



**Report on the Effectiveness of the  
Broadband Interagency Coordination Agreement  
Pursuant to §1308 of the  
Broadband Interagency Coordination Act**

**Prepared by the:  
Wireline Competition Bureau**

**Submitted to the:  
Senate Committee on Commerce, Science and Transportation  
House of Representatives Committee on Energy and Commerce**

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## I. INTRODUCTION

Pursuant to the Broadband Interagency Coordination Act of 2020 (BICA),<sup>1</sup> the Federal Communications Commission, the U.S. Department of Agriculture (USDA) and the National Telecommunications and Information Administration (NTIA) (collectively, the Agencies) entered into an interagency agreement (Interagency Agreement) to share information and coordinate for the distribution of funds for broadband deployment. Among other programs, the Agencies coordinate on the Commission’s Universal Service Fund High-Cost programs, programs administered by the Rural Utilities Service (RUS) of the USDA, and programs administered or coordinated through NTIA. BICA requires that comments be solicited on the effectiveness of the Interagency Agreement and that the Commission, upon reviewing such comments, submit to Congress a report describing any findings and recommendations from such assessment.<sup>2</sup> As directed by Congress, this report examines the effectiveness of the Interagency Agreement, informed by comments the Commission solicited from stakeholders.

Comments addressed how the Interagency Agreement facilitates efficient use of funds for broadband deployment and the availability of Tribal, State, and local data regarding broadband deployment and the inclusion of that data in interagency coordination.<sup>3</sup> Additionally, commenters proposed various modifications to the Interagency Agreement that they argue would improve the efficacy of interagency coordination.<sup>4</sup>

Based on our analysis of the record, we recommend that the Agencies continue to coordinate, subject to the constraints of the Administrative Procedures Act, to identify and implement standardization in broadband data. Additionally, we recommend that the Agencies enhance the visibility of their coordination efforts under the Interagency Agreement to facilitate greater transparency.

## II. BACKGROUND

The Commission’s efforts to coordinate on broadband deployment funding issues predate the passage of BICA and the Interagency Agreement. For years, the Commission and USDA’s Rural Utilities Service (RUS) worked closely together to coordinate on policies related to funding for voice and broadband networks in rural areas. In 2020, the Government Accountability Office acknowledged these interagency efforts between the Commission and the RUS, which had underway their complementary broadband deployment funding programs, “to keep each agency’s program staff apprised of key dates and issues in an effort to avoid overlap.”<sup>5</sup> Such coordination includes sharing data to determine eligibility of unserved areas, about new deployments for broadband deployment programs, and other relevant program activity information such as timing of program applications and awards.<sup>6</sup> The report concluded that, in so

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<sup>1</sup> The Broadband Interagency Coordination Act of 2020, Pub. L. No. 116-260, 134 Stat. 3214, Div. FF, tit. IX, § 904 (2020), codified at 47 U.S.C. § 1308 et seq. (BICA).

<sup>2</sup> 47 U.S.C. § 1308(b)(4)(B)(i)-(ii).

<sup>3</sup> 47 U.S.C. § 1308(b)(4)(A)(i)-(ii).

<sup>4</sup> 47 U.S.C. § 1308(b)(4)(A)(iii).

<sup>5</sup> United States Government Accountability Office, BROADBAND: Observations on Past and Ongoing Efforts to Expand Access and Improve Mapping Data at 30-31 (June 2020) (GAO Report), <https://www.gao.gov/assets/710/707872.pdf>.

<sup>6</sup> GAO Report at 31-32.

doing, the Commission and RUS had “taken steps to try and effectively target federal dollars to support broadband deployment while avoiding the potential to duplicate funding in an area.”<sup>7</sup>

In December 2020, Congress passed BICA, which builds on the existing coordination and improves these interagency efforts to fund broadband deployment. Under BICA, the Commission, USDA, and NTIA were required “[n]ot later than 180 days after December 27, 2020” to “enter into an interagency agreement requiring coordination . . . for the distribution of funds for broadband deployment.”<sup>8</sup> The statute specifically references three types of programs that are the subject of this coordination: the FCC’s high-cost programs; programs administered by RUS; and programs administered by, or coordinated through, NTIA.<sup>9</sup> The BICA required that the agreement entered into by the Agencies require them to share information regarding existing or planned projects that have received or will receive funds for new broadband deployment.<sup>10</sup>

To this end, the Agencies must, upon request, furnish information to one another about what entities provide broadband service in a project area; the level of broadband service provided in the area, including speeds and “the technology provided;” the geographic scope of broadband service coverage in the area; and each entity that has or will receive funds.<sup>11</sup> Additionally, the Agencies must consider basing the distribution of funds for broadband deployment on “standardized data regarding broadband coverage.”<sup>12</sup> The BICA further requires the FCC to conduct the assessment that is the subject of this report, informed by public comment.<sup>13</sup> Finally, BICA requires that the Interagency Agreement be “periodically updated.”<sup>14</sup>

BICA required that the Commission, in assessing the Interagency Agreement, no later than one year after entering into the Interagency Agreement, seek public comment on the effectiveness of the Interagency Agreement.<sup>15</sup> Specifically, BICA required that comments be solicited on the effectiveness of the Interagency Agreement in facilitating efficient use of funds for broadband deployment; the availability of Tribal, State, and local data regarding broadband deployment and the inclusion of that data in interagency coordination; and on any proposed modifications to the Interagency Agreement that would improve the efficacy of interagency coordination.<sup>16</sup> The BICA then requires that the Commission, upon reviewing the record generated in response, submit to Congress a report detailing any findings and recommendations from such assessment.<sup>17</sup>

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<sup>7</sup> GAO Report at 33.

<sup>8</sup> 47 U.S.C. § 1308(b)(2).

<sup>9</sup> 47 U.S.C. § 1308(b)(2)(A)-(C).

<sup>10</sup> 47 U.S.C. § 1308(b)(3)(A).

<sup>11</sup> 47 U.S.C. § 1308(b)(3)(B)(i)(I)-(IV).

<sup>12</sup> 47 U.S.C. § 1308(b)(3)(C).

<sup>13</sup> 47 U.S.C. § 1308(b)(4).

<sup>14</sup> 47 U.S.C. § 1308(b)(3)(D). The statute, however, limits “the scope of the agreement with respect to the Federal Communications Commission” to “the high-cost programs.”

<sup>15</sup> 47 U.S.C. § 1308(b)(4)(A).

<sup>16</sup> 47 U.S.C. § 1308(b)(4)(A)(i)-(iii).

<sup>17</sup> 47 U.S.C. § 1308(b)(4)(B)(i)-(ii).

In June 2021, the Commission, USDA, and NTIA entered into the Interagency Agreement pursuant to BICA.<sup>18</sup> The provisions of the Interagency Agreement mirrored those mandated by the BICA.<sup>19</sup>

Several other legislative enactments in this same timeframe also called for interagency consultation, coordination and cooperation to ensure ongoing and future federal efforts to close the digital divide would be carried out efficiently and effectively. In March 2020, Congress enacted the Broadband DATA Act,<sup>20</sup> which required that the Commission establish an improved, granular broadband deployment data collection and maps documenting broadband availability in the United States.<sup>21</sup> Among other requirements, the Broadband DATA Act directed the Commission to consult with the Secretary of Agriculture and NTIA to enable them to rely on the Commission's broadband maps when awarding funds for broadband deployment under programs administered by RUS and any future program administered by NTIA, respectively.<sup>22</sup> The FCC initiated this new collection, the Broadband Data Collection (BDC), on June 30, 2022, and published the initial, pre-production draft of the National Broadband Map based on the BDC data on November 18, 2022.<sup>23</sup>

In December 2020, Congress passed the ACCESS BROADBAND Act (ABA), which created the Office of Internet Connectivity & Growth (OICG) within NTIA.<sup>24</sup> The ABA codified much of the outreach and technical assistance to states and localities that NTIA had already been doing through its BroadbandUSA Program. The ABA also stated that "any agency that offers a Federal broadband support program shall coordinate" with the newly created OICG to "ensure that Federal support for broadband deployment is being distributed in an efficient, technology-neutral, and financially sustainable manner, and that a program does not duplicate any other Federal broadband support program or any Universal Service Fund high-cost program."<sup>25</sup> NTIA has, accordingly, taken the lead to facilitate the development of a common deduplication process with input from USDA, FCC, and Treasury, to ensure that federal funding for broadband connects as many locations as possible.

In November 2021, Congress passed the Infrastructure Investment and Jobs Act (Infrastructure Act).<sup>26</sup> Section 60105 of the Infrastructure Act requires that the Commission, "in consultation with all relevant Federal agencies, establish an online mapping tool to provide a locations overview of the overall geographic footprint of each broadband infrastructure deployment project funded by the Federal Government."<sup>27</sup> As required by Section 60105, the Commission, alongside NTIA and other federal agencies with broadband deployment funding mandates, has been developing the Broadband Deployment

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<sup>18</sup> Press Release, FCC, FCC, NTIA, and USDA Announce Interagency Agreement to Coordinate Broadband Funding Deployment (June 25, 2021), <https://www.fcc.gov/document/fcc-ntia-usda-sign-interagency-pact-broadband-funding-deployment>.

<sup>19</sup> *Id.*

<sup>20</sup> Broadband Deployment Accuracy and Technology Availability Act, Pub. L. No. 116-130, 134 Stat. 228 (2020) (codified at 47 U.S.C. §§ 641-646) (Broadband DATA Act).

<sup>21</sup> S. Rep. No. 116-174, at 1 (2019).

<sup>22</sup> Broadband DATA Act, 47 U.S.C. §§ 642(c)(4)(A) and (B)).

<sup>23</sup> FCC, *FCC Releases New National Broadband Maps* (Nov. 18, 2022), <https://www.fcc.gov/document/fcc-releases-new-national-broadband-maps>.

<sup>24</sup> Consolidated Appropriations Act of 2021, Division FF, Title IX, Sec. 903(b), Pub. L. 116-260, 134 Stat. 1182, 3210, (Dec. 27, 2020) (ABA).

<sup>25</sup> *Id.* at § 903(f).

<sup>26</sup> Infrastructure Investment and Jobs Act of 2021, Public Law 117-58, 135 Stat. 429 (November 15, 2021).

<sup>27</sup> Infrastructure Act, at § 60105.

Funding Map.<sup>28</sup> NTIA has supported the FCC’s efforts by facilitating presentations of early versions of the map and data standards to interagency colleagues to obtain feedback, and additionally synthesized feedback from NTIA staff to share with the FCC. When completed, this map will incorporate data from all federal agencies that fund broadband infrastructure, including duration of funded projects, the locations funded, speeds of service and other features, enabling improved coordination of federal and other stakeholder efforts.

The Infrastructure Act also required NTIA to implement the \$42.45 billion Broadband Equity, Access, and Deployment (BEAD) Program.<sup>29</sup> Significantly, the Infrastructure Act requires that NTIA use data in the Commission’s BDC maps in the formula used to allocate BEAD funding to participating states and territories and to define what locations will be eligible for BEAD funding.<sup>30</sup>

In an effort to further facilitate broadband deployment funding coordination, on May 9, 2022, the FCC, USDA, and NTIA entered into a joint Memorandum of Understanding Regarding Information Sharing (MOU) with the U.S. Department of Treasury.<sup>31</sup> The MOU serves to better enable “collaboration around the collection and reporting of certain data and metrics relating to broadband derived from programs administered” by the Commission, USDA, and NTIA, and those administered by Treasury.<sup>32</sup> Those programs by Treasury include the Coronavirus Capital Projects Fund and Coronavirus State and Local Fiscal Recovery Funds.<sup>33</sup>

Pursuant to the BICA’s requirement,<sup>34</sup> on July 1, 2022, the Commission’s Wireline Competition Bureau (Bureau) released a Public Notice seeking comment on the effectiveness of the Interagency Agreement in facilitating efficient use of funds for broadband deployment.<sup>35</sup> In response, the Bureau received a diverse record, receiving comments from various groups including trade associations, advocacy organizations, and private firms. These comments generally approved the Interagency Agreement but also suggested changes that could be made to improve its effectiveness.

### III. DISCUSSION

The Commission’s experience with the Interagency Agreement, as well as the record, demonstrate that the Interagency Agreement has significantly facilitated efficient use of federal funds for broadband deployment. The Interagency Agreement has helped the Agencies strengthen and improve existing coordination workstreams and establish new coordination workstreams. Commenters agree that the Interagency Agreement has proved successful.

#### A. Effectiveness of the Interagency Agreement

The Interagency Agreement has been effective in facilitating the exchange of information and prevention of, or limiting, overlap and duplication among the Agencies’ broadband deployment funding.

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<sup>28</sup> *Id.*

<sup>29</sup> Infrastructure Act, at § 60102 *et seq.*

<sup>30</sup> Infrastructure Act, at §§ 60102(a)(1)(A) and 60102(c)(3)(B).

<sup>31</sup> See Press Release, FCC, FCC, NTIA, USDA and Treasury Announce Interagency Agreement to Collaborate on Federal Broadband Funding (May 12, 2022), <https://www.fcc.gov/document/fcc-ntia-usda-treasury-announce-broadband-info-sharing-agreement>.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> 47 U.S.C. § 1308(b)(4)(A).

<sup>35</sup> *Wireline Competition Bureau Seeks Comment on the Interagency Broadband Coordination Agreement*, WC Docket No. 22-251, Public Notice, DA 22-712 (WCB July 1, 2022) (*Notice*).

Beginning in the spring of 2020, anticipating the need to coordinate on existing and forthcoming funding programs and to establish the Interagency Agreement, the Commission, USDA, and NTIA began regular and *ad hoc* meetings to share information on their respective efforts and to discuss issues of common interest. These meetings have continued through the present and have expanded to encompass additional issues. Coordination efforts have also expanded to include other agencies.

The meetings established a consistent, robust channel for communications among the Agencies concerning their respective funding programs. This has enabled the Agencies to maintain a mutual awareness of their respective programs' features and the Agencies' actions and plans to implement them. In conjunction with the meetings, the Agencies put in place secure mechanisms to share datasets essentially in real time, as contemplated by the BICA. Through these mechanisms, Commission staff have provided RUS, NTIA, and Treasury with customized datasets on deployment and funding commitments occurring in its Connect America Fund Phase II Auction and Rural Digital Opportunity Fund (RDOF) Auction and other high-cost programs. The Agencies have similarly provided the Commission with data concerning planned or actual commitments made in their programs. Through this dialogue, the Agencies have identified potential conflicts or overlaps in funded areas and managed to avoid or limit them.

For example, in February 2022, FCC and NTIA staff began a dialogue to discuss potential overlap between areas covered by successful bids in RDOF and areas covered by funding determinations in the NTIA Broadband Infrastructure Program (BIP). FCC and NTIA staff worked together over the course of several months to assess the extent of the issue and to reach a mutually acceptable outcome that ultimately resulted in no duplicative funding between the areas. This dialogue arose out of discussions in the Agencies' regular meetings, in which staff reported the status of processing awards in their respective programs, alerting one another that engagement was timely. Although the Agencies continue to develop and refine a common process that respects each Agency's resources, statutory obligations and leadership preferences, this dialogue is representative of others that the Agencies have engaged in since entering into the Interagency Agreement and that have successfully averted, limited or unwound instances of duplication among the programs.

In April 2022, FCC staff began what would become a series of meetings with NTIA staff administering NTIA's Tribal Broadband Connectivity Program (TBCP). In the meetings between FCC and TBCP staff, both agencies identified potential points of overlap between the FCC's CAF II and RDOF Auction awards and applications submitted in the TBCP. Over the course of the summer, through these meetings and by sharing focused datasets, staff were able to resolve satisfactorily each area of potential duplication.

Similarly, FCC staff have worked to resolve or mitigate potential overlap between areas funded by the Connect America Fund Phase II and RDOF and by Round 3 of RUS's Reconnect program. FCC and NTIA staff have also consulted with USDA/RUS on ways to fashion the framework for Reconnect Round 4 to avoid overlap between Round 4 funding and other funding programs that are underway by providing feedback and concerns about data sharing, timelines, and common policies to address potential overlap. RUS ultimately adopted in the Round 4 Notice of Funding Availability measures to prevent recipients from using funds from different programs for duplicative purposes. FCC staff anticipate supporting RUS's efforts to evaluate recipients' compliance with these provisions.

The MOU with Treasury also reinforced the Agencies' effort to more comprehensively tackle issues related to broadband deployment across the federal government. The provisions of the MOU include, among other things, an agreement to develop consistent, complementary, and, to the extent possible, uniform formats, standards, protocols, and reporting processes for information collection, as

well as interagency information sharing protocols.<sup>36</sup> The MOU does not in any way supersede or otherwise impact the terms of the Interagency Agreement.<sup>37</sup>

The Commission continues to work closely with NTIA in connection with BDC as it relates to the BEAD Program. The BEAD Program—which provides broadband deployment funding to eligible States, the District of Columbia, and U.S. territories, which in turn provide that money to subgrantees—requires that NTIA use data in the Commission’s BDC maps in the formula used to allocate BEAD funding.<sup>38</sup> The Commission and NTIA work in close partnership at the senior and staff levels, with specific focus on the intersection between Commission programs and the BEAD Program and particularly the development of BDC datasets upon which BEAD Program allocations will be based. The agencies meet regularly to discuss developments and strategy regarding the BDC maps’ role in the BEAD Program. In addition, the agencies work together proactively to promote awareness of both the BDC and BEAD, including through joint outreach to Tribes, state governments and consumer groups, among others.

Consistent with the terms of the Interagency Agreement, the Commission and NTIA exchange information on the progress of their interrelated steps and planning related to the BDC and BEAD and are thereby able to anticipate potential areas of concern and address them in advance. For example, the Commission has been in consultation with NTIA regarding a proposal by the Alternative Connect America Model (ACAM) Broadband Coalition to achieve widespread deployment of 100/20 Mbps broadband service for ACAM recipients in rural areas.<sup>39</sup> And pursuant to the Infrastructure Act, the Commission has engaged in extensive interagency coordination to direct Universal Service Fund and other high-cost support.<sup>40</sup> These efforts reflect a “longstanding course of coordination with other agencies pertaining to broadband funding programs” that have been memorialized through the Interagency Agreement.<sup>41</sup>

## **B. Availability of Tribal, State, and Local Data**

With the release of the pre-production draft of the National Broadband Map, stakeholders, including Tribes, States and localities, will have access to an unprecedented view of broadband deployment. Through Congress’ vision for the Map, the new data depicted will be continually improved and refined through the challenge processes and will enable stakeholders to assess current broadband availability on an ongoing basis to a degree that has not been possible before. The BDC enables Tribal, State, and local agencies to influence the National Broadband Map directly through the submission of data challenging the broadband serviceable *locations* identified in the Fabric and the *availability* of both fixed and mobile broadband on the Map itself. With respect to Tribal governments, the Commission continues to work with Tribal leaders, broadband Internet service providers, and other Tribal filers to help

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<sup>36</sup> MOU at paras. 1 and 2.

<sup>37</sup> *Id.* at para. 10.

<sup>38</sup> NTIA, Internet For All: Frequently Asked Questions and Answers Draft Version 2.0, Broadband, Equity, Access, and Deployment (BEAD) Program at 3, 29, 64-65 (Sept. 12, 2022) (BEAD Program FAQ), <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-09/BEAD-Frequently-Asked-Questions-%28FAQs%29-Version-2.0.pdf>.

<sup>39</sup> *Connect America Fund: A National Broadband Plan for Our Future High-Cost Universal Service Support et al.*, WC Docket No. 10-90 et al., Notice of Proposed Rulemaking, FCC 22-35, 2022 WL 1684348, at \*1, \*8 (May 20, 2022). [FCC may wish to consider citing to NTIA’s comments in this docket.]

<sup>40</sup> *Report on the Future of the Universal Service Fund*, WC Docket No. 21-476, Report, 2022 WL 3500217, at \*8-10, \*18 (Aug. 15, 2022).

<sup>41</sup> *Id.* at \*9.

facilitate BDC efforts. The Office of Native Affairs and Policy leads the Commission’s outreach to Tribal governments and organizations, hosting webinars and training workshops related to the BDC.<sup>42</sup>

Additionally, NTIA, through its BroadbandUSA program, runs the State Broadband Leaders Network (SBLN), which convenes “a community of practitioners who work on state broadband initiatives” to provide a forum for connecting State, local, and federal agencies to coordinate and “share priorities and best practices and discuss emerging telecommunications policy issues.”<sup>43</sup> Participants, which include all fifty States, the District of Columbia, and some federal territories, meet monthly and have frequently engaged with Commission staff to ensure state broadband leaders are aware of the opportunities available to states for participation in the BDC.<sup>44</sup> The SBLN continues to act as a valuable source for data about State-run broadband programs and improving State–federal cooperation. NTIA has recently established a Tribal Broadband Leaders Network and Commission staff have begun engagement with that group with the same objective.<sup>45</sup>

While the Agencies have had significant success in addressing potential duplication in their programs, several factors have made this process challenging. First, each of the Agencies’ programs has unique features and constraints, such as differing speed performance thresholds, timelines and/or geo-spatial standards. In some instances, these differences are statutorily prescribed and in others they are the result of an agency’s exercise of its discretion. These variations among programs can complicate efforts to harmonize funding. For example, when a program adopts a higher speed threshold for funding eligibility than has been in use in an existing program, the agency adopting later may be compelled to fund in areas that are already subject to a binding commitment. Additionally, the Agencies have varying standards for treating an area as served, and thus ineligible to seek funding in their programs, with some programs using an actual-deployment standard while others treat an area as served if there is a binding commitment with defined construction obligations. Given these and other factors, it has not been possible to avoid all instances of duplication or overlap. The Interagency Agreement, however, has enabled the Agencies to avoid, limit or unwind duplication to a significant degree. Where it has not been possible to do so, the data-sharing and dialogues fostered by the Interagency Agreement have given the Agencies the resources to make informed funding decisions, and the Agencies continue to develop and refine a common process that respects each Agency’s resources, statutory obligations, and leadership preferences.

### **C. Proposed Modifications to the Interagency Agreement**

Commenters raised a variety of proposals to improve the effectiveness of the Interagency Agreement in response to the *Notice*. We outline those proposals below and note the Bureau’s responses to each.

#### **1. Use of Commission Broadband Maps**

Commenters including NCTA, Free State Foundation, and TechFreedom suggest that the Agencies and state agencies be required to use the Commission’s broadband maps in making funding

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<sup>42</sup> See, e.g., FCC, Webinar On The Broadband Data Collection System For Tribal Filers and Leaders (July 26, 2022), <https://www.fcc.gov/news-events/events/2022/07/webinar-broadband-data-collection-system-tribal-filers-and-leaders>.

<sup>43</sup> NTIA, *State Broadband Leaders Network (SBLN)*, <https://broadbandusa.ntia.doc.gov/resources/states> (last visited Dec. 10, 2022).

<sup>44</sup> NTIA, *State Broadband Leaders Network*, [https://broadbandusa.ntia.doc.gov/sites/default/files/2021-10/updated\\_bbusa\\_sbln\\_factsheet\\_030420\\_0.pdf](https://broadbandusa.ntia.doc.gov/sites/default/files/2021-10/updated_bbusa_sbln_factsheet_030420_0.pdf) (May 2020).

<sup>45</sup> See NTIA, *NTIA Holds First Meeting of New Tribal Broadband Leaders Network*, <https://www.ntia.doc.gov/press-release/2022/ntia-holds-first-meeting-new-tribal-broadband-leaders-network> (Oct. 20, 2022).



decisions.<sup>46</sup> NCTA urges the Commission to publish the Broadband Deployment Funding Map “as soon as possible” and that the Interagency Agreement be updated to require use of both it and the National Broadband Map “as the common source of broadband deployment data.”<sup>47</sup> NCTA argues that the Agencies should use a common data set to determine broadband availability, consistent with the Broadband DATA Act’s requirement that the Commission base its funding decisions on the maps it creates.<sup>48</sup> Free State Foundation similarly argues that the Commission’s maps should be relied on exclusively as the “single, authoritative, and accurate source of broadband availability data.”<sup>49</sup> Free State Foundation observes that not all programs use Commission maps, such as USDA’s ReConnect Program, and that inconsistencies in mapping data could lead to unjustified overbuilds.<sup>50</sup> TechFreedom, meanwhile, contends that States could “game the system” if allowed to produce their own maps and should instead be required to provide “all available information about where [they] are funding broadband deployment” for use in the Commission’s maps.<sup>51</sup>

NTCA, in a similar vein, suggests that the Agencies “develop and post on their respective websites a common tracking chart” listing programs with enforceable commitments and information related thereto, as well as a “common map depicting the areas in which the enforceable commitments apply.”<sup>52</sup> NTCA claims that doing so “would serve as a useful complement to the” BDC maps, as together, these maps would “show both where broadband *is* and where it *is required to be* by a certain date.”<sup>53</sup> NCTA, meanwhile, urges an amendment to the Interagency Agreement to include a process for sharing information about defaults on funded projects so that maps can be updated accordingly.<sup>54</sup>

We recognize and emphasize the importance of the Commission’s BDC maps in directing efficient allocation of broadband funding as highlighted by commenters. Indeed, the release of the Commission’s first draft of the National Broadband Map signifies “the most comprehensive, granular, and standardized data the Commission has ever made available on broadband availability” and represents “an important milestone in implementing the Broadband DATA Act.”<sup>55</sup> It is the first step of an iterative process of developing useful tools necessary for making important funding decisions. We note that the Commission and NTIA’s Office of Internet Connectivity and Growth were specifically directed to “consult the broadband availability maps . . . when coordinating” their broadband deployment activities and, going forward, we expect increased reliance on the map at the Commission and throughout the federal government.<sup>56</sup> We also expect that the Broadband Deployment Funding Map, required by Section 60105 of the Infrastructure Act, will depict, per Congressional requirements, enforceable commitments

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<sup>46</sup> NCTA Comments at 2-3, 7; Free State Foundation Comments at 4, 9-12; TechFreedom Comments at 4-5.

<sup>47</sup> NCTA Comments at 2-3.

<sup>48</sup> NCTA Comments at 7 (citing Broadband Deployment Accuracy and Technology Availability Act, Pub. L. No. 116-130, 134 Stat. 228 (2020), codified at 47 U.S.C. §§ 641-646 (Broadband DATA Act)).

<sup>49</sup> Free State Foundation Comments at 10.

<sup>50</sup> Free State Foundation Comments at 11-12.

<sup>51</sup> TechFreedom Comments at 4-5.

<sup>52</sup> NTCA Comments at 3.

<sup>53</sup> NTCA Comments at 3.

<sup>54</sup> NCTA Comments at 7.

<sup>55</sup> *Broadband Data Task Force Releases Pre-Production Draft of the National Broadband Map; Announces the Start of the Broadband Availability Challenge Processes*, Public Notice, WC Docket Nos. 11-10, 19-195, DA 22-1210 (Nov. 18, 2022).

<sup>56</sup> 47 U.S.C. § 1703(f)(3).

pertaining to broadband deployment and other broadband objectives supported by federal funding initiatives.<sup>57</sup>

## **2. Require Data Reporting by States Administering Broadband Funding**

USTelecom proposes that State agencies that administer broadband funding programs, including NTIA grantees, be required to “inform the disbursing federal agency the date, location, and individual/entity to whom they then distribute federally funded awards,” early on in the process in order to avoid duplication or overbuilding.<sup>58</sup> USTelecom states that this state-award data could be included as a separate layer to the Commission’s BDC maps.<sup>59</sup> Similarly, NCTA argues that eligible entities for funding programs, such as NTIA’s BEAD Program, disclose the locations of enforceable buildout commitments and deadlines therefor.<sup>60</sup>

We acknowledge that federal funding programs that administer funds to states, such as the BEAD Program, include various reporting requirements concerning the use of the funding.<sup>61</sup> While the Commission may lack a clear congressional directive to establish a more general mandate that State agencies report the information requested by USTelecom, the Commission will take into account the state level reporting that does occur in the high-cost programs, and note that state reporting in the BEAD context and the data other federal agencies share with us for the Broadband Deployment Funding Map will serve much of the same purpose. NTIA and the Commission also are exploring options to encourage states to provide data to the Commission’s maps or tools developed by NTIA, as appropriate.

## **3. Do Not Delay Interim Distribution of Funding**

TLP argues that the Interagency Agreement should not act as a roadblock to any distribution of federal funds.<sup>62</sup> They point to comments by AT&T, Verizon, and T-Mobile in another proceeding, claiming that “[t]he subtext in . . . these comments,” which urge the Commission to delay consideration of additional broadband funding until existing funds for programs such as the BEAD Program are spent, “could result in a wasteful duplication of services.”<sup>63</sup> As TLP itself recognizes, however, nothing in the Interagency Agreement necessitates that the Commission defer action one way or another;<sup>64</sup> it requires only that the Agencies share information about “planned projects that have received or will receive funds for new broadband deployment” and that the Commission “shall consider basing the distribution of funds” using “standardized data regarding broadband overage.”<sup>65</sup> Along with the participating Agencies, we are committed to making the coordination process efficient and comprehensive so Agencies can quickly distribute funding as appropriate.

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<sup>57</sup> See 47 U.S.C. § 1407(b).

<sup>58</sup> USTelecom Comments at 4; *see also* TechFreedom Comments at 4-5.

<sup>59</sup> USTelecom Comments at 4; *see also* NCTA Comments at 6 (observing that the Commission could include toggleable layers to the Broadband Deployment Locations Map that could be filtered by agency program to indicate areas receiving broadband funding).

<sup>60</sup> NCTA Comments at 4-5.

<sup>61</sup> BEAD Program FAQ at 53-56.

<sup>62</sup> Telecommunications Law Professionals PLLC (TLP) Comments at 2-5; *but see* Free State Foundation Comments at 12-13 (observing that federal funding efforts may be duplicative absent greater interagency information sharing).

<sup>63</sup> TLP Comments at 2-3.

<sup>64</sup> TLP Comments at 5.

<sup>65</sup> 47 U.S.C. §§ 1308(b)(3)(A) and (C).

#### **4. Establish Common Data Definitions, Accuracy, and Collection Methods**

With respect to the Interagency Agreement’s requirement that the Agencies consider such standardized data, ASSIA argues that “mere agreement that data will be exchanged without also agreement on common requirements as to data definition, accuracy, and collection method would have insufficient detail to support the efficient use of congressional funds” and would not “ensure that the agencies, the public, and Congress have access to consistent and meaningful data on broadband deployment.”<sup>66</sup> ASSIA contends that the Interagency Agreement should furnish much more detail, albeit at a high level, regarding the commonality of interagency data sharing, outlining what it believes the Interagency Agreement should include in terms of detail as to data collection and other requirements.<sup>67</sup> ASSIA recommends uniformity and accuracy requirements for data, with such requirements “supportable by systems and processes that are cost effective,” in addition to other requirements.<sup>68</sup>

We note that the Infrastructure Act requires that the Commission and the Assistant Secretary for Communications and Infrastructure collaborate to “standardize and coordinate reporting of locations at which broadband service was provided using [BEAD Program] grant funds,” and provide BEAD Program grantees and subrecipients with “a standardized methodology” for such reporting.<sup>69</sup> Additionally, in connection with the implementation of the Broadband Deployment Funding Map, Commission staff have developed standards for reporting funded locations that prescribe the elements and format for the data federal agencies will submit for the map. Separately, USDA and NTIA developed a two-year Joint Agency Priority Goal to, “in cooperation with the Treasury and the Federal Communications Commission...establish common data standards for broadband deployment metrics to help Federal agencies identify where investments have been made and understand where gaps may exist.” These measures appear to align substantially with ASSIA’s recommendations.

#### **5. Include U.S. Department of Treasury in Interagency Agreement**

USTelecom and TechFreedom suggest that, to better facilitate a whole-of-government approach to broadband deployment funding decisions, the Interagency Agreement be modified to include Treasury.<sup>70</sup> USTelecom observes that like NTIA, “Treasury’s programs involve awards made at the state and local level,”<sup>71</sup> and TechFreedom argues that including Treasury is necessary to maximize the reach of funds while avoiding wasteful expenditures.<sup>72</sup> To this end, the Agencies entered into the MOU with Treasury in May 2022, which contains similar procedures. Doing so effectuates the whole-of-government approach urged by these commenters.

#### **6. Establish “Technological Neutrality” for Broadband Deployment**

SpaceX and TechFreedom submitted comments urging the Agencies to establish a principle of technological neutrality.<sup>73</sup> Specifically, they highlight the BEAD Program’s prioritization of fiber-based

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<sup>66</sup> Adaptive Spectrum and Signal Alignment, Inc. (ASSIA) Comments at 3; *see also* NCTA Comments at 7 (arguing that federal agencies’ funding decisions should be “based on a common data set to determine unserved and underserved locations”).

<sup>67</sup> ASSIA Comments at 3-10.

<sup>68</sup> ASSIA Comments at 11-12.

<sup>69</sup> Infrastructure Act, at § 60102(j)(3)

<sup>70</sup> *See* USTelecom Comments at 2-3, 5; TechFreedom Comments at 2-3.

<sup>71</sup> USTelecom Comments at 5.

<sup>72</sup> TechFreedom Comments at 2.

<sup>73</sup> Space Exploration Technologies Corporation (SpaceX) Comments at 3; TechFreedom Comments at 6.

projects versus those such as SpaceX’s low-Earth orbit Starlink satellite service.<sup>74</sup> However, these commenters fail to demonstrate that the BICA necessitates or even urges such a substantive requirement. Further, this proposal falls outside of the scope of the BICA and the required Interagency Agreement, which more narrowly requires the Agencies engage in matters relating to information sharing and coordination.

## **7. Factor “Rip and Replace” into Broadband Deployment Costs**

TechFreedom contends that as a result of the need to replace certain equipment from providers such as Huawei and ZTE, small and rural communications providers face additional costs to deploy.<sup>75</sup> Consequently, TechFreedom urges the Commission to “integrate these ‘rip and replace’ areas into the maps being developed, to make clear the true cost of future deployment.”<sup>76</sup> This proposal also falls outside the scope of the Commission’s mandate to evaluate the effectiveness of the Interagency Agreement. Further, the certification requirement in section 54.11 of the Commission’s rules does not require that eligible telecommunications carriers (ETC) receiving universal service support submit specific location information for the covered equipment and services in their networks.<sup>77</sup> Those ETCs participating in the Supply Chain Reimbursement Program<sup>78</sup> (commonly referred to as “rip and replace”) and/or required to file the Supply Chain Annual Report,<sup>79</sup> are obligated to submit location information to the Commission, but that information is treated as presumptively confidential under the Commission’s rules and may not be publicly disclosed.<sup>80</sup>

## **8. Increase Transparency in the Coordination Process**

NCTA and NTCA both urge the Commission to promote visibility into the coordination process,<sup>81</sup> with NCTA contending that doing so will help ensure accountability and enhance public confidence about the Agencies’ handling of federal funding programs.<sup>82</sup> NTCA specifically urges the Commission to amend the Interagency Agreement to spell out “in somewhat greater operational detail” how information will be shared and used, pointing to its recommendations that the Agencies establish a tracking chart and map for enforceable commitments as a potential framework for doing so. As outlined above, we expect the Broadband Deployment Locations Map will help serve this purpose. Additionally, to the extent possible, the Commission will work with federal partners to provide greater transparency about broadband deployment funding decisions. GAO 22-104611, “National Strategy Needed to Guide Federal Efforts to Reduce Digital Divide,” recommended that the Office of Internet Connectivity and Growth consult with OMB, other White House offices, and relevant agencies and present to Congress a report that identifies the key statutory provisions that limit the beneficial alignment of broadband

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<sup>74</sup> SpaceX Comments at 5-6; TechFreedom Comments at 6-9.

<sup>75</sup> TechFreedom Comments at 3-4.

<sup>76</sup> TechFreedom Comments at 4.

<sup>77</sup> 47 CFR § 54.11 (requiring eligible telecommunications carriers receiving universal service support to certify prior to receiving a funding commitment or support that it does not use covered communications equipment or services).

<sup>78</sup> 47 U.S.C. § 1603.

<sup>79</sup> 47 U.S.C. § 1604.

<sup>80</sup> See *Wireline Competition Bureau Finalizes Application Filings, Procedures, Cost Catalog, and Replacement List for the Secure and Trusted Communications Networks Reimbursement Program*, WC Docket No. 18-89, Public Notice, 36 FCC Rcd 12190, 12213-14, para. 69 (WCB Aug 3, 2021); *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Second Report and Order, 35 FCC Rcd 14284, 14369-70, para. 214 (2020).

<sup>81</sup> NCTA Comments at 8; NTCA Comments at 2-3.

<sup>82</sup> NCTA Comment at 8.

programs and offers legislative proposals to address the limitations, as appropriate. This report will provide additional transparency into the existing coordination process, as well as insight into the legislative changes needed to improve coordination further.

#### **IV. RECOMMENDATIONS**

In concert with NTIA and USDA, as well as Treasury and other federal partners, the Commission continues to work toward providing the public and interested stakeholders relevant broadband deployment data and insight into federal funding decisions. Based on the record received in response to the Public Notice, we make the following recommendations for the Interagency Agreement:

- The Agencies should continue to work, within the constraints established by the Administrative Procedure Act and other applicable law, to identify and implement standardization in broadband data, as appropriate. This includes, for example, its efforts to publish maps based on BDC work and promotion thereof as a reliable and useful source of broadband deployment data among federal agencies.
- Additionally, beyond continuing its work on the BDC, the Agencies, along with all of the federal funding agencies, should look for opportunities to increase visibility into coordination efforts between the Agencies, except to the extent doing so would undermine the effectiveness of coordination efforts.
- The agencies should consider revising the Interagency Agreement and the MOU to establish a consistent deduplication review process that includes a minimum period of time for agencies to review proposed funding before the funding agency makes final commitments. This minimum should be honored unless extraordinary considerations warrant a shorter period.
- Broadband funding agencies should explore how best to complement existing funding mapping efforts with data from state and local entities on their broadband funding programs.
- The Agencies should establish an expedited process to add other agencies to the MOU, to ensure a quick pathway to coordinate the efforts of other agencies that administer funding programs and develop related policy goals.

#### **V. CONCLUSION**

The Interagency Agreement represents a continuing commitment by the Agencies to take a whole-of-government approach to broadband deployment in the United States. In addition to memorializing existing efforts, it has pushed the Agencies to consider other means for enhancing coordination, such as by adopting the May 2022 MOU. Coupled with coordination obligations set forth in the ACCESS BROADBAND Act, the Interagency Agreement has proven effective in improving interagency coordination and facilitating efficient use of funds for broadband deployment.