

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking Proceeding to
Consider Rules to Implement the Broadband
Equity, Access, and Deployment Program.

R.23-02-016
(Filed February 23, 2023)

**COMMENTS OF THE CITY AND COUNTY OF SAN FRANCISCO
ON THE DRAFT BEAD INITIAL PROPOSAL**

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November 27, 2023

COMMENTS OF THE CITY AND COUNTY OF SAN FRANCISCO ON THE DRAFT BEAD INITIAL PROPOSAL

The City and County of San Francisco (San Francisco) respectfully submits these Comments in response to the *Administrative Law Judge's Ruling Issuing Staff Proposal* (Ruling), issued November 7, 2023. The Ruling seeks comments on the proposed rules for the Broadband Equity, Access, and Deployment (BEAD) Program, which will be submitted to the National Telecommunications and Information Administration (NTIA) as the State of California's Initial Proposal.¹ San Francisco submits these general comments on the draft Initial Proposal (Staff Proposal) and responds to Questions 3 and 4 of the Ruling.

I. COMMENTS

The Commission must recognize the significance of improving broadband access for unconnected residents of multiple dwelling units (MDUs or multi-family housing) and ensure its proposed rules in the Staff Proposal do not inadvertently leave out large numbers of these residents from benefiting from the BEAD program. San Francisco has previously expressed concerns in addressing the needs of unserved and underserved residents of MDUs.² For example, as noted in our comments on the draft Five-Year Action Plan, according to the 2021 American Community Survey for San Francisco, over half (53%) of the households reporting no highspeed broadband access lived in multi-family housing; statewide, one quarter (25%) of those reporting no highspeed broadband lived in multi-family housing.³ Unserved and underserved residents of

¹ Attachment A to Ruling, *State of California Five-Year Action Plan Broadband Equity, Access, and Deployment (BEAD) Program* (Draft Plan).

² *Comments of the City and County of San Francisco on the BEAD Program Five-Year Action Plan*, August 7, 2023, p. 2.

³ 2021 American Community Survey, Buildings with Five or more apartments, accessed on August 3, 2023. For California see: <https://data.census.gov/mdat/#/search?ds=ACSPUMS1Y2021&cv=BLD,ucgid&rv=HISPEED&wt=WGT P&g=0400000US06> For San Francisco County, see: https://data.census.gov/mdat/#/search?ds=ACSPUMS1Y2021&cv=BLD,ucgid&rv=HISPEED&wt=WGT P&g=0400000US06_7950000US0607501,0607502,0607503,0607504,0607505,0607506.

MDUs represent California’s most underrepresented communities,⁴ particularly low-income households and persons of color. While these buildings may be represented as a single location on the state or federal broadband maps, each building consists of multiple households and families. It is imperative for the Commission to thoughtfully consider MDUs in the context of its challenge process and deployment of the BEAD program funds.

II. RESPONSES TO STAFF PROPOSAL QUESTIONS

3. Are there some proposed rules that comply with federal requirements but should be modified? If yes, how would parties modify the proposal? Are there specific portions of the proposal the Commission should not adopt?

San Francisco appreciates the measures that the Staff Proposal has proposed to address the needs of MDU residents by classifying public and affordable housing as a Community Anchor Institution (CAI) and adopting the MDU challenge process. We would urge the Staff Proposal to go a step further by reducing the threshold for an MDU challenge.

In Volume 1, the Staff Proposal states that an MDU challenge “requires challenges by at least three units or 10% of the unit count listed in the Fabric within the same broadband serviceable location, whichever is larger.”⁵ San Francisco believes that a single challenge within an MDU should be sufficient to establish that an MDU is unserved. The lack of broadband in an MDU is likely caused by insufficient inside wiring throughout a building. For example, MDUs built prior to 1995 in low-income neighborhoods can be presumed to not have sufficient inside wiring to support broadband.⁶ Thus, requiring a showing that a minimum number of units in an MDU are unserved is excessively burdensome and serves no purpose. Establishing a higher threshold for challenges would be contrary to state and federal broadband equity efforts.

⁴ *Notice of Funding Opportunity Broadband Equity, Access, And Deployment Program (NOFO)*, p. 16. <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>

⁵ Staff Proposal, Volume 1, p. 20.

⁶ The first ethernet cabling capable of supporting speeds over 100 megabits per second, Category 5, was introduced in 1995; inside wiring would need to be Category 5 or higher to deliver broadband speeds to individual units.

4. Any additional questions asked in the Staff Proposal

The Staff Proposal seeks comments on two proposed options for defining Project Areas.⁷ San Francisco recommends the Commission adopt Option 1, which allows applicants to draw their own project areas using the minimum geographic unit of a Census Block Group. As the Staff Proposal notes, this option would allow equal opportunity for applicants of all sizes and types and allow funds to be more efficiently targeted to the locations with the greatest need. The BEAD process allows for this flexibility to pursue deployments in a manner that best suits a State’s population.⁸

Dated: November 27, 2023

Respectfully Submitted,

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⁷ Staff Proposal, Volume 2, p. 37.

⁸ NOFO, p. 7; See *Comments of the City and County of San Francisco on the OIR*, April 17, 2023, p. 2.