

# United States Senate

WASHINGTON, DC 20510

October 24, 2023

The Honorable Gina M. Raimondo  
Secretary of Commerce  
Department of Commerce  
1401 Constitution Avenue, NW  
Washington, D.C. 20230

The Honorable Alan Davidson  
Assistant Secretary of Commerce for  
Communications  
Department of Commerce  
1401 Constitution Avenue, NW  
Washington, D.C. 20230

Dear Secretary Raimondo and Assistant Secretary Davidson:

We write to urge the National Telecommunications and Information Administration (NTIA) to make the Broadband Equity, Access, and Deployment (BEAD) program more accessible to unconnected regions across the country by considering alternatives to the program's irrevocable standby Letter of Credit (LOC) requirement.

The LOC requirement obligates participants to obtain a Federal Deposit Insurance Corporation (FDIC)-issued LOC with a Weiss rating of B- or higher for 25% of the award amount.<sup>1</sup> These LOCs must be collateralized by cash or cash-equivalent, as mandated by FDIC banks. We recognize that the LOC requirement was included in the Notice of Funding Opportunity to ensure that the government had surety to protect the integrity of the program and prevent wasteful spending of taxpayer dollars.

However, the LOC requirement has the potential to prevent the Internet service providers (ISPs) best positioned to connect unserved and underserved Americans from participating in the BEAD program. This requirement presents a challenge for ISPs, especially many new and small ISPs that are unlikely to have the acceptable forms of collateral needed to support the LOC. Awardees may be forced to hold significant capital reserves for the entirety of their several-year award period. According to some estimates, this leads them to keep more than 60% of their grant awards in reserve rather than spending them on BEAD projects.<sup>2</sup> Additionally, these

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<sup>1</sup> National Telecommunications and Information Administration, U.S. Department of Commerce, *Notice of Funding Opportunity: Broadband Equity, Access, and Deployment Program* (online at <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>).

<sup>2</sup> *A Letter Addressed to the NTIA and Department of Commerce, Connect Humanity* (Sep. 6, 2023) (online at [connect-humanity.shorthandstories.com/bead-letter-of-credit-alternatives/index.html](https://connect-humanity.shorthandstories.com/bead-letter-of-credit-alternatives/index.html)).

capital barriers could exclude many entities that the program aims to support, such as small and community-centered ISPs, minority-and-women-owned ISPs, nonprofit organizations, and municipalities. Indeed, the requirement could be a barrier to entry for many public broadband entities attempting to access the BEAD program, due to laws preventing municipalities from obtaining a LOC.

Further, stakeholders have raised concerns that the banking sector is unlikely to issue LOCs at the scale required to effectively implement the \$42.5 billion BEAD program.<sup>3</sup> Under current program rules, LOCs can only be issued by banks holding a Weiss rating of B- or higher. Lower-rated banks, investors, Community Development Finance Institutions, and philanthropic organizations are not eligible to bridge these financial gaps, and even banks eligible at the beginning of BEAD may not be able to maintain the proper rating throughout the program.

Pursuing alternatives to the LOC requirement would allow all ISPs, including small- and community-centered providers, minority- and women-owned ISPs, nonprofits, and municipalities, to participate in the BEAD program.

One alternative to the LOC requirement is the use of performance bonds, which are commonly used in construction projects. Performance bonds would allow participants to provide a financial guarantee for the delivery of the project without requiring them to put up large amounts of capital upfront. We also recognize that there are a number of other alternatives to this requirement that NTIA could implement - such as parental guarantees - and should consider as an effective substitute for the LOC, to the extent they provide reasonable assurance of performance by the funding recipient and meaningful recourse for the government in cases of failed performance.

We respectfully request a written response, no later than November 7, 2023, detailing potential alternatives to the LOC requirement under consideration by NTIA and how NTIA plans to incorporate these alternatives into the implementation of the BEAD program.

We appreciate the work that has already taken place to connect all Americans to quality, high-speed internet broadband service. We thank you for considering alternatives to the LOC requirement, and we look forward to your response on this serious matter.

Sincerely,



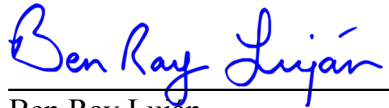
Peter Welch  
United States Senator



Roger F. Wicker  
United States Senator

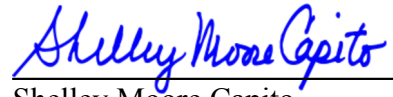
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<sup>3</sup> *Id.*



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Ben Ray Lujan  
United States Senator



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Shelley Moore Capito  
United States Senator



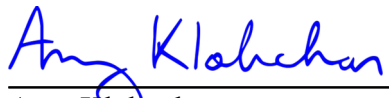
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Tammy Baldwin  
United States Senator



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Cindy Hyde-Smith  
United States Senator



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Amy Klobuchar  
United States Senator



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John Hickenlooper  
United States Senator



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Kyrsten Sinema  
United States Senator



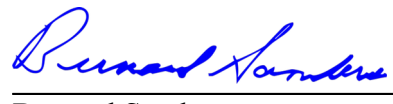
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Ted Budd  
United States Senator



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Gary C. Peters  
United States Senator



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Bernard Sanders  
United States Senator

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Michael F. Bennet  
United States Senator

A handwritten signature in blue ink, appearing to read "Martin Heinrich", written over a horizontal line.

Martin Heinrich  
United States Senator