Massachusetts Broadband Institute  
75 North Drive  
Westborough, MA 01581

SUBJECT: ADDITIONAL CONCERNS REGARDING  
THE MBI INTERNET FOR ALL PROPOSAL

Supplement to the letter from the Bourne Select Board to MBI on November 22, 2023, in which we reserved the right to expand on certain points after detailed review of the full MBI Internet for All plan. References to the plan and other resources are given in the text parenthetically and in footnotes.

I. TIMELINE

Our initial concern about the BEAD program Approach in Massachusetts (page 4) is the proposed timeline for application submission. In its present form, this produces major barriers for municipalities looking to start new network expansions. Towns will find it difficult to apply for the program and get the necessary funds for broadband infrastructure if they are restricted to this very limited time frame. Moreover, “MBI expects that, due to the CPF-funded Gap Networks Program, few or no mass market Broadband Serviceable Locations (sic) [i.e., any home, business, etc. where broadband could be installed] may remain by the time the BEAD subgrantee selection process begins (page 4).” This accelerated rollout disadvantages municipalities like Bourne and other towns attempting to address their own specific broadband difficulties. The effect is to unfairly favor established commercial service providers by protecting them from competition and permitting continued substandard service at decades-old levels.

II. GAP CONSIDERATIONS re BEAD

Because the pool of available GAP funds is limited, an ISP would be incentivized to submit a GAP application for what the BEAD documents calls “unreliable service” to underserved sites, i.e., certain types of fixed wireless access (not fiber to the home). The effect is that those sites then become ineligible for BEAD funding for reliable fiber.

The GAP grant program's waiver rules, especially those pertaining to outstanding broadband debt, need thoughtful revision, given the realities of municipal financing. In November, the Bourne Town Administrator met with the Bourne Cable, Internet, and Telecommunications Advisory Committee (CITAC) representative Ms. Walton and CITAC ex officio and Select Board member Ms. Siroonian to review the grant application requirements. We note that Bourne does not have the long-term debt required to qualify. Moreover, due to the short
deadline for application the Town will be unable to meet the waiver conditions (page 35, first paragraph) timely, notably the 20% matching grant criterion; Bourne cannot seek financing from Town Meeting until May, the exact situation faced by most Massachusetts municipalities who determine their fiscal operations at spring Town Meeting. We need MBI’s help to provide Bourne a chance to take advantage of the GAP program with the understanding that MBI has discretion to modify requirements. Therefore, we request that MBI either eliminate the matching requirement or extend the deadline in recognition of these constraints.

III. LETTER OF CREDIT and COFUNDING

As noted on page 48, second paragraph, a letter of credit (LOC) is among the requirements for non-publicly-traded applicants. The BEAD Notice of Funding Opportunity (NOFO) requires a qualifying bank to create a model LOC, promising to provide the applicant with an irrevocable standby LOC. This LOC must have a minimum of 25% of the sub-award value and follow the terms and criteria of BEAD's model LOC. While we acknowledge the value of financial safeguards, we would draw your attention to the complexity and potential hardship that this presents, particularly for small towns and municipalities. Given the distinct situations that municipalities and small towns encounter, we request that the LOC requirement be waived for them. The Commonwealth could issue LOCs on towns’ behalf to streamline the procedure, thereby providing greater accessibility to the BEAD program. Commonwealth-issued performance bonds would improve efficiency and guarantee consistency.

We know how crucial co-funding is to successful broadband initiatives. However, because municipalities have distinct financial cycles as noted above, municipal funding deadlines are usually not compatible with BEAD co-funding requirements. Waivers will guarantee that the BEAD program is accessible and flexible enough to accommodate municipalities’ various financial structures and timetables. Relieving this undue financial or administrative pressure would produce a desirable effect: More towns could participate in the BEAD program.

IV. OPEN ACCESS and MARKET COMPETITION

The goal is to collaborate with local and statewide partners to achieve digital equity in Massachusetts. However, we are concerned that its current implementation plan (page 5) does not address a major component clearly identified in the Commonwealth-wide “Listening Sessions”: Expanding existing programs, developing new ones, and laying groundwork for success, while all necessary, draw attention away from the acknowledged critical factor in broadband delivery: market competition. The Town's letter notes that the present regulations’ effect are biased against new programs. Promoting healthy competition is critical to drive
innovation, improve service standards, and ultimately address documented community connection deficits.

An open access program is a way for a municipality to build a fiber network in order to offer wholesale access to multiple ISPs; therefore, it is appropriate for BEAD to give extra points for a municipality pursuing open access. Once a town-based fiber network secures connection to a data center in Boston or Providence, hundreds of potential ISP providers can compete for customers in that service area. But BEAD requires prior “Identification of retail ISP partners and status of contract negotiations (such as a memorandum of understanding or a signed commitment) (see full details at page 41).” This requirement is unnecessary for an initial municipal application. Likewise, providing “Wholesale service descriptions and rates” at the time of application is unnecessary for a municipal application as long as they commit to an open access policy on “neutral terms to all potential retail providers.” Therefore, we request that these requirements be waived for municipal applicants pursuing open access.

V. DATA TRANSPARENCY and SHARING

We appreciate MBI's dedication to openness by acknowledging the existence of CSV files with the location IDs of Unserved and Underserved Locations (page 9). Despite repeated requests MBI has not made the data in "MA Unserved Locations_10.24.2023" and "MA Underserved Locations_10.24.2023" publicly accessible. MBI must release these data in the service of effective public education and town-wide planning. We understand that FCC maps are difficult to use for town planning due to their challenging formatting: to see the issues accurately, you must enlarge to the individual parcel level. MBI will promote BEAD success by releasing their location-specific data to support community-level informed decision-making.

VI. DIGITAL EQUITY and CAIs

Ensuring that institutions, such as municipal governments, medical providers, schools, and businesses have access to affordable, high-speed, and dependable broadband squares with the larger objectives of digital inclusion and equity. Therefore, we are concerned about the projected access to 1-gigabit symmetrical service for the Community Anchor Institutions (CAIs) (page 9). Sooner rather than later, this will surely become inadequate for CAIs’ ever-increasing demand for data-intensive applications. Guaranteeing prompt access to 10 gigabits and higher is critical to support their core mission programs and services. MBI's efforts to decrease the digital divide do not go unnoticed. For instance, it has successfully built digital infrastructure required to connect communities, promoting digital equity by improving access to vital 1-gig connectivity for municipal buildings and schools.

VII. CONTRACTS
Lack of transparency about information available to communities is problematic when it comes to reviewing provider agreements and existing databases. MBI relies on provider agreements and an existing database of binding agreements for state and local broadband financing. Promoting BEAD success requires the open communication that underlies all good-faith collaboration. The present lack of access to this database disadvantages municipalities at the exact time they need information regarding enforceable state and local obligations. This dataset should be released as soon as possible.

VIII. CHALLENGE PROCESS

The Town of Bourne’s letter of November 23, 2023 (attached) gives an overview of the BEAD Challenge process.

We have concerns about the challenge process overview (page 14). We therefore cannot support either inclusion of fixed wireless or coaxial cable funding for wireless transmissions (FWA) under any grant program, since neither solves problems for rural areas like Bourne, as well-documented by ongoing speed testing. Fixed wireless signals have well-known difficulties delivering dependable and consistent service because they are susceptible to interference from natural and environmental impediments such as buildings, bird nests, weather of any kind particularly dense fog, and dense tree cover common in eastern Massachusetts. The resulting service outages for FWA result in famously poor connectivity. All communities should have access to reliable, high-quality broadband, according to BEAD's overall objective.

Dawson, in the article Fifty States - Fifty Different BEAD Grants observes that focusing solely on cost means choosing a wireless connection— with terrible connectivity. Nearly a third of the points for BEAD round one focus on minimal outlay. “Points or credits will increase as BEAD costs decrease. MBI shall also consider the cost per location and any factors that may impact the project's scalability or resilience (page 41, table 9)” thus favoring FWA which, though appearing more cost-effective, is demonstrably ineffective in Cape Cod.

The types of permissible challenges highlighted in the proposal (page 16-17) do not include challenge categories to account for well-documented seasonal degradation and unreliability here. Moreover, the 100ms latency threshold does not reflect modern users’ well-known needs. It would be appropriate to lower the latency threshold to 40ms or less, single digits being ideal.

MBI is correct to bring attention to the deleterious effect of unreasonable data caps on the consumer experience, but this plan lacks specifics. Therefore we advocate adopting a clear definition of an "unreasonable" data cap. Note that “unreasonable capacity” is not a data cap below the monthly capacity allowance of 600 gigabytes (GB); this is approximately the current
median household usage. This is too low to meet current needs of about half of modern households. We feel that a reasonable data cap should be at least tripled, to 1.8 terabytes (TB).

IX. CHALLENGE CONSIDERATIONS: MDU

We find the discussion of MDU Enterprise Level Agreements (page 41) to be poorly defined and confusing. A one-size-fits-all approach is not suitable for the varied infrastructure and service requirements for the unique characteristics of MDUs and the diverse communities they serve. Furthermore, the entire section as written is unclear, so we can't follow its meaning or intent, and it should be redone. We find the proposed model to be impractical, potentially detrimental to the diverse communities and service providers, and a barrier to full participation in the BEAD program.

Public and private housing MDUs will be overburdened by the MDU challenge criteria (bottom half of page 18-19). The requirement for at least three (3) units or 10% of the unit count within the same broadband-serviceable area, whichever is greater, creates barriers for public housing residents. The challenge process must be accessible, without making further difficulties for MDU residents, particularly those living in smaller buildings; these are often individuals facing economic issues; the financial burden of beginning disputes disadvantage them disproportionately. To facilitate challenges from smaller buildings, we recommend that this requirement be amended to read, “whichever is less.”

X. CHALLENGE CONSIDERATIONS: SPEED TESTS

We appreciate MBI’s efforts towards speed test requirements (page 19-20) in collecting data. However, MBI can streamline the procedure by licensing a commercially-available software application that can automate these and compile speed test challenge data, and providing distribution particularly to governmental agencies, NGOs, and hosting companies. This will result in the broadest, most consistent dataset for comparison. Presently, requirements specifically bar the use of Microsoft and Ookla data for challenges. We suggest that such requirements be removed.

We are in favor of immediately accepting historical testing and speed test datasets from trustworthy sources, e.g., Microsoft and Ookla. This is critical to update the maps of areas with poor service locations and make them eligible for funding as soon as possible. Moreover, in light of data privacy rules, we recommend other ways to satisfy the requirements to verify speed tiers that do not include customers providing their income statements and bills, e.g., data from current ISPs. This simple change reduces potential legal issues and makes the challenge process easier.

Furthermore, we are concerned regarding the potential influence of the “80/80 rule” on results accuracy, which makes challenges less likely to succeed. This rule means that an area
would be considered adequately served if 80% of residents receive broadband at 80% of the acceptable rate. Bourne has about 5 census tracts of about 2000-4000 each, one for each village, each with uneven service delivery. Speed tests data from these cannot demonstrate acceptable service delivery in all parts of any village in Bourne. We request that speed test data be presented broken down by smaller units, census blocks or census block groups. If the goal is Internet For All, service targets should be at 100% for all residents.

The speed-test requirement (page 19) is unclear at best and appears to intentionally impede potential changes at worst. Additionally, while the fiber example given is straightforward, considering the effects of unreliable cable connections and fixed wireless is omitted for purposes of challenge. The availability of fixed wireless should be omitted when determining service areas. This section, as written, fails to take that into account.

XI. CHALLENGE CONSIDERATIONS: TRANSPARENCY PLAN

The transparency plan (page 20) proposal states that documentation must be posted at least one week before the challenge filing window opens. A one-week notice is not enough time to read the documentation, ask questions, and prepare to participate effectively. This material should be released months in advance so everyone involved has enough time to evaluate it and develop a course of action.

“MBI also plans to provide technical assistance to municipalities to support their submission of challenges (page 20).” We need to know more about how MBI intends to offer technical support. For municipalities to make the most of MBI’s support, they must know where and how they can get reliable assistance, especially since historically MBI has not accommodated multiple requests for technical support.

XII. TRIBAL ENGAGEMENT

We note that MBI is engaging the Aquinnah and Mashpee Wampanoag Tribes. However, this engagement is limited, restricted only to federally-recognized tribes. MBI notes that the state-recognized Herring Pond Wampanoag tribe has many members living in underserved areas in the Town of Bourne (page 33). We recommend an inclusive approach, urging the engagement of all tribes, even if not yet federally recognized, to ensure a fair and comprehensive representation of tribal communities in the BEAD program.

XIII. A FINAL NOTE

BEAD documentation incorrectly cites the Federal Communications Commission (FCC) (2016) definition of the costing benchmark for reasonable rates for residential broadband service as "2% of monthly household income." The FCC further describes the 2% threshold as a "clear
yardstick for charting changes, not as an inherently meaningful level." However, we would like to highlight that this information is incorrect. The FCC actually defines the benchmark as "2% of disposable income." The correct benchmark is crucial as it aligns with the approach taken in other measures of affordability and renders all subsequent MBI calculations unreliable. We also note that the United Nations set a goal for developing countries that, by 2015, entry-level broadband service should account for no more than 5% of disposable income.

We thank you for your consideration of these concerns and look forward to helping MBI to help all citizens of the Commonwealth achieve digital equity.

Sincerely,

Name of Organization