

LETTER OF CREDIT/PERFORMANCE BOND REQUIREMENTS

- I. **Options:** Applicants are required to select one of the following:
- A. Irrevocable Letter of Credit (ILOC) from a bank in an amount of not less than 25% of the subgrant amount;
 1. If you choose option A, submit with your PA a letter from a bank that meets the requirements detailed at *II. Bank Eligibility*, below. The letter must meet the following:
 - a. Commits to issue an irrevocable standby letter of credit;
 - b. Is in the required form (a template is available for download at <https://broadband.nebraska.gov>);
 - c. To the subgrantee upon award of the NBEAD subgrant;
 - d. Provides the dollar amount of the ILOC, which must be at least 25% of the subgrant amount; and
 - e. Includes the bank's agreement to follow NBO's Terms & Conditions.
 2. Before NBO issues a subgrant for the project, you will be required to submit:
 - a. The ILOC for at least 25% of the subgrant amount; and
 - b. An opinion letter from legal counsel indicating the ILOC will not be treated as bankruptcy estate property.
 3. The ILOC may be revised or renewed with a reduced value upon completion and NBO approval of project milestones as detailed at *III. Reduction of Letters of Credit or Performance Bonds*, below.
 - B. ILOC from a credit union in an amount of not less than 25% of the subgrant amount;
 1. If you choose option B, submit with your PA a letter from a credit union that meets the requirements detailed at *Credit Union Eligibility* in section II., below. The letter must meet the following:
 - a. Commits to issue an ILOC;
 - b. Is in the required form (a template is available for download at <https://broadband.nebraska.gov>);
 - c. To the subgrantee upon award of the NBEAD subgrant;
 - d. Provides the dollar amount of the ILOC, which must be at least 25% of the subgrant amount; and
 - e. Includes the bank's agreement to follow NBO's Terms & Conditions.
 2. Before NBO issues a subgrant for the project, you will be required to submit:
 - a. The ILOC for at least 25% of the subgrant amount; and
 - b. An opinion letter from legal counsel indicating the ILOC will not be treated as bankruptcy estate property.
 3. The ILOC may be revised or renewed with a reduced value upon completion and NBO approval of project milestones as detailed at *III. Reduction of Letters of Credit or Performance Bonds*, below.
 - C. Performance bond from a company holding a certificate of authority as an acceptable surety on federal bonds for 100% of the subgrant amount;
 1. If you choose option C, submit with your PA a letter from a company holding a certificate of authority as an acceptable surety on federal bonds that meets the requirements detailed at *Performance Bond Issuer Eligibility* in section III., below. The letter must meet the following:

- a. Be a letter from a company holding a certificate of authority as an acceptable surety on federal bonds as identified in the US Department of Treasury [Circular 570](#);
 - b. Commits to issue a performance bond;
 - c. To the subgrantee upon award of the NBEAD subgrant;
 - d. Provides the dollar amount of the performance bond, which must be 100% of the subgrant amount; and
 - e. Names NBO the primary beneficiary.
2. Before NBO issues a subgrant for the project, you will be required to submit a performance bond for no less than 100% of the subgrant amount.
 3. The Performance Bond may be revised or renewed with a reduced value upon completion and NBO approval of project milestones as detailed at *III. Reduction of Letters of Credit or Performance Bonds*, below.
- D. Alternative Letter of Credit Percentage: Letter of Credit from a Bank
1. Per the [BEAD Letter of Credit Waiver Notice](#), because NBEAD payments will be made on a reimbursement basis and each will cover a period of not more than six (6) months, NBO may accept an ILOC for from a bank that meets the requirements detailed at *II. Bank Eligibility*, below, for 10% of the subgrant amount, with the following caveats:
 - a. If you choose option D, submit with your PA a letter on Applicant organization letterhead committing to maintain the ILOC in the amount of 10% of the subgrant amount until NBO indicates, in writing, agreement that the buildout is complete to 100% of locations to be served by the project or until the period of performance of the subgrant ends, whichever occurs first.
 - b. Before NBO issues a subgrant for the project, you will be required to submit an ILOC from a bank that meets the requirements detailed at *Bank Eligibility* in section II, below; the letter must meet the following:
 - i. Commits to issue an ILOC;
 - ii. In the required form (a template is available for download at <https://broadband.nebraska.gov>);
 - iii. To the subgrantee upon award of the NBEAD subgrant;
 - iv. Provides the dollar amount of the ILOC, which be at least 10% of the subgrant amount; and
 - v. Includes the bank's agreement to follow NBO's Terms & Conditions.
 - c. ILOCs secured under this option are not subject to revision or renewal at lower values.
- E. Alternative Letter of Credit Percentage: Letter of Credit from a Credit Union
1. Per the [BEAD Letter of Credit Waiver Notice](#), because NBEAD payments will be made on a reimbursement basis and each will cover a period of not more than six (6) months, NBO may accept an ILOC from a credit union that meets the requirements detailed at *Credit Union Eligibility* in section II., below, for 10% of the subgrant amount, with the following caveats:
 - a. If you choose option E, submit with your PA a letter on Applicant organization letterhead committing to maintain the ILOC in the amount of 10% of the subgrant amount until NBO indicates, in writing, agreement that the buildout is complete to 100% of locations to be

- served by the project or until the period of performance of the subgrant ends, whichever occurs first.
- b. Before NBO issues a subgrant for the project, you will be required to submit a letter from a credit union that meets the requirements detailed at *Credit Union Eligibility* in section III., below. The letter must meet the following:
 - i. Commits to issue an ILOC;
 - ii. In the required form (a template is available for download at <https://broadband.nebraska.gov>);
 - iii. To the subgrantee upon award of the NBEAD subgrant;
 - iv. Provides the dollar amount of the ILOC, which be at least 10% of the subgrant amount; and
 - v. Includes the bank's agreement to follow NBO's Terms & Conditions.
 - c. ILOCs secured under this option are not subject to revision or renewal at lower values.
- F. Alternative Performance Bond Percentage
1. Per the [BEAD Letter of Credit Waiver Notice](#), because NBEAD payments will be made on a reimbursement basis and each will cover a period of not more than six (6) months, NBO may accept a Performance Bond from a company holding a certificate of authority as an acceptable surety on federal bonds that meets the requirements detailed at *Performance Bond Issuer Eligibility* in section III., for 10% of the subgrant amount, with the following caveats:
 - a. If you choose option F, submit with your PA a letter on Applicant organization letterhead committing to maintain the Performance Bond in the amount of 10% of the subgrant amount until NBO indicates, in writing, agreement that the buildout is complete to 100% of locations to be served by the project or until the period of performance of the subgrant ends, whichever occurs first.
 - b. Before NBO issues a subgrant for the project, you will be required to submit a letter from a company holding a certificate of authority as an acceptable surety on federal bonds that meets the requirements detailed at *Performance Bond Issuer Eligibility* in section III., below. The letter must meet the following:
 - i. Commits to issue a performance bond;
 - ii. To the subgrantee upon award of the NBEAD subgrant;
 - iii. Provides a dollar amount of the performance bond, which must be at least 10% of the subgrant amount; and
 - iv. Names NBO the primary beneficiary.
 - c. Performance Bonds secured under this option are not subject to revision or renewal at lower values.

II. **Bank Eligibility** ([47 CFR 54.804 \(c\)\(2\)](#))

- A. Any US bank that:
 1. Is insured by the [Federal Deposit Insurance Corporation](#) (FDIC)
 2. Has a [Weiss rating](#) of B- or better; or
- B. [CoBank](#), as long as it meets requirements at the time of issuance; or
- C. [National Rural Utilities Cooperative Finance Corporation](#), if it meets requirements at the time of issuance; or

- D. Any non-US bank;
1. That is among the 100 largest non-US banks in the world;
 2. Has a branch office;
 - a. In the District of Columbia; or
 - b. New York City, New York;
 3. Has a long-term unsecured credit rating equivalent to BBB- or better by [Standard & Poor](#); and
 4. Issues the ILOC payable in US dollars.

Credit Union Eligibility ([47 CFR 54.804 \(c\)\(2\)](#))

- A. Any US credit union that:
1. Insured by [National Credit Union Administration](#); and
 2. Has a [credit union safety rating issued by Weiss](#) of B- or better.

Performance Bond Issuer Eligibility ([47 CFR 54.804 \(c\)\(2\)](#))

- A. Performance bonds issued by company holding a certificate of authority as an acceptable surety on federal bonds as identified in the [Department of Treasury Circular 570](#).

III. Reduction of Letters of Credit or Performance Bonds

Per the [BEAD Letter of Credit Waiver Notice](#), if option A, B, or C is selected above, and upon completion of each service milestone and written approval by NBO, the Subgrantee may obtain and submit to NBO a revised ILOC or Performance Bond or renew its existing ILOC or Performance Bond with a reduced value in accordance with the following schedule:

Milestone	ILOC/PB may be reduced to
Provider certification and NBO completion of a technical and compliance audit that the provider has reached the following subscription milestones:	
1. 10% of Project BSLs subscribing to the applicant's service	
2. 35% of Project BSLs subscribing to the applicant's service	
3. 60% of Project BSLs subscribing to the applicant's service	
4. 85% of Project BSLs subscribing to the applicant's service	
5. 100% of Project BSLs subscribing to the applicant's service and NBO's approval of Subgrantee's completion report.	
<i>In the event that an applicant is unable to secure a subscription from a covered BSLs, the applicant will submit documentation showing good faith attempts to encourage the resident to subscribe. Such documentation will count towards the % of BSLs served</i>	