuring Policy Notice (Policy Notice) and public comments made by Secretary Lutnick and you make clear the Trump Administration's plan to instead prioritize the cheapest technologies – regardless of their performance or scalability – to claim “savings” to return to the Treasury.² This willful departure from the Bipartisan Infrastructure Law's requirement to consider each technology's performance and scalability raises serious concerns for multiple reasons.

First, neither NTIA nor any Administration official has the authority to ignore the plain language of the statute, let alone Congressional intent. Congress specifically directed NTIA to ensure that states and territories prioritize projects that deliver scalable networks capable of supporting speed and capacity needs of the future. The BEAD Program has always permitted all technologies, but not all technologies are equal by those metrics. For instance, one study suggests there are limitations on certain low-Earth orbit (LEO) satellite providers' ability to deliver high-quality connections to areas with seven or more locations within one square mile.³ This is troubling because under the Policy Notice, LEO providers are being selected to serve a significantly higher number of BEAD locations than they would have under the initial BEAD Notice of Funding Opportunity.⁴

Second, the Trump BEAD Program now resembles the failed 2020 Trump Rural Digital Opportunity Fund (RDOF) program. Trump's RDOF program funded internet service providers that bid to serve the highest number of locations using the fewest dollars. This approach incentivized widespread underbidding and other anticompetitive behavior that has led to massive defaults by providers unable or unwilling to keep their commitments to unserved and underserved communities.⁵ Your emphasis on the cheapest upfront cost, using an undocumented and arbitrary set of statewide per-location costs over more reliable metrics like speed, bandwidth, scalability, and cost over the lifespan of the technology is not only a violation of the Bipartisan Infrastructure Law, it also puts the Trump BEAD Program on a trajectory to repeat RDOF's defaults and failed commitments, ultimately leaving communities – primarily rural communities – unconnected.⁶

Third, neither the law nor a directive from the President through an executive order empowers NTIA to impound tens of billions of dollars that Congress authorized and appropriated in full to achieve specific policy outcomes, including universal connectivity, affordability, scalable infrastructure, and broadband adoption. To the contrary, the Bipartisan Infrastructure

² National Telecommunications and Information Administration, *Broadband Equity, Access, and Deployment (BEAD) Program: BEAD Restructuring Policy Notice*, at 11 (June 6, 2025); *NTIA Wants to Claim Leftover BEAD Funds as Taxpayer Savings*, StateScoop (Sept. 10, 2025); National Telecommunications and Information Administration, *Remarks of Assistant Secretary Arielle Roth at the Hudson Institute* (Oct. 28, 2025).

³ Sascha Meinrath et al., *Starlink Capacity Analysis v0.2*, The X-Lab (July 18, 2025).

⁴ Connected Nation, *BEAD Tracker* (accessed on Nov. 24, 2025).

⁵ Benton Institute for Broadband and Society, *New Dataset Reveals Impact of RDOF Defaults on Each State* (Feb. 18, 2025).

⁶ BroadbandExpanded, *One Million Locations Might Remain Unserved Post-BEAD. Leftover Funds Should be Used to Connect Them* (Oct. 23, 2025).

Law expressly includes eligible uses beyond deployment and mandates that *all* remaining funds be used to further the BEAD program.⁷ Congress intentionally envisioned a range of acceptable uses of BEAD funds and flexibility for states and territories because barriers to connectivity are different in every community. We urge you to release to each state and territory its full BEAD allocation, including all funds for non-deployment activities allowable under the statute.

Good stewardship of taxpayer funds is as much about the quality and value of the dollars spent as it is the upfront or short-term costs. To that end, and for the purposes of ensuring that NTIA remains on track to close the digital divide as required by statute, we request that you respond to the following questions in writing by December 12, 2025.

1. Secretary Lutnick promised speed and efficiency in approving states and territories' final proposals and promised BEAD program funding would be released by the end of 2025.
 - a. Will all states and territories have access to all of their funding by the end of this year?
2. It has been reported that NTIA is using a cost model to determine cost estimates for buildout within each state.
 - a. Please explain in detail the date and source of data for these models.
 - b. What exactly is being modeled by this data? For example, is it modeling cost estimates for greenfield fiber builds?
 - c. How are these data models being applied to each state and territory's final proposals? Is there a percentage of total cost against which NTIA is benchmarking a state and territory's final results? Does the benchmark vary by state? Do the benchmarks take into account variations within each state and, if so, how?
 - d. Cost models are generally used to make predictions about outcomes when actual cost data does not exist. Why does NTIA believe that these cost models are better indicators of costs than the actual competitive bidding processes already conducted by every state?
3. NTIA has overruled states and territories on a granular level by rejecting individual grant awards, forcing states to rebid projects at unreasonably cheap cost thresholds. Please provide a list of all states and territories from which NTIA has rejected project awards or otherwise forced to rebid locations, and for each state or territory provide:
 - a. A list of all BEAD projects or awards NTIA required to be rebid and the total number of broadband serviceable locations (BSL) in each such award.

⁷ Infrastructure Investment and Jobs Act of 2021, Pub. L. No. 117-58. § 60102(f).

- b. Each award winner rejected by NTIA, the technology proposed, and cost per passing for each BSL in the rejected award.
 - c. Each rebid project award winner, the technology proposed, and cost per passing for each BSL in the rebid award.
4. LEO satellite providers face challenges to deliver high-quality connections envisioned by BEAD due to capacity limits, the need for user-end obstructions to be clear, and the potential for performance degradation as more users join a network. Based on final proposals submitted to NTIA to date, reports suggest that more than 750,000 BEAD awards will fund LEO capacity reservation subgrants.
- a. For provisionally selected LEO priority broadband projects, what evidence did you require states and territories to show that LEO service 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 as required by the statute?
 - b. What, if any, obligation does a LEO provider receiving BEAD funds have to sign up customers for the BEAD funded service? Is the LEO provider entitled to its full BEAD award, even if no BEAD households subscribe?
 - c. How will NTIA and the state or territory monitor, measure, and ensure LEO subrecipients' compliance with the BEAD capacity reservation requirements?
 - d. BEAD subgrants for terrestrial networks will support infrastructure that will be capable of providing high-speed internet service to households in the project area long after those grants are closed out. How will the BEAD capacity reservation grants to LEO providers ensure that households in LEO project areas receive high-speed internet service after those grants close out?
5. The Bipartisan Infrastructure Law specifically authorizes states and territories, after achieving full deployment, to spend remaining funds on other statutorily authorized priorities.
- a. When will NTIA provide guidance on the use of non-deployment funds?
 - b. Has NTIA authorized any state or territory to conduct workforce activities in connection with deployment projects? Given the expected demand for a skilled workforce, has NTIA authorized the use of non-deployment funds to develop a skilled workforce?
 - c. Is NTIA considering clawing back non-deployment funding, or otherwise withholding allocated funds from states and territories?

- d. Under what legal authority is NTIA or the Department of Commerce granted the ability to impound BEAD funds, including non-deployment funds?
6. NTIA generally includes special award conditions in its grants, which can cover specific project requirements, financial management, reporting, and other terms that go beyond the general grant conditions.
 - a. Is NTIA considering any revisions or additions to the special award conditions attached to the state and territory grants in connection with approving final proposals? If so, what are those revisions?
 - b. Please provide a copy of the final proposal's general terms and conditions and special award conditions, highlighting any new or revised conditions.
7. The Federal Communication Commission has disclaimed its authority to regulate broadband service and Congress made clear that nothing in the Bipartisan Infrastructure Law authorizes NTIA to regulate broadband rates. The courts have specifically held that states can regulate the provision of broadband service absent federal authority to do so. You recently stated that, "any state receiving BEAD funds must exempt BEAD providers throughout their state footprint, from broadband-specific economic regulations, such as price regulation and net neutrality."
 - a. What is the source of NTIA's authority to effectively preempt the application of state laws to a provider's entire state footprint, including locations that are not a part of the BEAD program?
8. The Bipartisan Infrastructure Law specifically requires states and territories to determine the low-cost broadband service definition. Yet, the Policy Notice specifically prohibits states and territories from setting the low-cost service option and instead requires the state or territory to accept any definition established by the subgrantee.
 - a. How is the Policy Notice's requirement for subgrantees to determine the low-cost service option consistent with the Bipartisan Infrastructure Law?

The Honorable Arielle Roth

November 25, 2025

Page 6

b. The Bipartisan Infrastructure Law requires that, upon final proposal approval, you must publish the state's low-cost broadband definition. It also requires that you establish a website allowing customers to determine whether they are eligible for the BEAD low-cost offer. Will you be making that information available and, if so, when?

Thank you for your attention to this matter. If you have any questions, please contact the Democratic Committee staff at (202) 225-2927.

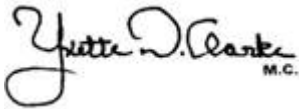
Sincerely,



Frank Pallone, Jr.
Ranking Member



Doris Matsui
Ranking Member
Subcommittee on Communications
and Technology



Yvette Clarke
Ranking Member
Subcommittee on Oversight and
Investigations