

## **Title 12: Finance and Administration.**

### **Part 12: Office of Broadband Expansion and Accessibility of Mississippi (BEAM)**

#### **Part 12 Chapter 1: General Information**

*Rule 1.1 Description of BEAM.* BEAM is an Office within the Department of Finance and Administration established by the Mississippi Legislature in Section 3 of the Broadband and Accessibility of Mississippi (BEAM) Act (“BEAM Act”), 2022 Miss. Laws, Ch. 397 (H.B. No. 1029).

(1) BEAM was established for the purpose of making determinations and awards from applications for projects to provide broadband services in the state using the Broadband Expansion and Accessibility of Mississippi (BEAM) Fund (“BEAM Fund”) created pursuant to Section 4(4) of the BEAM Act.

(2) BEAM is also tasked with coordinating all broadband expansion and accessibility efforts within the state to ensure an effective and efficient use of broadband grant funds and coordinating all information provided by broadband service providers to the state, including all broadband mapping efforts for the state. Any broadband service provider who fails or refuses to provide data and information requested and required by BEAM in furtherance of these tasks will be ineligible for grant funding.

Source: Miss. Code Ann. § 25-43-2.104; 2022 Miss. Laws, Ch. 397 (H.B. No. 1029).

*Rule 1.2 Access to General Information.* General information regarding BEAM, including contact information, is available at the BEAM website: [www.beam.ms.gov](http://www.beam.ms.gov).

Source: Miss. Code Ann. § 25-43-2-104; 2022 Miss. Laws, Ch. 397 (H.B. No. 1029).

*Rule 1.3 Adoption of Rules.* BEAM has authority under the BEAM Act to develop rules and procedures as necessary to implement broadband grant programs. Such rules will be adopted in accordance with the procedures required under the Mississippi Administrative Procedure Law, Miss. Code Ann. § 25-43-1.101 *et seq.*

Source: 2022 Miss. Laws, Ch. 397 (H.B. No. 1029).

*Rule 1.4 Definitions.* In these rules (Title 12, Part 12), the following definitions apply:

(1) “Applicant” means an eligible broadband service provider that has authorization to do business in this state and has demonstrated that it has the technical, financial and managerial resources and experience to provide broadband services in the state to retail end users.

(2) “Broadband service” means a mass-market retail service by wire, cable, fiber, or radio provided to customers in the State of Mississippi that provides the capability to transmit data to, and receive data from, all or substantially all Internet endpoints, at speeds of at least one hundred

(100) megabits per second downstream and twenty (20) megabits per second upstream, and including, but not limited to, any capabilities that are incidental to and enable the operation of communications service, but excluding dial-up Internet access service.

(3) “Office” means the Office of Broadband Expansion and Accessibility of Mississippi (BEAM) within the Department of Finance and Administration created in Section 3 of the BEAM Act, and is also referred to herein as “BEAM.”

(4) “Deployed” means, with respect to availability of broadband service at a location, when the person or entity has access regardless of whether a person or entity subscribes to the broadband service at the location.

(5) “Eligible broadband service provider” means any company, firm, corporation, limited liability company, partnership, or association (i) that has been providing broadband service to at least one hundred (100) residences and businesses in Mississippi for at least three (3) consecutive years; (ii) is an electric power association’s broadband affiliate operating pursuant to Miss. Code Ann. § 77-17-1 *et seq.*; or (iii) that has demonstrated financial, technical, and operational capability in building and operating a broadband network.

(6) “Eligible project” means a discrete and specific project located in an unserved or underserved area of the state seeking to provide broadband services to residences, businesses, and community institutions not currently available for service in accordance with the applicable federal guidelines.

(7) “Shapefile” means a digital storage format containing geospatial or location-based data and attribute information regarding the availability of broadband Internet access service, and that can be viewed, edited, and mapped in geographic information system software.

Source: 2022 Miss. Laws, Ch. 397 (H.B. No. 1029).

## **Part 12 Chapter 2: BEAM Fund Grant Programs – General Information**

*Rule 2.1 Objectives of BEAM Fund Grant Programs.* The goal of the State and BEAM is to use sources within the BEAM Fund to provide connectivity for as many Mississippians as possible by expanding accessibility of broadband service within the state.

Source: 2022 Miss. Laws, Ch. 397 (H.B. No. 1029).

*Rule 2.2 Categories of Grants.* The BEAM Fund Grant Programs will provide grants in different categories to provide opportunities for the variety of circumstances, subscribers, and providers in Mississippi. The categories existing as of the time of the adoption of this rule are as discussed herein. Any additional categories will be addressed through amendment to this rule in accordance with the Mississippi Administrative Procedures Law, Miss. Code Ann. § 25-43-1.101 *et seq.*

(1) Broadband Infrastructure: This category will provide grants to fund large scale projects designed to serve sizable numbers of targeted addresses and will reimburse awardees for actual

capital expenses up to a maximum project cost identified in the award. Costs must be a directly related upfront investment associated with installing or upgrading existing broadband facilities on the proposed project on a one-time, capital improvement basis. Funding from the American Rescue Plan Capital Projects Fund will provide the sole source of funding for the initial round of awards in this category. Matching funds of at least 20% are required and additional matching funds will have a positive impact on application scoring.

(2) Line Extension and Deployment: This category will provide grants for the extension of existing last-mile cable modem and fiber broadband networks, provided the extension can be constructed quickly. Internet service providers are eligible if they have an existing fiber to the premises or an existing cable network offering service of at least 100 Mbps download and 20 Mbps upload to mass-market users that can be extended to unserved premises. Funding from the American Rescue Plan Capital Projects Fund will provide the sole source of funding for the initial round of awards in this category. Matching funds of at least \$500 per address passed by fiber or cable lines funded by the program are required.

(3) ARPA Broadband Communities: This category will promote private and public partnerships for projects where the applicant partners with a county, municipality, or an affiliated organization (economic development corporation, regional planning and development council, etc.) that dedicates funds through the American Rescue Plan Act (ARPA), or other funding, to a broadband development initiative. Before applying for such grants, the applicant must have in place a written agreement with the county, municipal government, or affiliated organization and provide appropriate documentation, including official board action of the county, municipality, or affiliated organization authorizing said agreement and reflecting the commitment of ARPA or other funding. Funding from the American Rescue Plan Capital Projects Fund will provide the sole source of funding for the initial round of awards in this category. Matching funds of at least 50% are required and additional matching funds will have a positive impact on application scoring.

(4) Digital Connectivity Technology: The digital connectivity category of the BEAM Fund Grant Programs will provide funds for technology projects installed as part of public wi-fi infrastructure (e.g., access points, repeaters, routers). Before applying for such grants, applicants must have in place a written agreement with a county, municipality, or an affiliated organization (economic development corporation, regional planning and development council, etc.) seeking to provide public wi-fi service and must provide appropriate documentation, including official board action of the county, municipality, or affiliated organization authorizing said agreement. Applicants must also demonstrate affordability as a barrier to local broadband adoption and use. Funding from the American Rescue Plan Capital Projects Fund will provide the sole source of funding for the initial round of awards in this category. A match of 20% of total project costs is required and additional matching funds will have a positive impact on application scoring.

Source: 2022 Miss. Laws, Ch. 397 (H.B. No. 1029).

*Rule 2.3 Common requirements of broadband infrastructure categories.* All categories of the BEAM Fund Grant Programs share the following requirements:

- (1) Limited to projects in locations without access to broadband service as defined in Rule 1.4(2);
- (2) Download speeds of 100 Mbps and upload speeds of at least 20 Mbps, with demonstrated scalability to 100 Mbps;
- (3) Project costs limited to new construction and may be directly related to the upfront investment associated with installing and/or upgrading existing broadband facilities on a one-time capital improvement basis.
- (4) Awards limited to no more than \$5 million per project, with projects being reimbursed for actual capital expenses up to the maximum project cost identified in the award;
- (5) Disbursements to be made from the BEAM Fund by the Department of Finance and Administration following provision by the grantee of verifiable information that moneys were expended consistent with the terms of the final determination awarded by BEAM and any requirements of applicable federal law;
- (6) Projects which are selected may be reimbursed for actual capital expenses up to the maximum project cost identified in the award.
- (7) Participation in the Affordable Connectivity Program.
- (8) Funding shall not be used for costs that are reimbursable by other federal funding streams but may be used for complementary funding;
- (9) Projects that incidentally cover served addresses may be reimbursable if the expenditure is not solely to benefit a served address, but customer drops, installations, and equipment at incidentally served addresses are not eligible for reimbursement; and
- (10) Compliance with all state and federal laws, rules, regulations, and guidance is required.

Source: 2022 Miss. Laws, Ch. 397 (H.B. No. 1029).

*Rule 2.4 Eligible entities for grants.* Entities eligible for funding in these categories shall be those as defined in the Federal Guidance for the Coronavirus Capital Project Funds §1(A) or other applicable federal law that also meet the definition of an applicant as set forth in the BEAM Act § 2(a) and in these rules.

Source: 2022 Miss. Laws, Ch. 397 (H.B. No. 1029).

*Rule 2.5 Eligible areas for grants.* All areas in Mississippi without broadband service as defined in Rule 1.2(4) are eligible for funding under the BEAM Fund Grant Programs in the categories provided in Rule 2.2(1)-(4). No final award will be made if the proposed project includes an area where broadband is currently deployed, or where construction of a network to deploy broadband service is underway by a provider other than the applicant, and the construction is scheduled to

be completed within one year after the date of the application. Areas with no current access to internet service with at least 25 Mbps download and 3 Mbps upload (25/3) are considered critical need areas. Addresses with current or future access to service only by satellite providers or mobile wireless networks are also considered critical need areas. Eligible areas of critical need will be determined by census block based on FCC data as supplemented by current state data and posted on BEAM's website in advance of the opening of the application window.

Source: 2022 Miss. Laws, Ch. 397 (H.B. No. 1029).

### **Part 12 Chapter 3: BEAM Fund Grant Programs – Application Process**

*Rule 3.1 Notification.* BEAM will provide on its website: advance notice of the date any application window will be opened for acceptance of applications; the date that any application window will be closed; an application form for the grant in question; and the scoring criteria to be used by BEAM in reviewing the grant applications. A link on BEAM's website will allow persons to submit an email address to which they wish to receive automatic email notifications from BEAM.

Source: 2022 Miss. Laws, Ch. 397 (H.B. No. 1029).

*Rule 3.2 Electronic submission of applications.* Grant applications must be submitted electronically through BEAM's online grant portal, the link of which will be on BEAM's website at [www.beam.ms.gov](http://www.beam.ms.gov).

Source: 2022 Miss. Laws, Ch. 397 (H.B. No. 1029).

*Rule 3.3 Required information.* Each applicant will be required to provide the following information:

- (1) The location of the project by use of a shapefile and, if required, address level location data;
- (2) The type and amount of broadband infrastructure to be deployed for the project, including the amount the applicant intends to invest in the project from private funds;
- (3) Evidence regarding the nature of the broadband service, if any, available in the community in which the project is to be located;
- (4) The number of households, businesses, community anchor institutions, or other entities that will have access to broadband service as a result of the project, or whose Internet access service will be upgraded to broadband service as a result of the project;
- (5) The significant community institutions that will benefit from the proposed project;
- (6) Evidence of community support for the project with a narrative description of the impact that the investment will have on community and economic development efforts in the area;

(7) The total cost of the project and a detailed budget and schedule for the project (showing major milestones), including the submission of a business plan that provides for the use of funds provided under the BEAM Act, shows all other sources of funding for the project, and confirms that BEAM grant funds shall not be used to support the operational expenses of the network or to subsidize any other service provided by the applicant;

(8) The broadband service provider's experience and financial capabilities to deploy, operate, and manage the proposed project and broadband service offerings, including any evidence of the applicant's successful operations of broadband services to retail end users, as well as evidence that the broadband service provider can meet all applicable federal grant program requirements;

(9) The network technology standard to be used;

(10) Service tiers and costs where applicable, including any low cost options;

(11) Whether the applicant is willing to use Mississippi-based employees to the fullest extent possible if awarded grant funds; and

(12) Any additional information that BEAM may deem necessary for its consideration of the application and is requested by BEAM during the review process.

Source: 2022 Miss. Laws, Ch. 397 (H.B. No. 1029).

#### **Part 12 Chapter 4: Application Review Process and Preliminary Determinations.**

*Rule 4.1 Scoring Rubric.* Applications will be competitively scored using the rubric of requirements published on the BEAM website prior to the opening of the application window.

Source: 2022 Miss. Laws, Ch. 397 (H.B. No. 1029).

*Rule 4.2 Initial review of applications.* After the closing of the application window, the Office will review all applications thoroughly and expeditiously. In conducting this review, the Office shall consider the following guidelines and factors:

(1) Funds for the grant programs must only be used by applicants for projects that exclusively extend broadband service as defined herein into areas of the state without such service;

(2) Funds from federal broadband grant programs must be spent in accordance with federal laws, rules, regulations, and guidance, and federal laws, rules, regulations, and guidance shall supersede in any instance where the BEAM Act conflicts;

(3) The applicant's experience and financial wherewithal to deploy, operate, and manage the proposed project and broadband service offerings, including evidence of the applicant's successful operations of broadband services to retail end users;

(4) The readiness to build, operate, and maintain the project;

- (5) Projects that will deploy broadband service to critical need areas;
- (6) The scalability of the proposed project network to support the deployment of higher broadband speeds over time;
- (7) The likelihood that the area will not be served with broadband service without such state or federal funding;
- (8) The applicant's ability to demonstrate the community's support for the project and a collaborated plan to leverage broadband services for community needs and economic development, such as rural development, education, tourism, new investment, or business attraction or retention;
- (9) A preference for those applications seeking to deploy and provide broadband services to areas in which there is currently no fixed terrestrial internet access service available;
- (10) Subject to subparagraph 9 above, no discrimination or preference to applications on the basis of the type of technology proposed by any applicant to be used to provide broadband services so long as the technology proposed meets the federal guidelines;
- (11) The size and scope of the project area to be deployed; and
- (12) The broadband service speed thresholds proposed in the application and the scalability of the broadband service network infrastructure proposed to be deployed to provide broadband service to households and businesses (with projects that do not meet the 100/100 Mbps symmetrical speed being subject to heightened review unless the applicant demonstrates excessive deployment costs per location or geographic barriers precluding such speeds).

Source: 2022 Miss. Laws, Ch. 397 (H.B. No. 1029).

*Rule 4.3 Requests for Additional Information or Clarification.* The Office may seek additional information or clarification from an applicant during the initial review process if the Office determines such is necessary for an informed review of an application. An applicant's refusal to provide such information will be a basis for denial of the application being considered.

Source: 2022 Miss. Law, Ch. 397 (H.B. No. 1029).

*Rule 4.4 Preliminary Determinations.* After its initial review is completed, BEAM will publish on its website: the identity of each application project receiving a preliminary determination; the proposed geographic broadband service area for each application that receives a preliminary determination illustrated by a shapefile; and the proposed broadband service speeds for each application that receives a preliminary determination. No information exempt from disclosure under the BEAM Act shall be published.

Source: 2022 Miss. Laws, Ch. 397 (H.B. No. 1029).

## **Part 12 Chapter 5: Investigation of Comments and Objections; Final Determinations.**

*Rule 5.1 Comments or Objections.* For a period of thirty (30) days following the publication of the preliminary determinations on BEAM’s website, BEAM shall accept comments or objections concerning the preliminary determinations. Said comments or objections should be submitted in writing to BEAM (email is acceptable) and must be received by BEAM within this thirty-day period.

Source: 2022 Miss. Laws, Ch. 397 (H.B. No. 1029).

*Rule 5.2 Investigation of Comments or Objections.* The Office will investigate all comments and objections received, and the findings from those investigations will be considered in determining whether an applicant is eligible for a final determination and award. A final determination and award shall not be made to an applicant if verifiable information is made available that shows the proposed project includes an area where broadband services currently are deployed, or where construction of a network to deploy broadband service is underway by a provider other than the applicant, and the construction is scheduled to be completed within one (1) year after the date of the application.

Source: 2022 Miss. Laws, Ch. 397 (H.B. No. 1029).

*Rule 5.4 Final Determinations.* The Office will publish final determinations on its website as to applications to be awarded grant funds. No information exempt from disclosure under the BEAM Act will be included in the publication.

Source: 2022 Miss. Laws, Ch. 397 (H.B. No. 1029).

## **Part 12 Chapter 6: Compliance Monitoring.**

*Rule 6.1 Monitoring of compliance with grant requirements.* Ongoing compliance with the requirements of any grant award may be monitored by the BEAM Office. Any such monitoring shall comply with state and federal law.

Source: 2022 Miss. Laws, Ch. 397 (H.B. No. 1029).

## **Part 12 Chapter 7: Protection of Confidential Information; Public Records Access.**

*Rule 7.1 Limitation on data required to be submitted by broadband service providers.* In accordance with Section 4(2)(d) of the BEAM Act, a broadband service provider shall in no instance be required to provide any data beyond that which it is required to provide to the Federal Communications Commission pursuant to 47 U.S.C. § 641 *et seq.*

Source: 2022 Miss. Laws, Ch. 397 (H.B. No. 1029).



*Rule 7.2 Protection of Confidential Information from Disclosure under BEAM Act.* Information described below in subsections (1) and (2) that is received by the Office is confidential and not subject to disclosure except as provided by the BEAM Act or any applicable federal law.

(1) All information provided by a broadband service provider pursuant to the BEAM Act shall be presumed to be confidential, proprietary, and subject to exemption from disclosure under state and federal law and shall not be subject to disclosure except in the form of a map where information that could be used to determine provider-specific information about the network of the broadband service providers is not disclosed. Such provider-specific information shall not be released to any person without written permission of the submitting broadband service provider.

(2) Any trade secrets, financial information, or proprietary information submitted under the BEAM Act by any person or entity as part of an application or challenge are exempt from disclosure under the Mississippi Public Records Act, Section 25-61-1 *et seq.*

Source: 2022 Miss. Laws, Ch. 397 (H.B. No. 1029).

*Rule 7.3 Requests for access to public records.* Records of the Office not protected from disclosure under the BEAM Act or other laws are available for inspection and copying pursuant to the procedures set forth in the Mississippi Administrative Code, Title 12 (Finance and Administration), Part 2 (Public Records Request Procedures), Chapter 1 (Rules for Accessing Public Documents), as adopted by the Mississippi Department of Finance and Administration.

Source: 2022 Miss. Laws, Ch. 397 (H.B. No. 1029); Miss. Code Ann. § 25-61-5.

## **Part 12, Chapter 8: Declaratory Opinions**

*Rule 8.1 Requests for Declaratory Opinions.* Any request for a declaratory opinion will be handled in accordance with the policies and procedures adopted by the Department of Finance and Administration as set forth in the Mississippi Administrative Code, Title 12 (Finance and Administration), Part 1 (Organizational Rules), Chapter 3 (Declaratory Opinions).

Source: Miss. Code Ann. § 25-43-2.103.

## **Part 12, Chapter 9: Effective Date**

*Rule 9.1 Effective date of Rules 1.1 through 9.1 of Title 12, Part 12.* The rules set forth herein in Title 12 (Finance and Administration), Part 12 (Office of Broadband Expansion and Accessibility of Mississippi (BEAM)), Chapters 1 through 9, which confer only benefits to the public or some segments thereof in providing procedures for the granting of funds for the expansion of broadband services in the state, and which accordingly should be adopted and implemented as expeditiously as possible, shall be effective immediately upon the filing with the Office of the Secretary of State of the final rules as adopted by the BEAM Office, in accordance with Miss. Code Ann. § 25-43-3.113(2)(b)(ii).

Source: Miss. Code Ann. § 25-43-3.113