

# Draft Initial Proposal

## Volume 2



# Table of Contents

Table of Contents.....	1
2.1 Long-term objectives (Requirement 1) NEW .....	2
2.2 Coordination with other plans (Requirement 2).....	3
2.3 Local coordination (Requirement 4).....	6
2.4 Deployment subgrantee process (Requirement 8).....	13
2.5 Non-Deployment Subgrantee Selection (Requirement 9) .....	50
2.6 Implementation activities (Requirement 10).....	55
2.7 Labor Standards and Protections (Requirement 11).....	56
2.8 Workforce Readiness (Requirement 12) .....	61
2.9 Minority Business Enterprises (MBEs)/Women’s Business Enterprises (WBEs)/Labor Surplus Area Firms Inclusion (Requirement 13).....	67
2.10 Cost and Barrier Reduction (Requirement 14).....	69
2.11 Climate Assessment (Requirement 15).....	72
2.12 Low-Cost Broadband Service Option (Requirement 16).....	82
2.13 Middle Class Affordability Plan.....	84
2.14 Use of 20% of funding (Requirement 17) .....	86
2.15 Regulatory approach (Requirement 18) .....	88
2.16 Certification of compliance with requirements (Requirement 19).....	90

## 2.1 Long-term objectives (Requirement 1) NEW

**2.1.1 Outline the long-term objectives for deploying broadband; closing the digital divide; addressing access, affordability, equity, and adoption issues; and enhancing economic growth and job creation. Eligible Entities may directly copy objectives included in their Five-Year Action Plans.**

The New Jersey Office of Broadband Connectivity (OBC) developed a set of objectives as part of its Five-Year Action Plan. These objectives are as follows:

**Objective 1.1** Develop broadband investment and deployment strategies for unserved and underserved areas, including, as a required part of BEAD, the development of a low-cost service option and middle-class affordability plan

**Objective 2.1** Maximize enrollment in existing low-cost programs for eligible residents

**Objective 3.1** Maximize use of existing affordable device programs for eligible residents

**Objective 4.1** Maximize enrollment in existing digital skills programs for eligible residents

**Objective 4.2** Explore the feasibility of a uniform digital literacy credentialing system so learners can move seamlessly between organizations

**Objective 5.1** Build OBC's capacity to successfully deploy over \$315M in federal broadband investments

**Objective 5.2** Recruit, hire, and retain an exceptional team

# 2.2 Coordination with other plans (Requirement 2)

**2.2.1 Identify and outline steps that the Eligible Entity will take to support local, Tribal, and regional broadband planning processes or ongoing efforts to deploy broadband or close the digital divide. In the description, include how the Eligible Entity will coordinate its own planning efforts with the broadband planning processes of local and Tribal Governments, and other local, Tribal, and regional entities. Eligible Entities may directly copy descriptions in their Five-Year Action Plans.**

New Jersey's overarching broadband strategy is informed by collaboration and coordination among stakeholders engaged since the passage of the Bipartisan Infrastructure Law (BIL). Engagement with stakeholders, including local and regional entities, is critical both to ensure New Jersey has an integrated broadband planning process and to ensure New Jersey's broadband strategies work to empower individuals with the requisite tools and knowledge to harness the full potential of this connectivity. OBC will continue to make it a priority to collaborate with stakeholders driving forward broadband initiatives across the state.

More specifically, OBC will continue coordination efforts with municipalities and local governments that have broadband deployment initiatives. To date, OBC has engaged with the City of Newark, the Jersey City Housing Authority, Atlantic City, and Plainfield to learn from their programs and incorporate their insights into New Jersey's overarching broadband strategy. The inventory below reflects local plans OBC has identified:

**Table 1: Identified Municipal Plans**

City	Description
Newark	The City of Newark manages Newark Fiber, in partnership with GigXero (Newark Fiber's ISP). The city has a plan to enable citywide connectivity, increase broadband competition, and lower prices for residents by providing broadband connectivity to low-income housing units, public spaces (e.g., parks, recreation centers, transportation hubs), and small businesses. In addition to GigXero, the city partners with Rutgers University, BlocPower, and other organizations to implement initiatives.
Jersey City / Jersey	The Jersey City plan was created in partnership with the Jersey City Housing Authority (JCHA), which leads ACP enrollment, and

City	Description
City Housing Authority	EveryoneOn, a digital equity national nonprofit. The program seeks to close the digital divide in Jersey City by training community-based “digital navigators” (trusted guides) to enroll residents. JCHA also runs digital literacy trainings for residents and several other digital equity initiatives.
Atlantic City	Atlantic City’s Restart and Recovery Workgroup, launched in 2020, includes a Workforce Development subcommittee that is researching digital literacy and broadband access in Atlantic City.
Plainfield	Plainfield SmartCity has developed a plan to bring digital access to underserved households. In the first stage, the city will install Wi-Fi at a pedestrian plaza with 100 mb download speed for use by community members. The city will also install a fiber optic backbone, connecting the city to Union County’s fiber optic network. In doing so, it will connect 21 municipal sites throughout Plainfield to high-speed internet.

Throughout the BEAD program, OBC will prioritize regular outreach to municipalities to identify and ensure coordination with ongoing initiatives. For example, before considering potential deployment to CAIs in Newark, OBC will connect with Newark Fiber to ensure coordination with any existing plans they might have. Additionally, beyond ongoing initiatives, OBC will also monitor broadband planning processes across the state. For example, Cumberland and Salem Counties received a \$24.18M grant to construct 220 route miles of fiber in their communities through the Enabling Middle Mile Infrastructure Grant Program. OBC will stay in close communication with these communities to understand how middle-mile deployment is affecting both last-mile availability and build-out economics.

Performing a comprehensive mapping and statewide scan to assess New Jersey’s existing broadband deployment efforts was central to OBC’s approach to developing an overarching broadband strategy. Looking forward, coordination with local leaders will continue to be a priority for OBC in order to ensure that all broadband efforts work together to maximize total impact.

### **Tribal coordination**

While there are no federally recognized tribal lands in New Jersey, the New Jersey Commission on American Indian Affairs (NJCAIA) serves as a liaison between the three state-recognized tribes and the State and Federal governments to advocate for Tribal communities’ economic opportunity and quality of life.<sup>1</sup> OBC has met with the NJCAIA, providing information about upcoming BEAD-related activity. Going forward, OBC will continue providing information to and learning from NJCAIA to understand ongoing needs

and future broadband initiatives --particularly in areas that have a high concentration of American Indian residents-- and to make sure their insight into how broadband deployment efforts may affect New Jersey's Tribal communities are acknowledged and reflected in overarching broadband strategy.

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## 2.3 Local coordination (Requirement 4)

### 2.3.1 Describe the coordination conducted, summarize the impact such impact has on the content of the Initial Proposal, and detail ongoing coordination efforts. Set forth the plan for how the Eligible Entity will fulfill the coordination associated with its Final Proposal.

To date, OBC has engaged many stakeholders to understand the digital experiences of New Jerseyans, maintain partnerships with community organizations, and spread awareness about broadband programs. OBC has organized: (1) stakeholder meetings, (2) working groups, (3) publications and communications, and (4) public surveys.

OBC's stakeholder engagement efforts have not only informed all major broadband efforts and strategy documents (including the Five-Year Action Plan, BEAD Initial Proposal, and Digital Equity Plan), but have also allowed OBC to receive ongoing feedback about broadband access, adoption, affordability, and skills.

#### Stakeholder meetings

In December 2022, OBC kicked off a "Connect NJ Listening Tour," which involved 12 public in-person listening sessions and drew over 600 attendees. Over this period, OBC also conducted 120+ meetings with individuals and stakeholder groups representing all eight Covered Populations.

OBC gained important insights from these discussions that have informed the BEAD initial proposal. Sessions facilitated during OBC's listening tour focused on the needs of specific Covered Populations (i.e., vulnerable populations within New Jersey as defined by the BIL). Common themes that emerged throughout the sessions included:

- Confidence in using technology is often low in people with barriers to broadband access. Across the board, participants cited the importance of having the confidence to mitigate the anxiety that can accompany needing to use technology to accomplish daily life activities.
- Residents reported frustration at the lack of internet availability where they live, in addition to the high cost of broadband when it is available.
- Covered Populations expressed the need to invest in awareness of resources, including the Affordable Connectivity Program and computer refurbishing services, that would help to make broadband and device access affordable.
- The distribution of resources that support learning and engagement with technology is perceived to be inequitable across the state. People who live in North Jersey, for example, have many more public libraries available

than do residents in South Jersey. This, in addition to the distance between libraries in south Jersey, means fewer people may have access the internet and digital literacy opportunities.

- Basic computer skills are needed not just for workforce and education, but also for civic participation and daily tasks. For example, the move to online application forms for government and other services creates a hardship for people without broadband access and digital skills. There is a perception that online has replaced the more familiar telephone-based registrations to the detriment of some New Jersey residents who depend on telephone-based support.
- The lack of technical support is pronounced. Residents reported that even if they can find an affordable technology option, they often cannot locate support for repairs or replacements when those are needed.

In addition, OBC heard from focus groups designed around specific Covered Populations. Insights from two Covered Populations, individuals with disabilities and veterans, include:

### **People with Disabilities**

- Assistive technology tools can be prohibitively expensive, especially given that many individuals with disabilities live on fixed incomes.
- Broadband speeds are not always fast enough for software that supports users with disabilities (e.g., individuals who are deaf or hearing impaired and use sign language or closed captions, which requires a stronger broadband connection).
- Residents feel there is limited access to digital literacy classes and technical support systems tailored for assistive technology and software users.

### **Veterans**

- A group of veterans emphasized that they have different digital literacy needs post-service. Any plan needs to recognize the unique needs of individuals and deliver personalized learning options.
- Anxiety can pose a tremendous barrier to digital equity and is particularly evident in veterans who have been diagnosed with post-traumatic stress disorder.
- The registration or enrollment process for programs like the Affordable Connectivity Program itself can be difficult to navigate for some veterans. This can lead to an overall frustration with the inability to access government services that are specifically for veterans.

OBC collected similar insights from members of and organizations representing all Covered Populations, which informed the state's strategy and proposed activities. Beyond the specific examples provided above on OBC learnings as it related to people with disabilities and veterans specifically, OBC collected similar insights from representatives



of all Covered Populations. These insights have been and will continue to be critical to shaping New Jersey's overarching connectivity strategy.

Going forward, OBC will continue to solicit stakeholder feedback from Covered Populations through surveys, targeted outreach, and virtual- and in-person events. And beyond covered populations, OBC will leverage the public comment period to perform targeted outreach to key stakeholders (e.g., broadband providers, community organizations, workforce groups) and solicit feedback to inform the final proposal.

## **Working groups**

OBC convened two working groups in December 2022. One group focused on digital equity broadly and the other focused mostly on workforce and employment issues, with a particular focus on digital equity. Both groups met monthly until July 2023, at which time the Digital Equity working group began meeting bi-weekly, while the workforce group continued meeting monthly. The purpose of these working groups was to build the state's asset inventory, and for OBC to gain insights and reactions to potential priorities in order to further inform New Jersey's overarching broadband strategy. These working groups included attendees from other state agencies, libraries, municipal government, nonprofit organizations, organizations representing Covered Populations, and community anchor institutions. The attendees of both working groups are included below:

### **OBC Digital Equity Working Group:**

- Black Churches for Digital Equity
- Digital Inclusion Practitioners of New Jersey
- Disability Rights NJ
- Latino Action Network
- LeadingAge New Jersey and Delaware
- Literacy New Jersey
- Montclair Aging in Place
- New Jersey State Library
- HUD - NJ
- SPAN Parent Advocacy Network
- United Way of Northern New Jersey

### **OBC Workforce Development Working Group:**

- Altice
- Avatar Tech
- Bandwidth Logic
- Nettarius
- New Jersey Department of Labor
- Newark Fiber
- Rutgers University
- TeknoGRID

- Wireless Infrastructure Association

## Publications and communication

To raise awareness about existing digital equity resources and general broadband initiatives, OBC regularly sends newsletters to distribution lists. Public outreach includes monthly email updates through different state departments' distribution lists and press releases on the Office's website. OBC also leverages their website to share important press releases, as well as to collect data to further inform their broadband plans.

Going forward, OBC will continue to leverage these mediums to conduct outreach, provide updates, and collect feedback about all broadband activities (including BEAD implementation).

**Figure 1: Events Portal on OBC Website**



## Surveys

As described in Section 3.2 (Needs Assessment) of New Jersey's Digital Equity Plan, the state has conducted an ongoing broadband survey. Started in November 2022, the survey has received responses from a total of 5,963 individuals and local businesses (as of August 2023) on questions about the current state of broadband and device access, affordability, and usage, as well as potential areas of improvement in broadband access.

## Planned coordination

OBC will continue to engage with a wide array of stakeholders to execute the state's broadband strategy, including both the state's Digital Equity Plan and the BEAD program. A non-exhaustive list of these potential partners can be found in the table below.

**Table 2: Potential Partners**

Organization type	Roles	Representative organizations
Workforce agencies and organizations (state and local)	<ul style="list-style-type: none"> <li>• Provide insight on employer needs and in-demand digital skills</li> <li>• Identify opportunities to leverage digital literacy standards to meet workforce requirements</li> <li>• Inform potential digital literacy credentialing systems</li> <li>• Support deployment of digital equity funding to provide trainings for Covered Populations</li> <li>• Participate in communities of practice</li> </ul>	<ul style="list-style-type: none"> <li>• Passaic County One-Stop Career Center</li> <li>• Greater Raritan Workforce Development Board Literacy Committee</li> <li>• NPower New Jersey</li> </ul>
Labor and community-based organizations	<ul style="list-style-type: none"> <li>• Provide insight to OBC on potential activities and areas of investment for the state</li> <li>• Pilot digital equity programs and scale them</li> <li>• Partner with state, other nonprofits, and industry to create new programs for affordability and device access</li> <li>• Participate in communities of practice</li> </ul>	<ul style="list-style-type: none"> <li>• NJ Public Library System</li> <li>• Computers4People</li> <li>• TDI Connect</li> <li>• HOPES Community Action Partnership</li> </ul>
Industry	<ul style="list-style-type: none"> <li>• (For providers) improve ACP uptake across New Jersey</li> <li>• Partner with state, nonprofits, and other industry leaders to create new programs for affordability and device access</li> <li>• Sponsor digital equity programs (e.g., providing additional capital)</li> </ul>	<ul style="list-style-type: none"> <li>• Internet Service Providers (e.g., Altice, Comcast, AT&amp;T)</li> <li>• ExxonMobil (Tools4Schools)</li> </ul>

Organization type	Roles	Representative organizations
	<ul style="list-style-type: none"> <li>• Provide insight on employer needs and in-demand digital skills</li> <li>• Inform potential digital literacy credentialing systems and other digital equity program design</li> </ul>	
Higher education and training	<ul style="list-style-type: none"> <li>• Develop and implement digital literacy programs to address individualized needs of Covered Populations</li> <li>• Offer degree-related or credentialed coursework in internet technology, adult learning, and industry-certifications related to digital technologies and literacy</li> <li>• Provide subject matter expertise in collaboration with CBOs</li> </ul>	<ul style="list-style-type: none"> <li>• Rutgers University (STEP)</li> <li>• Princeton University (STEP)</li> <li>• Raritan Valley Community College (STEP)</li> <li>• NorthStar Online Learning</li> </ul>
Local Government (Municipalities and Counties)	<ul style="list-style-type: none"> <li>• Propose digital equity frameworks specific to local needs</li> <li>• Consider opportunities for municipal broadband programs (e.g., Newark Fiber)</li> <li>• Create or promote opportunities for affordability and access</li> <li>• Promote use of universal design in government websites</li> </ul>	<ul style="list-style-type: none"> <li>• City of Newark</li> <li>• Jersey City Housing Authority</li> <li>• Burlington County Connect Initiative</li> </ul>

### Impact and Ongoing Coordination

As described above, OBC has sought out and learned from a diversity of stakeholder groups over the last year. These conversations, survey results, and 1-1 meetings have

informed the Initial Proposal in multiple ways. For example, OBC learned that some local governments were interested in building their own networks or partnering with providers to do so, and other municipalities expressed interest in being involved in the process of broadband projects that may affect them. Knowing this, OBC designed the program in this draft Initial Proposal to reflect these interests (e.g., alternatives to Letter of Credit, application weighting for local coordination and engagement).

Similarly, OBC heard from stakeholders about challenges from storm-related outages, which informed New Jersey's preference for infrastructure hardening as part of the BEAD Program. OBC also heard about the significant digital equity needs and broadband availability across the state - particularly among Covered Populations. This information led OBC to prioritize affordability through both the Low-Cost Service Option and Middle-Class Affordability Plan (see sections 2.12 and 2.13 for further details), ensure that marketing plans for new BEAD service areas include a focus on ACP adoption, and plan to use any available BEAD funds to implement the state's Digital Equity Plan. OBC expects the public comment it receives over the next 30 days to help further refine the Initial Proposal in similarly meaningful ways.

OBC will continue providing information over the course of the BEAD program, relaying information and progress to all stakeholders from the submission of the Initial Proposal through the end of the grant award implementation. Additionally, OBC plans to continue two-way communication, using the same or similar outreach mechanisms it has successfully implemented already (e.g., community conversations, webinars) to engage stakeholders, including communities to be served through BEAD grants, broadband providers, local government leaders, and Covered Populations. OBC will use the information it gathers to help identify implementation challenges as well as potential solutions.

## 2.4 Deployment subgrantee process (Requirement 8)

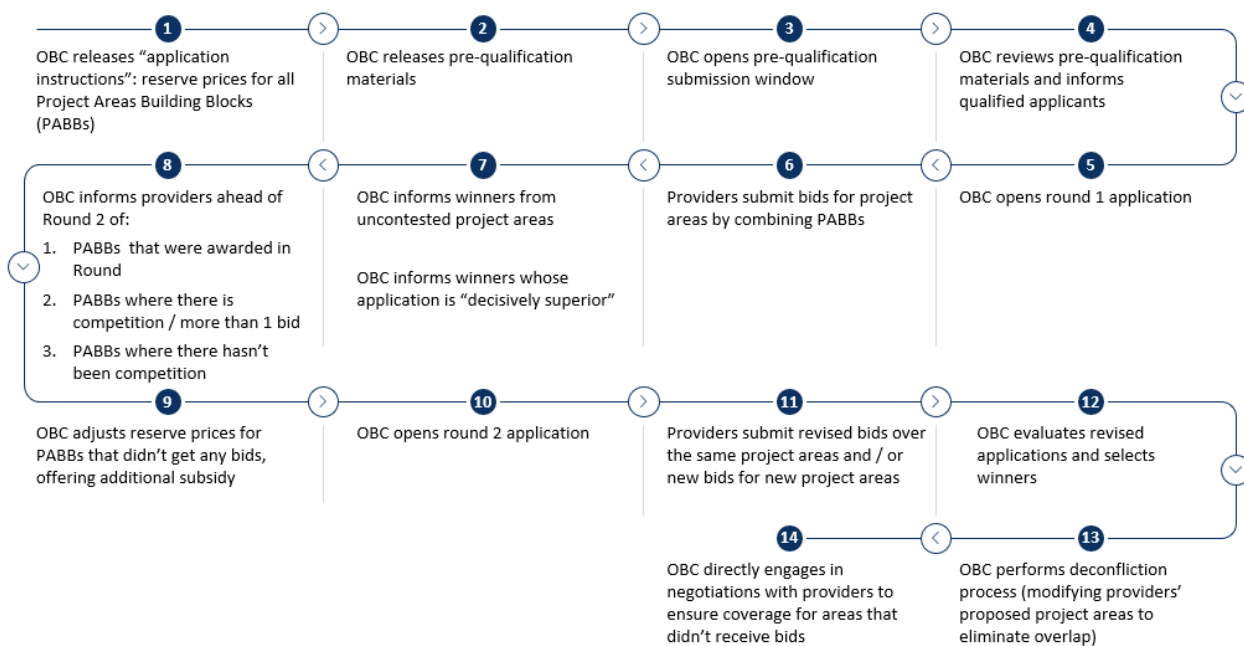
### 2.4.1 Text Box: Describe a detailed plan to competitively award subgrants to last-mile broadband deployment projects through a fair, open, and competitive process.

OBC has designed a subgrantee process around principles of fairness, openness, and competition while upholding BEAD's requirements to ensure 100% coverage of unserved locations, and, if funding is available, underserved locations, with affordable, high-quality broadband service.

Based on NTIA-provided CostQuest Associates (CQA) data, OBC projects New Jersey will have sufficient funds to cover all un and underserved locations, with additional funds potentially remaining to support Community Anchor Institution (CAI) connections and non-deployment activities. The section below outlines a subgrant process designed to achieve this potential, primarily through the introduction and incentivization of competition. The process outlined below also includes fallback strategies such as direct negotiations and the leveraging of alternative non-fiber technologies, designed to ensure 100% coverage in cases where the initial subgrant process leaves connection gaps.

OBC's objectives for the BEAD program are not limited to the expansion of broadband infrastructure; OBC hopes BEAD will be a strategic catalyst for broader socioeconomic advancement. By fostering competition within the subgrant process, OBC hopes to incentivize a cost-efficient grant program that serves all unserved and underserved locations. This, in turn, could increase the likelihood of potential funds becoming available for other BEAD eligible uses (e.g., connecting CAIs, digital equity). This strategy aims to complement the last-mile infrastructure investments enabled by BEAD funding, resulting in a holistic approach that addresses both immediate and long-term broadband needs. See Figure 2 below for step-by-step description of the subgrant process.

**Figure 2: OBC subgrant process map**



Ahead of launching the subgrant process, OBC will determine and publish “Project Area Building Blocks” (PABBs). Potential subgrantees will have the flexibility to design their overall project area proposals by combining a set of PABBs. All applications will specify the set of PABBs the overall program area encompasses. The smallest PABBs will be approximately the same or equivalent in the size of a Census Block Group, though size of PABBs may vary. As needed, OBC may create larger PABBs or PABBs that do not match Census Block Group (CBG) boundaries to improve the potential of connecting all unserved and underserved Broadband Serviceable Locations (BSLs) in New Jersey (e.g., to support the potential of increased competition, to create more economically viable PABBs by combining higher- and lower-need locations within PABB boundaries). Most importantly, PABBs will only include every unserved and underserved BSL and CAI within its boundaries (i.e., no served locations) and individual Broadband Serviceable Locations will be considered Unserved Service Projects and Underserved Service Projects, respectively. Applicants must agree to serve all unserved and underserved BSLs, as well as all CAIs (including, if requested, wiring or special construction required to connect a CAI within 10 business days from its request) within all PABBs included in their proposed project area. In the event that insufficient funds are available to connect all unserved locations, CAIs and then underserved locations may be removed from final grant awards.

The use of PABBs will allow OBC to make objective comparisons when evaluating overlapping proposals while enabling a larger range of applicants -with different sizes and capabilities- to competitively participate in the process. PABB design will aim to achieve a balance between maximizing appeal to potential subgrantees, ultimately fostering competition, while also addressing the need to extend coverage to potentially less attractive, higher-cost areas. To the extent possible, these locations will be bundled together with less costly areas, which may improve a PABB’s likelihood of attracting one or

more applicants, supporting the state's goal of reaching all unserved and underserved locations.

Before opening the subgrantee selection process application window, OBC will publish a reference price for each PABB. This reference price will be the benchmark against which an applicant's requested subsidy (i.e., the proposed grant award) will be evaluated. For example, if OBC published a reference price for a specific PABB at \$100, and a potential subgrantee requests \$80 of BEAD subsidy to connect the associated unserved locations, the application will be evaluated as having requested a subsidy 20% lower than the reference price for that given PABB (see additional details on scoring in section 2.4.2).

To determine reference prices, OBC will rely on data provided by NTIA – specifically, the per location Greenfield FTTH Net Present Value (NPV) and Total Investment values in the CQA data model, as provided to OBC through the Eligible Entity Toolkit, as well as localized data, if applicable. Given that reference prices will be calculated at the PABB level, potential subgrantees will be required to submit a “BEAD outlay request” (i.e., requested grant amount) for each PABB they designate as “separable” within their total proposed project area, as well as a grant request for their total proposed project area. This per-PABB designation will play a central role in the deconfliction process. See Section 2.4.6 for additional details on what constitutes the “separable PABB” designation.

After making PABBs and their associated reference prices public, OBC will open the pre-qualification filling window for potential subgrantees. During this time, potential subgrantees must provide select BEAD-required financial, operational, managerial and technical qualifications as well as submit required certifications and authorizations and any other information required for the use of fixed subawards, pursuant to final NTIA rule modification and related guidance. (Additional details on these requirements can be found in section 2.4.11 – 2.4.17). The prequalification window will last for approximately two weeks, after which potential subgrantees will be notified of their eligibility to participate in the subgrant process before the opening of the competitive application window.

Following the pre-qualification phase, OBC will launch Round 1 of the subgrant application window (see Figure 2 above). Applicants can submit multiple applications, and in doing so must be prepared to accept any application OBC provisionally awards (i.e., applicants may not withdraw applications once fully submitted to OBC).

For each application, prospective subgrantees will be required to submit the set of PABBs that will comprise a total project area with each respective grant request. Additionally, if the applicant designates separable PABBs, they will also include the subsidy request for each of those. Applicants will be allowed to submit multiple applications covering different proposed project areas -but a specific PABB can be included in no more than two applications for the same provider.

Applicants will also submit all financial, operational, managerial, and technical qualifications that were not required as part of the pre-qualification process. This will include, but is not limited to, detailed proposals on the type of technology they plan to use, their approach to affordability, their plan to uphold fair labor standards, their deployment



timeline, their strategy to engage with local governments and communities, and their potential commitment to weather-resilient infrastructure. Additional details on all application requirements can be found in section 2.4.2.

At the end of Round 1, OBC will provisionally award grants to applicants in two categories:

- Applications for fiber projects in proposed project areas with no overlapping proposals, and for which the potential subgrantee met all minimum qualifications. OBC notes that this is a requirement of the BEAD Program. (See NOFO).
- Applications that are objectively and transparently superior to any other overlapping application. To qualify as such, an application must surpass the score of any other overlapping application by at least 50 points (i.e., half of all possible points).

This dual approach, awarding both uncontested project areas and decisively superior applications, underscores OBC's commitment to impartiality and encourages competition.

It is important to emphasize that the provisional award of Round 1 grants is contingent upon OBC's due diligence process, which will ensure that each applicant fully meets all minimum requirements, possessing the technical, operational, and managerial capabilities to successfully execute their project plans.

Round 1, including application, review, and provisional awards, is expected to last up to eight weeks depending on the volume of applications received.

Following any initial awards, all remaining applicants will be automatically moved to Round 2. Providers that applied to Round 1 and did not receive an award may not withdraw. Prior to the launch of Round 2, applicants will be provided three pieces of information related to their application(s):

- A list of PABBs that received more than one application in Round 1;
- A list of PABBs that did not receive any applications in Round 1, for which OBC may also provide a higher reference price; and
- A list of PABBs that have received an award in Round 1, but not the name of the provider or the level of subsidy associated with the award.

For Round 2, applicants may:

- Expand their application(s) to include PABBs that did not receive applications in the first round, though the increase in total subsidy request must be no larger than the new PABB reference price. As described, ahead of Round 2 OBC may modify the reference prices for PABBs that did not receive any applications in order to incentivize potential subgrantees to include them in their Round 2 applications.
- Decrease the subsidy request for some or all of their PABBs

In an event where multiple overlapping providers revise their bids lower in the second round, OBC may hold additional rounds in which providers will be given the option of further decreasing their subsidy requests.

After the conclusion of the final round, OBC will review all applications, and, if required, perform a process of deconfliction. The deconfliction process serves as a mechanism to evaluate partially-overlapping applications. In scenarios where multiple applicants are eligible to receive awards for the unshared portions of their project areas, or when one applicant is eligible for the majority of their project area but another applicant presents a superior case for a specific limited overlap section, the deconfliction process provides OBC with an objective set of tools to make precise, informed decisions. By dividing and evaluating these subsections independently, it ensures that each sub-section is awarded to the most competitive applicant for that particular area without compromising the overarching goal of maximizing coverage. See section 2.4.6 for a detailed description of how the deconfliction process will be carried out.

Finally, following the process of deconfliction, OBC will make provisional awards to applicants based on the scoring criteria.

The expected end-to-end timeline of New Jersey’s subgrant process is six to seven months. Table 3 details the anticipated end-to-end timeline of New Jersey’s subgrant process:

**Table 3: New Jersey Subgrant Process anticipated timeline**

Stage	Duration
OBC releases “application instructions”, including reference prices for all Project Areas Building Blocks (PABBs)	30 days
OBC releases pre-qualification materials & opens pre-qualification submission window	15 days
OBC reviews pre-qualification materials and informs qualified applicants	30 days
OBC opens round 1 application window	30 days
OBC processes round 1 submissions and awards limited grants if applicable	30 days

OBC open round 2 application window	15 days
OBC processes round 2 submissions, adds additional rounds, if needed, performs deconfliction, and selects final subgrantees	30 to 60 days

This multi-round application process aims to maximize applicant competition, incentivize potential subawardees to put forward their most competitive offers and broaden their coverage areas beyond the most immediately economically attractive locations, and to support OBC’s goal of connecting 100% of unserved and underserved locations. PABBs that include higher-cost locations can have an increased risk of not receiving an application. OBC plans to mitigate this risk through a variety of levers (e.g., direct negotiations (2.4.7), Extremely High-Cost Threshold (2.4.9 – 2.4.10), jettisoning underserved locations or CAIs, if required, to serve all unserved locations (2.4.3).

In a potential scenario where some locations remain uncovered following the conclusion of the subgrant process, OBC will engage in direct negotiations with terrestrial providers for approximately three months, with the objective of having them expand their coverage to reach 100% of eligible locations (see section 2.4.7 below for further details). Following this negotiation period, in a scenario where a gap to 100% coverage still remains, OBC may make an alternative technology (e.g., satellite) solution available, ensuring universal coverage.

OBC will protect the integrity of the process in a variety of ways, up to and including disqualification of a prospective applicant should its actions or behaviors potentially compromise the process's fairness. Reviewers (composed of OBC/BPU staff, staff from other departments, or potential OBC subcontractors under OBC direction), will receive comprehensive training to ensure each application is reviewed objectively, safeguarding against potential reviewer bias. OBC will also require applicants and OBC staff to disclose all current and potential conflicts of interest and to maintain confidentiality if OBC notifies an applicant of provisional award before the grant rounds have concluded.

OBC is also committed to fostering a diverse and inclusive applicant pool, including for-profit providers, electric co-operatives, municipal providers, and public-private partnerships, provided that each applicant meets all financial, managerial, operational, and technical requirements. OBC plans to host a series of open workshops and webinars starting around March 2024, several months before the pre-qualification window's launch. This proactive outreach will facilitate, for all potential applicants, access to the information necessary to prepare strong and competitive applications, promoting equitable access and opportunity within the subgrant process.

## 2.4.2 Text Box: Describe how the prioritization and scoring process will be conducted and is consistent with the BEAD NOFO requirements on pages 42 – 46.

OBC has developed a prioritization and scoring process that: is intended to result in a fair, open, equitable, and competitive subgrantee selection process; complies with all NTIA requirements outlined in the NOFO; advances the State of New Jersey's priorities; Incentivizes competition to achieve universal coverage while minimizing BEAD funds' outlay; and applies the highest transparency standards.

The scoring rubric will be used during two different phases of the subgrant process. First, following the completion of Round 1, all applications facing competition will be scored, and those that surpass the score of any other overlapping application by at least 50 points will be provisionally awarded. As directed by the BEAD rules, fiber applications meeting minimum requirements and proposed for a project area that received no other applications will be provisionally awarded without scoring. Second, following the completion of the final round, OBC will first rank all fiber applications from highest to lowest score. Since no Round 2 applications will overlap with any awarded areas, the highest ranked fiber applicant will be provisionally awarded their entire proposed project area. Then, OBC will review each next-highest ranked fiber application in order, applying the provisional selection and de-confliction rules between any overlapping fiber applications as described in section 2.4.6. Accordingly, OBC's subgrant process complies with BEAD requirements of prioritizing fiber applications, as described in sections 2.4.9 and 2.4.10.

After all awardable fiber applications are resolved, reliable alternative technologies (i.e., cable/HFC and licensed fixed wireless) will be considered following the same process. After reviewing and provisionally awarding these awards, OBC will consider other technologies (e.g., unlicensed fixed wireless, LEO satellite). This approach ensures that priority broadband projects are always given preference as required, given that no non-priority project is considered until all priority projects have been scored, ranked, and resolved for overlap.

As part of the review process, OBC will perform due diligence on every application to confirm the proposal, timelines, and service milestones are reasonable, and that the provider is capable of successful delivery. Below is a detailed description of New Jersey's scoring rubric.

Primary criteria (following NTIA guidelines, primary criteria accounts for 75% of the total scoring points)

1. **Minimization of BEAD outlay: 35 total available points.** Applications will be scored as follows:

- For applicants requesting equal to or less than the OBC-provided reference price (reference prices refer to the OBC-determined price summed across all PABBs, as described above): 5 base points will be awarded, plus  $30 * [1 - \text{percent of reference price requested}]$ . For example, an application requesting 80% of the reference price in BEAD subsidy would receive a total of  $5 + (30 * (0.2)) = 11$
- For applicants requesting more than the OBC-provided reference price: points will be awarded according to the following equation:  $5 * [1 - (100\% - \text{percent of reference price requested})]$ , with the maximum number of points applicants can receive being 5. For example, an application requesting 140% of the reference price would receive a total of  $5 * (1 - 0.4) = 3$  points.

**2. Affordability: 20 total available points.** All potential subgrantees must comply with two requirements as it relates to affordability:

- a. For fiber applicants: OBC will prioritize the applicant's commitment to provide the most affordable total price to the customer for 1 Gbps symmetrical service in the proposed project area. To rank applications, OBC will set a reference price equal to the lowest price for 1 Gbps symmetrical service, or if not widely offered, the closest set of symmetrical speeds above 800 Mbps in the FCC Urban Rate Survey for New Jersey. OBC expects that many applicants will propose scores substantially lower than the Urban Rate Survey reference price and will score accordingly.
  - All applications that submit a 5-year commitment to offer symmetrical 1 Gbps service to subscribers at the OBC-defined monthly reference price (inclusive of mandatory charges and surcharges) will be awarded 15 points.
  - All applications that submit a 5-year commitment to offer symmetrical 1 Gbps service at a price lower than the OBC-defined monthly reference price will receive an additional score added to the baseline score of 15, as follows:  $5 * [1 - \text{percent of monthly reference price requested}]$
  - See section 2.13 (Middle-class affordability plan) for further details
- b. For non-fiber applicants: OBC will prioritize the applicant's commitment to provide the most affordable total price to the customer for 100/20 Mbps service in the proposed project area. To rank applications, OBC will set a reference price equal to the lowest price for 100/20 Mbps in the FCC Urban Rate Survey for New Jersey. OBC expects that many applicants will propose scores substantially lower than the Urban Rate Survey reference price, and will score accordingly.

- All applications that submit a 5-year commitment to offer service to new subscribers at the OBC-defined monthly reference price for 100/20 Mbps (inclusive of mandatory charges and surcharges) will be awarded 15 points.
  - All applications that submit a 5-year commitment to offer service at a price lower than the OBC-defined monthly reference price at 100/20 Mbps will receive an additional score added to the baseline score of 15, as follows:  $5 * [1 - \text{percent of monthly reference price requested}]$
  - Any application that doesn't commit to offering 100/20 Mbps at a price point that matches or is below the OBC-provided monthly reference price point will not receive any points.
- c. Applicants must offer the same price commitment to all locations included in their total awarded project area. Additionally, with OBC's approval, price commitments may be adjusted annually in relation to the Consumer Price Index (CPI).

**3. Fair labor practices: 20 total available points.** Applications will be scored as follows:

- a. All applicants that demonstrate their full compliance with all applicable labor laws and a record of outstanding labor practices as defined in NOFO Section IV.C.1.e, including no violations within the last three years, will be awarded a baseline of 10 points.
- b. All applicants that make a commitment to comply with all applicable labor laws and to implement outstanding labor practices as defined in NOFO Section IV.C.1.e for the lifetime of their BEAD award will be awarded an additional 10 points.

Secondary criteria (following NTIA guidelines, secondary criteria accounts for 25% of the total scoring points)

**4. Speed of deployment: 1 total available point.** Applications will be scored as follows:

- a. All applicants will be required to submit a timeframe within which they are committing to complete deployment of their BEAD project, meaning that all unserved and underserved locations within their project area should be covered by the completion of their timeframe, and customers could receive service within 10 days upon request.

- b. Applicants that commit to complete deployment within 24 months will be awarded 1 point.

**5. Climate resiliency: 10 total available points for fiber applications, 5 total available points for non-fiber applications.** Though OBC requests public comment across all components of the Initial Proposal, targeted feedback from stakeholders on the climate resiliency section of the application scoring rubric is specifically requested. Proposed application scoring for climate resiliency includes:

As stated in the climate assessment section (2.11.1), prospective subgrantees will be required to commit to deploying with 90%+ buried fiber to connect un and underserved locations with BEAD funds in the counties identified as having the highest overall climate risk (Ocean, Atlantic, Cape May, Hudson). Applications whose project area is 100% within these counties will be awarded a default of 10 points in this category. Beyond that requirement, applications will be scored as follows:

- a. [For fiber applications] Applicants whose total project area has no (0%) overlap with the locations in the high risk designated counties and commit to deploying with 90%+ buried fiber to connect un and underserved locations within their project area with BEAD funds, will be awarded 10 points.
- b. [For fiber applications] Applicants whose total project area has no (0%) overlap with the locations in the high risk designated counties, and do not commit to deploying with 90%+ buried fiber to connect un and underserved locations within their project area with BEAD funds, will be awarded 0 points.
- c. [For fiber applications] Applicants whose total project area has a 1% to 99% overlap with the locations in the high risk designated counties will be awarded points based on both, the percent distribution of locations in their application with a risk designation and their commitment to bury fiber in non- high risk designated locations. Below are two illustrative examples in a hypothetical scenario in which 20% of the locations within an applicant's total project area are designated as high-risk. Both applicants commit to buying 90%+ of fiber in the locations in their application that are located in high-risk counties.
  - o Scenario A: The applicant does not commit to burying 90% of the fiber for the remaining 80% of their project area. This applicant's scoring will be calculated as follows:  $(10 \times 0.2) + (0 \times 0.8) = 2$  points
  - o Scenario B: The applicant commits to burying 90% of the fiber for the remaining 80% of their project area, their

scoring will be calculated as follows:  $(10 \times 0.2) + (10 \times 0.8) = 10$  points

- d. OBC acknowledges that burying 90% of the fiber could increase project costs, and that consequently, the grant request submitted by applicants that commit to burying fiber might be higher than it would have been had they not committed to burying fiber. This consideration is taken into account in the scoring point allocation and weight design.
- e. [For non- fiber applications] Applicants that commit to hardening 90% of their above ground broadband equipment in their total proposed project area will be awarded 5 points

1. **Local government support & community engagement: 14 total available points.**

Though OBC requests public comment across all components of the Initial Proposal, targeted feedback from stakeholders on the local government and community support section of the application scoring rubric is specifically requested. Proposed application scoring for local government & community engagement includes:

- a. Applicants that present detailed plans to stand up a permanent community advisory group for the duration of BEAD construction and first 18 months of service, will be awarded 6 points.
  - i. This office / working group will serve as a platform for local project accountability, as well as for potential subawardees to ensure and streamline future community engagement, especially as it relates to a project's outreach and marketing strategy (e.g., how their low-cost options will be promoted through their website, how they will ensure information accessibility).
- b. Applicants that demonstrate outreach to the community (including local community leaders) and community engagement will be awarded up to 5 points. Applicants will be evaluated on the breadth and depth of the engagement activities and how they were integrated into the deployment plan, particularly as it relates to low-cost broadband options and middle-class affordability. Example of engagements could include:
  - Holding in-person open-public meetings to discuss deployment plans and how they might affect the community.
  - Holding virtual webinars to discuss deployment plans and how they might affect the community.



- Leading focus groups to identify and codify reactions to deployment plans and how they might affect the community.
- For example, evidence of integration into deployment plan could include description of engagement, description of the insights surfaced, and description of how they informed the provider's proposal -and, when applicable, description of reasoning behind decision to not address insights in proposal.
- c. Applicants that provide documentation for one of the following two options will be awarded 3 points.
  - Letter of support from one or more local governments within their proposed BEAD service area. This letter should acknowledge that the provider directly engaged with local government representative to present and discuss their project proposal, and that their submitted application proposal acknowledges, and when possible, addresses, any major inputs and concerns from the local government. Additionally, the letter should include a statement indicating the local government's commitments to streamline permitting approvals and granting access to Right of Way.
  - Proof that the provider made substantial efforts to directly engage with local government but was unable to due to lack of availability or willingness from the local government to meet.

**6. [Only relevant to non-priority (non-fiber) applications] Speed of network and other technical capabilities: 5 total available points.** Applications will be scored as follows:

- Fiber applications will not be scored on this criteria.
- Non-fiber applications will be awarded up to 5 points based on certified speed and latency performance commitments, as well as on length of useful life of the proposed infrastructure and future scalability (as described in the table below)

Minimum downstream / upstream speed (Mbps)	Maximum latency (milliseconds)	Points awarded
1000/250	100	4
400/100	100	3
200/50	100	2
100/20	100	1

- Non-fiber applicants will also be awarded 1 additional point if they certify a useful network life of 10+ years.

Prior to awarding of the points, OBC's technical review must confirm that the proposed network design has the technical ability to deliver at the proposed performance levels to all eligible locations within the application.

### **2.4.3 Text Box: Describe how the proposed subgrantee selection process will prioritize Unserved Service Projects in a manner that ensures complete coverage of all unserved locations prior to prioritizing Underserved Service Projects followed by prioritization of eligible CAIs.**

OBC performed a cost-to-connect assessment as part of its broader BEAD planning process. Following those initial results, OBC then performed a detailed cost modeling exercise using NTIA-provided CQA data to validate the initial assessment (as mentioned above). This analysis calculated a benchmark subsidy amount for each eligible location in New Jersey based on the projected cost of deploying greenfield fiber. The result of the analysis indicated that most un and underserved locations in New Jersey have largely positive economics. On average, the cost model suggests that applicants may be able to provide a project match at a level significantly higher than the BEAD-required 25%. However, even assuming only a 25% match (and a 75% project subsidy), OBC projects that New Jersey could not only have sufficient funding available to serve all unserved and underserved locations, but to also fund additional BEAD-eligible activities (e.g., CAI connections, Digital Equity Plan implementation). As a result, OBC will not hold separate funding rounds for unserved and underserved locations.

All unserved and underserved BSLs will be included in a PABB. It is possible that some PABBs do not receive an application. In these cases, OBC will directly negotiate with applicants with the goal of adding unserved BSLs that have not received a bid into potential subgrantee applications. As part of that negotiation, OBC may increase the benchmark subsidy to incentivize provider participation. A detailed description of this process can be found in Section 2.4.7.

If after engaging in direct negotiations with providers it is the case that there are still unserved locations that are not included in any application, OBC will consider all of the following options:

- Adding up to 10% of unserved and underserved locations to provisionally awarded grants (e.g., unserved locations located within direct proximity of provisionally awarded PABBs, leveraging OBC's ability to modify project areas by adding or removing up to 10% of locations).

- Removing up to 10% of unserved and underserved locations from provisionally awarded grants (Note: This mitigation strategy is different and unrelated to the removal of up to 10% of eligible locations that might take place during deconfliction procedures described below). This “last resort” strategy will only be employed in cases where a provisionally awarded provider in direct proximity of an area that remains uncovered after the subgrant process will not expand their area of coverage to include the uncovered locations during the direct negotiation period, and another provider agrees to cover the uncovered locations only if grouped with the provisionally awarded locations. All prospective subgrantees will be required to agree to OBC's ability to potentially modify their proposed project areas by adding or removing up to 10% of their total project area's locations.
- Considering lower cost, alternative technology applications that offer wider coverage of unserved locations but were initially denied in favor of a higher cost, fiber application. In cases where OBC determines that awarding the alternative technology application is the only way to ensure coverage of a determined set of otherwise uncovered unserved locations, previously provisionally awarded fiber applications could be “replaced” under the Extremely High-Cost Threshold provision (see sections 2.4.9 and 2.4.10 for additional details on the EHCT mechanism).
- Deprioritizing first CAIs and then underserved locations from provisionally awarded grants in order to comply with the BEAD requirement of prioritizing coverage of all unserved locations in cases where reaching 100% of underserved locations is not possible, and assuming that providers required additional funding than OBC had available to serve those locations that did not receive a bid.

OBC will use objective standards to make all determinations mentioned above, and documentation for all such decisions will be made available in the Final Proposal.

In any communications with applicants proposing to serve underserved locations, OBC will clearly stipulate that funding of the award is conditioned on the approval of OBC's Final Proposal by NTIA and the placement of all unserved locations within a provisionally approved application for funding. In the event that OBC believes additional funding may be required to serve 100% of unserved locations, OBC may defer provisional award of select Underserved Service Projects until it has provisionally approved applications for funding for all unserved locations.

**2.4.4 Text Box: If proposing to use BEAD funds to prioritize non-deployment projects prior to, or in lieu of the deployment of services to eligible CAIs, provide a strong rationale for doing so. If not applicable to plans, note “Not applicable.”**

Not applicable

## **2.4.5 The proposed subgrantee selection process is expected to demonstrate to subgrantees how to comply with all applicable Environmental and Historic Preservation (EHP) and Build America, Buy America Act (BABA) requirements for their respective project or projects. Describe how the Eligible Entity will communicate EHP and BABA requirements to prospective subgrantees, and how EHP and BABA requirements will be incorporated into the subgrantee selection process**

OBC will ensure adherence to the requirements of Build America, Buy America Act (BABA), the National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 et seq.) and National Historic Preservation Act (NHPA) (54 U.S.C. § 300101 et seq.) OBC will follow all evolving NTIA guidance on these issues -including any limited waivers or other certifications- and allow potential subgrantees to demonstrate compliance based on the latest available NTIA guidelines.

Prior to the pre-qualification window launch, OBC will publish the NEPA, NHPA, and BABA requirements as part of its application guidance. This guidance will stipulate that applicants must familiarize themselves with these legal requirements, as they will be required to submit their plans of compliance as part of their application materials. Failure to demonstrate understanding of NEPA, NHPA, or BABA guidelines; failure to demonstrate intent to abide by NEPA, NHPA, or BABA guidelines; or any indication of explicit violation of the requirements will result in disqualification from the subgrant process.

OBC will incorporate the Acts' requirements into the subgrantee selection process by including them in contract negotiation records, grant agreement terms and conditions, and grant-monitoring program requirements. OBC may also hold technical assistance sessions to communicate requirements to prospective subgrantees and explain how they will be incorporated into the subgrantee selection process. Potential subgrantees will be required to submit their plans for compliance as part of their prequalification materials, and will only be eligible to participate in the subgrant process if compliance is determined.

OBC will place specific emphasis on the following points as it relates to BABA requirements:

- Subrecipients must meet the requirement that all iron, steel, manufactured products (including fiber-optic communications facilities), and construction materials used in the project or other eligible activities are produced in the United States unless a waiver is granted.
  - NTIA has established criteria to prioritize products targeted for onshoring and that providers may onshore the eligible products, as several companies have already announced plans to open or

expand fiber-optic cable and electronics manufacturing operations in the US (e.g., Corning, CommScope, and Prysmia).

- i. Strategically important technologies—like those that ensure the security, integrity, and reliability of network data—should be produced in America.
  - ii. If a product’s domestic manufacturing line can be scaled quickly, it should be produced in America.
  - iii. If a product—like the fiber-optic cable so critical to deploying high-speed Internet networks in communities throughout the country—comprises a significant portion of the overall network spend, it should be produced in America.
- NTIA acknowledges that some circumstances may require a nonavailability waiver for certain pieces of broadband equipment (e.g., situations where chips may not be available in time to meet BEAD Program construction timelines), and thus proposed a limited and targeted waiver of BABA provisions for the BEAD Program that follows this strict approach to enforcing rules that protect and create American jobs . OBC will follow and implement the results of the waiver.
  - The policies in the waiver ensure that close to 90% of BEAD funding spent on equipment is spent on equipment manufactured in the United States.
- Details on the waiver policy will be communicated to prospective subgrantees once the waiver’s public comment period closes and the policy is finalized by the Department of Commerce.
  - In determining whether a product is produced in America, subrecipients must comply with definitions included in Section 70912 of the BABA, which provides that a manufactured product is considered produced in the United States if the manufactured product was manufactured in the United States and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55% of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.
  - In addition to the provisions above, subgrantees may not use BEAD funding to purchase or support any covered communications equipment or service, as defined in Section 9 of the Secure and Trusted Communications Networks Act of 2019 (47 U.S.C. § 1608).
  - The Infrastructure Act expressly prohibits subgrantees from using BEAD funding to purchase or support fiber optic cable and optical transmission

equipment manufactured in the People's Republic of China unless a waiver of this requirement is received from the Assistant Secretary.

Specific to NEPA and NHPA compliance efforts, OBC will ensure the following key points are highlighted:

- Prospective subgrantees will describe how they will comply with applicable environmental and national historical preservation requirements.
- Prospective subgrantees are expected to obtain all necessary federal, Eligible Entity, and local governmental permits and approvals necessary for the proposed work to be conducted based on the timeline for implementation for project areas. Applicants will provide timelines for expected development and approval of permits in their response, which OBC will review as part of the application selection process.
- Projects and other eligible activities are expected to be designed so that they minimize the potential for adverse impacts on the environment.
- As part of its efforts to demonstrate compliance with all requirements, OBC will strongly encourage potential subgrantees to engage with federal, state and local stakeholders, including but not limited to the following:
  - Federal land and resource managing agencies, including but not limited to the National Park Service, the U.S. Fish and Wildlife Service, the Bureau of Land Management, the National Marine Fisheries Service, the U.S. Army Corps of Engineers, the U.S. Coast Guard, the U.S. Forest Service and others, to understand any restrictions or special conditions that may apply to infrastructure proposed on federal land, or that may impact federally managed resources such as wetlands, threatened or endangered species, navigable waterways and others.
  - State and local agencies that may have a role in EHP requirements, such as the New Jersey Department of Environmental Protection, as well as state or local agencies that may need to issue their own permits for any proposed projects such as the New Jersey historic Preservation Office.

Applicants will be responsible for obtaining permits, within a reasonable period, and any federal, state, or local authorizations needed to conduct their planned work. Applicants are expected to provide estimates for obtaining permits as part of their implementation timeline.

OBC will ensure preparedness for compliance requirements with NEPA and NHPA through the following steps:

1. Review of available resources and requirements:
  - a. Familiarity with the EHP requirements and additional guidance in the BEAD NOFO
  - b. Understanding of the requirements of the NEPA review process and the NHPA

- c. Review of NEPA, Historic Preservation, and Climate Resilience Webinar and presentation materials.
- 2. Sourcing of EHP focused staff or contractors:
  - a. Demonstrate the readiness of their broadband team to analyze potential environmental impacts.
  - b. If necessary, hire additional staff or contractor support to ensure their broadband team has the appropriate capacity and expertise to manage EHP activities.
  - c. Designate certain individuals to be specifically responsible for EHP activities. Outline their responsibilities associated with managing EHP and NEPA review activities.
- 3. Outline an approach for EHP activities:
  - a. Outline steps and activities necessary to ensure that the prospective subgrantees understand the requirements to comply with NEPA.
  - b. Coordinate with other state offices that have experience administering federal grants, such as the Department of Transportation, to identify best practices and approaches for managing the NEPA review process.
  - c. Identify subcontractors they may engage to support with potential environmental assessments.
  - d. Share best practices for developing a project description that provides enough detail about the potential impacts to the environment to make a preliminary determination about the level of NEPA review required.

OBC will ensure preparedness for compliance with BABA once NTIA finalizes the guidance. All documentation related to the requirements above will be reviewed by qualified personnel, with the appropriate capacity and expertise.

**2.4.6 Text Box: Describe how the Eligible Entity will define project areas from which they will solicit proposals from prospective subgrantees. If prospective subgrantees will be given the option to define alternative proposed project areas, describe the mechanism for de-conflicting overlapping proposals to allow for like-to-like comparisons of competing proposals.**

As described in section 2.4.1, Project Area Building Blocks (PABBs) are central to OBC's approach to defining project areas. PABBs will be created by OBC and. Under this framework, applicants have the flexibility to combine PABBs to construct their overall proposed project areas.

In OBC's process, applicants are not confined to a single application, but are allowed to submit multiple applications, each reflecting a different total proposed project area. Moreover, OBC allows a single PABB to be incorporated in up to 2 total proposed project areas by the same provider, offering potential subgrantees the flexibility to plan for distinct projects at different scales.

The design of PABBs will be driven by a pivotal objective – to maximize the appeal of all un and underserved locations to ultimately achieve universal broadband coverage across New Jersey. This approach is designed to ensure that higher cost locations, which may have historically been overlooked, are no longer left behind. Through the strategic bundling of locations, OBC aims to attract providers to bid on areas that would not have presented a compelling business case in isolation but, when combined with more attractive neighboring locations, become not only viable, but attractive.

By submitting an application, providers will be committing to connecting all un and underserved broadband serviceable locations (BSLs) within their proposed project area if selected (spanning across all PABBs their overall project area includes).

OBC considered several other approaches to program design, including one that would allow potential subgrantees to fully design their program areas, and another that would only allow applicants to apply to one larger pre-determined area by application (with the options of submitting more than one application). Ultimately, OBC concluded that none of these approaches maximized competition, coverage, and funds to the extent that the PABB approach does.

### **Deconfliction process**

All prospective subgrantees will be required to agree to OBC's ability to potentially modify their proposed project area (i.e., removing or adding up to 10% of all unserved and underserved locations in their proposed project area) during the review process. OBC will make use of this action as a “last resort” in the deconfliction process, with the goal of maximizing coverage in accordance with BEAD program guidelines. However, to the extent possible, OBC will try to avoid “force separating” proposed project areas, and to that end, OBC will adopt the “separable designation” methodology as its main resource to perform the process of deconfliction.

Before submitting each application (prior to each round), applicants will be asked -and strongly encouraged- to indicate all PABBs in their total proposed project areas they wish to classify as separable. In essence, this designation implies that should providers not be awarded their entire proposed project area, providers are open to:

- Receiving the remaining portion, after the removal of -some or all- the designated separable PABBs.
- Receiving only some – or all- of the designated separable PABBs.

To accommodate this feature, applicants are required to submit a separate subsidy request for each PABB they designate as "separable," in addition to their subsidy request



for the entire proposed project area at the time of application. This way, in cases where applications have a small overlap, OBC will be equipped to equitably evaluate bids for the overlapping area independently.

For instance, if two applications share only a 20% overlap in their project areas and both are potentially eligible to be awarded the other 80% of their program areas (according to their application scoring ranking), and if both applicants designate the overlapping PABBs (constituting the 20%) as separable, OBC would assess the overlapping PABBs independently from the rest of the project area, and the BSLs in the overlapping PABBs would be awarded to the applicant with the lower subsidy request for those specific PABBs. In this case, even if the applicants are not awarded their whole project area, they would both receive an award that they have requested (through use of the separable designation), and coverage would be maximized while protecting the efficient use of funds. However, in cases where the higher ranked applicant (based on their overall application) does not designate the overlapping PABBs as separable, the provider with the highest ranked scoring would be awarded the whole project area.

Another potential scenario where the separable designation may be leveraged would be as follows: Two applicants (A and B) have an 80% overlap in their total proposed project area and applicant A emerges as the provisional awardee. However, it is possible that applicant B's remaining 20% either faces no competition or presents a stronger application than a potential applicant C, with which it overlaps. If designated as separable, applicant B would be awarded only the PABBs constituting that "remaining 20%."

Applicants are strongly encouraged to designate as many separable PABBs as possible. Not only does this designation increase potential subgrantees' probabilities of receiving awards "under their own terms" (e.g., providers will be able to plan ahead for different business cases at different scales, while decreasing their chances of being subject to OBC "for modifying" their project area) but it also increases OBC flexibility to maximize coverage by incentivizing competition.

OBC may provide the option for providers submitting separable applications to also submit additional standalone applications for each associated individual PABB. However, designating separable PABBs is not a requirement. Applicants may also have the option of indicating that, if OBC is unable to award the full application, providers would not be interested in being awarded PABBs on an independent basis.

Applicants will be allowed to submit more than one application. Individual PABBs can be included in up to two applications, which will allow potential subgrantees to express a wide range of preferences for proposed deployment efforts. For example, they could submit one large application covering many PABBs -which would potentially allow them to make a large-scale business plan that leverages economies of scale and other synergies-, while also submitting a subset of smaller applications, covering a sub-set of the PABBs in their large application, which would give them the possibility of projecting more tailored business cases for especially attractive locations. Providing this optionality both allows

OBC to advance the goal of universal coverage, while also giving providers the possibility to protect their business plans.

While the separable designation may advance the process of deconfliction, there could be situations where it falls short. To this end, OBC reserves the right to either add or remove up to 10% of unserved and underserved locations in of any application at any time prior to final awards. OBC will exercise this right only if overlaps between applicants cannot be resolved through any other process described above. For example, in a situation where two awardable applicants have a small overlap that cannot be resolved using the separable designation, OBC will de-scope either one or both applications, decreasing the subsidy awarded by the corresponding amount.

**2.4.7 Text Box: If no proposals to serve a location or group of locations that are unserved, underserved, or a combination of both are received, describe how the Eligible Entity will engage with prospective subgrantees in subsequent funding rounds to find providers willing to expand their existing or proposed service areas or other actions that the Eligible Entity will take to ensure universal coverage.**

OBC's comprehensive subgrant process -including the creation of tailored PABBs to increase the attractiveness of less appealing areas; the adoption of a multi-round application process to stimulate competition; the formulation of scoring criteria to incentivize quality and funds' efficiency; and the institution of a deconfliction process that prioritizes maximizing coverage - is specifically designed to minimize the volume of locations that do not receive bids by the end of the subgrant process.

If after all these steps New Jersey has not yet reached 100% coverage by application, OBC will engage in targeted outreach and direct negotiations with providers to close the gap. OBC will directly engage with both awarded sub grantees and applicants that did not receive awards -especially with providers that have existing or newly awarded infrastructure surrounding the uncovered locations- and leverage the remaining BEAD funds following the subgrant process to incentivize them to expand their coverage.

Finally, beyond increasing the subsidy, OBC will also rely on its ability to modify provisionally awarded grants as a "last resort" negotiation and coverage expansion strategy -independent of the process of deconfliction- as described in section 2.4.3.

In the unlikely scenario that these negotiations and targeted outreach prove unsuccessful, OBC will explore the possibility of using other technologies such as low-earth orbit satellite that can provide coverage to remaining locations.

OBC expects for this post-subgrant process negotiation phase to last no more than 3 months, which successfully places OBC in a position to submit its Final Proposal within the required one-year timeframe.

#### **2.4.8 Text Box: Describe how the Eligible Entity intends to submit proof of Tribal Governments' consent to deployment if planned projects include any locations on Tribal Lands.**

OBC will undertake a proactive approach by identifying PABBs with a high concentration of American Indian Tribal members residents and engage in direct discussion with local governments and American Indian community leaders to discuss the potential implications of the BEAD program in the community, and to ensure that their needs and concerns are well understood and addressed.

Additionally, OBC will continue to work with the New Jersey Commission on American Indian Affairs to keep this body informed on all ongoing BEAD-related activity, as discussed in sections 2.2 and 2.4.8.

#### **2.4.9 Text Box: Identify or outline a detailed process for identifying an Extremely High Cost Per Location Threshold to be utilized during the subgrantee selection process. The explanation must include a description of any cost models used and the parameters of those cost models, including whether they consider only capital expenditures or include the operational costs for the lifespan of the network.**

Based on a careful analysis using NTIA-provided CQA cost model and NTIA-provided per-location values, OBC anticipates that its ~\$264M BEAD allocation will be sufficient to reach all unserved locations, unserved CAIs, and underserved locations in the state with fiber service. However, OBC recognizes some eligible locations may not receive fiber applications or may only receive fiber applications that are not awarded (e.g., overlap with a higher scoring application that cannot be resolved by the de-confliction process described in Section 2.4.6).

Given that OBC will only have visibility into what these locations are after the conclusion of the grant rounds, OBC will not identify an initial cost-per-location value as the Extremely High Cost Per Location Threshold (EHCT), but instead will only submit an EHCT value as part of the Final Proposal following the conclusion of the subgrant process. New Jersey's BEAD allocation is such that OBC does not anticipate there being a per-location funding level that it could not "afford" to fund. Given this context, OBC will use the EHCT as a risk mitigation instrument in the case that the subgrant process results are not sufficient to ensure coverage of all locations. OBC believes this approach will enable the calculation of a more accurate EHCT, based on the actual distribution of bids received.

As described in the 2.4.2 scoring section above, OBC encourages applications using all technology types -even though fiber "Priority Broadband Projects" will always be prioritized in the selection process. Alternative technology applications (e.g., HFC or licensed fixed

wireless service) will be reviewed and provisionally awarded in cases where a wider coverage of unserved locations do not receive a fiber bid.

If there are unserved locations that have not been included in a project at the conclusion of the subgrant selection process, OBC will evaluate all provisional awards to fiber applicants in areas surrounding those that remained unserved following the subgrant process to determine whether there are alternative non-fiber technologies that, if chosen, could effectively expand the reach of reliable service to a significantly larger number of locations. In instances where such an alternative technology demonstrates the potential to connect more unserved locations with reliable service, the value of the cost per location associated with the initially awarded fiber application, which failed to provide coverage to the unserved locations in question, will be used as a benchmark to calculate the EHCT (the actual EHCT would be set at \$1 less than the fiber applicant's cost per location).

The EHCT will be determined based on the actual funding needs that surface during the subgrant process in New Jersey, which is why OBC will not provide an EHCT in advance. OBC may determine that it is willing to fund a project over the EHCT, but, per the BEAD NOFO, it is not required to. OBC will leverage this mechanism to potentially select fiber and non-fiber applications with the goal of achieving 100% coverage.

In summary, OBC will always prefer fiber applications (i.e., Priority Broadband Projects) as required by NTIA. The only scenario where other technologies would be selected over fiber would be when, as described above, the selection of an alternative technology would result in significantly more eligible locations receiving service from the best available technology.

Even though there will probably be locations whose awarded funding needs exceed the EHCT, OBC will only apply the EHCT mechanism in areas surrounding locations that were not awarded and where the selection of an alternative technology will result in coverage of locations that would otherwise remain unserved. In other words, projects with a cost-per-location higher than the EHCT in many cases may still be selected.

The EHCT mechanism is designed to achieve 100% coverage in two main ways. First, it allows for the selection of lower cost alternative technology projects in a potential scenario where the BEAD budget is exhausted prior to reaching 100% of unserved locations. Second, it triggers the re-consideration of non-fiber applications that offer wider coverage of unserved locations and were initially eliminated due to overlap with higher cost fiber applications with more limited reach.

There is a possibility that OBC doesn't see the need to trigger the EHCT mechanism at all. This could happen in a scenario where the results from the subgrant process result in near 100% coverage, and OBC's subsequent targeted outreach and negotiations with providers (as described in section 2.4.7) are sufficient to fill the gap.

## **2.4.10 Text Box: Outline a plan for how the Extremely High Cost Per Location Threshold will be utilized in the subgrantee selection process to maximize the use of the best available technology while ensuring that the program can meet the prioritization and scoring requirements set forth in Section IV.B.6.b of the BEAD NOFO.**

Sections 2.4.10.A, 2.4.10.B, and 2.4.10.C below are based on the EHCT mechanism and process described in section 2.4.9, which is designed to maximize the use of the best available technology while ensuring that the program can meet the prioritization and scoring requirements set forth in Section IV.B.6.b of the BEAD NOFO.

### **a. The process for declining a subgrantee proposal that exceeds the threshold where an alternative technology is less expensive**

As described in section 2.4.9 above, following the conclusion of the final round of the subgrant process, including direct negotiation, there is a possibility that some number of unserved locations either will have not received applications or will have only received applications that could not be granted due to overlap with a higher scoring application (and the overlap could not be resolved through the de-confliction process described in Section 2.4.6.). In this situation, the EHCT mechanism would be triggered. OBC would evaluate all provisional awards to fiber applications in areas surrounding those that remained unserved following the subgrant process in order to determine whether there are alternative non-fiber technologies that, if chosen instead of the fiber application that was initially provisionally awarded, could effectively expand the reach of reliable service to a significantly larger number of unserved locations. In instances where such an alternative technology demonstrates the potential to connect more unserved locations with reliable service, the value of the cost per location associated with the initially awarded fiber application, which failed to provide coverage to the unserved locations in question, will be used as a benchmark to calculate the EHCT (the actual EHCT would be set at \$1 less than the fiber applicant's cost per location). After the establishment of the EHCT value, the fiber application that was initially provisionally awarded will be "replaced" with the less expensive, alternative technology application that provides wider coverage.

### **b. The plan for engaging subgrantees to revise their proposals and ensure locations do not require a subsidy that exceeds the threshold.**

After establishing an EHCT -following the process described above- all the provisionally awarded fiber applications with a per-location cost higher than the EHCT will be labeled "at risk" of being replaced with a lower cost, larger coverage alternative technology application.

In a scenario where BEAD funding is exhausted prior to reaching 100% of unserved locations, OBC will reassess the subsidy amounts provisionally awarded to all "at risk" applications. Providers will be given the option of lowering their subsidy request, of expanding their coverage, and of substituting alternate lower cost technologies for certain

locations. If this is not enough to bring their cost below the EHCT, OBC will evaluate lower cost, alternative technology applications for award substitution.

In a scenario where BEAD funding is not exhausted, “at risk” provisionally awarded subgrantees covering PABBs nearby unserved locations that did not receive an application will also be given the option of lowering their subsidy request and -, most importantly- expanding their coverage. If providers are willing to expand their service area to cover all unserved locations in question for a reasonable cost, OBC will continue to preference the fiber option. However, if the fiber applicant does not expand its coverage, OBC will evaluate lower cost, alternative technology applications for award substitution.

As described in Section 2.4.9, OBC expects its allocation to be sufficient to cover all un and underserved locations. Given this context, OBC hopes to limit the use of the EHCT to situations that have the explicit potential of broadening coverage.

**c. The process for selecting a proposal that involves a less costly technology and may not meet the definition of Reliable Broadband**

Following BEAD NOFO guidelines, OBC’s allocation of priorities when evaluating applications for different technology types is clear. Fiber proposals will take precedence, reflecting a commitment to the expansion of robust, high-speed broadband infrastructure. Following this, reliable projects, considered. Lastly, projects classified as non-reliable, such as unlicensed fixed wireless solutions, will consistently hold the lowest priority.

Non-Reliable applications (such as for unlicensed fixed wireless) could serve as a valuable “last resort” solution in certain areas where no alternative technology can ensure coverage of all eligible locations. This means that if fiber applications above the EHCT cannot be “replaced” with a lower cost Reliable proposal because no such applications were received, OBC will evaluate the option of filling the gap with a non-Reliable proposal. It is important to highlight that in order to be eligible for participation, all applicants, regardless of their proposed technology, must meet the program technical requirements.

**2.4.11. Text Box: Describe how the Eligible Entity will ensure prospective subgrantees deploying network facilities meet the minimum qualifications for financial capability, as outlined on pages 72–73 of the BEAD NOFO. If the Eligible Entity opts to provide application materials related to the BEAD subgrantee selection process, the Eligible Entity may reference those to outline alignment with requirements for this section. The response must:**

- a. **Detail how the Eligible Entity will require prospective subgrantees to certify that they are qualified to meet the obligations associated with a Project, that prospective subgrantees will have available funds for all project costs that exceed the amount of the grant, and that prospective subgrantees will comply with all Program requirements, including service milestones. To the extent the Eligible Entity disburses funding to subgrantees only upon completion of the associated tasks, the Eligible Entity will require each prospective subgrantee to certify that it has and will continue to have sufficient financial resources to cover its eligible costs for the Project until such time as the Eligible Entity authorizes additional disbursements.**

OBC is committed to ensuring that prospective subgrantees meet the minimum qualifications for financial capability outlined by NTIA. To certify financial qualifications and availability of funds for all project costs that exceed the amount of the grant, prospective subgrantees are required to submit evidence of financial resources to cover 6 months of project activity, until OBC authorizes additional disbursements. Examples include the following:

- Cash flow statement for the current year
- Pro forma financial forecast for a five-year period
- Five-year annual earnings before income and tax (EBIT) projection)

Evidence submitted in sections B and C below will also be considered.

Prospective subgrantees will also be required to check a box certifying they will comply with all program requirements.

- b. **Detail how the Eligible Entity plans to establish a model letter of credit substantially similar to the model letter of credit established by the FCC in connection with the Rural Digital Opportunity Fund (RDOF).**

OBC plans to fully avail itself of all options provided by the recent Limited Waiver. However, the Letter of Credit remains an option for applicants to meet the Model Letter requirement.

OBC had planned to request prospective subgrantees to provide a standby letter of credit from an accredited financial institution for no less than 25% of the subsidy amount for which they intend to bid (with the ability to revise the amount when payments are made, or milestones completed).

- c. **Detail how the Eligible Entity will require prospective subgrantees to submit audited financial statements.**

All potential subgrantees will be required to provide financial statements from the previous two fiscal years. These financial statements must show evidence of having been audited by an independent certified public accountant. Audits must comply with the following requirements:

- Federal Office of Management and Budget (OBM) docs (2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Super Circular))

- New Jersey Department of the Treasury, Office of Management and Budget docs, including:
  - Circular Letter 15-08-OMB, Single Audit Policy for Recipients of Federal Grants, State Grants and State Aid:  
[https://www.nj.gov/infobank/circular/cir1508\\_omb.pdf](https://www.nj.gov/infobank/circular/cir1508_omb.pdf)
  - State Grant Compliance Supplement:  
<https://www.state.nj.us/treasury/omb/stategrant.shtml>

Prospective subgrantees will also be required to submit evidence of a financial management system that can provide for financial reporting, accounting records, internal control, budget control, allowable cost, source documentation, and cash management.

**d. Detail how the Eligible Entity will require prospective subgrantees to submit business plans and related analyses that substantiate the sustainability of the proposed project.**

In the regular application, prospective subgrantees must submit business plans and analyses which may include the following:

1. Proposed project expenditures.
2. Letters of acknowledgment from local governments, including certification of expedited permitting processes, OR evidence of the prospective subgrantee's request for such letters within a reasonable timeframe for local government review.
3. General and low-cost option public awareness campaigns (that demonstrate a commitment to described prices and reducing administrative burden experienced by prospective subgrantees).
  - a. Specifically, OBC will require general and low-cost public awareness campaigns to fulfill the requirements on pages 68-69 of the BEAD NOFO, which include the following:
    - Highlight the value and benefits of broadband service to increase adoption by consumers
    - Reflect any unique needs of a given area of service (ex: language barriers)
    - Include a public notice once BEAD-funded networks are deployed (and submit the notice to OBC as well)
4. Customer service plans to ensure timely installation and repair of qualified broadband service.
5. Network redundancy efforts.

**2.4.11.1. Optional Attachment: As an optional attachment, submit application materials related to the BEAD subgrantee selection process, such as drafts of the Requests for Proposals for deployment**



projects, and narrative to crosswalk against requirements in the Deployment Subgrantee Qualifications section.

**2.4.12. Text Box: Describe how the Eligible Entity will ensure any prospective subgrantee deploying network facilities meets the minimum qualifications for managerial capability as outlined on pages 73–74 of the BEAD NOFO.2 If the Eligible Entity opts to provide application materials related to the BEAD subgrantee selection process, the Eligible Entity may reference those to outline alignment with requirements for this section.**

The prequalification application will solicit the information described below in items A and B from prospective subgrantees to ensure they have sufficient managerial capabilities to successfully deploy broadband infrastructure, as per BEAD requirements.

**a. Detail how the Eligible Entity will require prospective subgrantees to submit resumes for key management personnel.**

To apply for BEAD funding through OBC, prospective subgrantees must provide resumes for all key management personnel in functions related to planning, deployment, and ongoing sustainability and adoption of BEAD-funded infrastructure. Functions may include, but are not limited to, the following:

- Procurement
- Marketing
- Construction
- Engineering
- Network operations
- Customer service
- Finance management

Resumes should include the following:

- A list of the individual's current and prior employers
- Roles at various employers
- Dates in roles
- Brief description of key responsibilities

**b. Detail how the Eligible Entity will require prospective subgrantees to provide a narrative describing their readiness to manage their proposed project and ongoing services provided.**

Additionally, prospective subgrantees will be required to submit the following information related to their managerial capabilities:

- Project organizational chart(s) and corporate relationships detailing all parents, subsidiaries, and affiliates
- A narrative describing the prospective subgrantee's readiness to manage a broadband services network. This narrative should include the following at a minimum:
  - Experience and qualifications of key management set to undertake this project
  - Experience of key management in undertaking projects of similar size and scope
  - Recent and upcoming organizational changes including mergers and acquisitions
  - Relevant organizational policies
  - Summary of experience of line staff and middle management
- If key staff have overseen broadband deployment previously, but the prospective subgrantee organization has not, a narrative describing the organization's capacity will be required as well

An existing formalized agreement between the subgrantee organization and its provider partner (or established third entity) must also be shared as part of the pre-qualification application, when applicable.

**2.4.13. Text Box: Describe how the Eligible Entity will ensure that any prospective subgrantee deploying network facilities meets the minimum qualifications for technical capabilities, as outlined on page 74 of the BEAD NOFO. If the Eligible Entity opts to provide application materials related to the BEAD subgrantee selection process, the Eligible Entity may reference those to outline alignment with requirements for this section.**

- a. **Detail how the Eligible Entity will require prospective subgrantees to certify that they are technically qualified to complete and operate the project and that they are capable of carrying out the funded activities in a competent manner, including that they will use an appropriately skilled and credentialed workforce.**

Prospective subgrantees must provide the following information to certify their technical expertise in executing and overseeing deployment projects, as well as their ability to proficiently conduct the funded activities:

1. Compliance with all workforce requirements as specific in the BEAD NOFO specifying skilled and credentialed workforce.
2. Demonstration of experience designing and delivering similar projects of size, complexity, and timeline. Unlike Section 2.4.12B above, which is focused on demonstrating managerial experience, this requirement is focused on evidence of

technical experience, such as examples of past projects completed and their impact and outcomes.

3. Compliance with Section 2.8.2 of this Initial Proposal, which specifies specific actions for prospective sub-grantees to ensure a skilled and credentialed workforce for broadband deployment.

**b. Detail how the Eligible Entity will require prospective subgrantees to submit a network design, diagram, project costs, build-out timeline, and milestones for project implementation, and a capital investment schedule evidencing complete build-out and initiation of service within four years of the date on which the entity receives the subgrant –all certified by a professional engineer, stating that the proposed network can deliver broadband service that meets the requisite performance requirements to all locations served by the project.**

Prospective subgrantees must demonstrate their capacity to execute the funded activities competently, with suitable technical designs and expertise. The documentation to be provided by prospective subgrantees, includes but is not confined to, the following:

- A comprehensive project plan that explicitly outlines the various stages of the capital investment schedule, encompassing planning, design, implementation, and operation. The project plan should include details such as network design, diagrams, projected costs, four-year timelines, and evidence of completion of build-out and initiation of service within four years of the date of subgrant award in line with BEAD NOFO. Project plans should specifically include the following additional elements:
  - Timelines must account for necessary federal, state, and local permitting to take place.
  - Network designs and diagrams must include plans to bury fiber for counties identified as having the greatest climate risk (see Section 2.11.1d for a list of high-risk counties). For high-risk coastal counties, plans must also include details on hardening infrastructure via placing electronics in hardened waterproof vaults to protect against coastal flooding. Prospective subgrantees are encouraged to utilize buried fiber and hardened infrastructure in additional counties and this will be evaluated through scoring criteria (see Section 2.4.2 for additional details).
- Project expenditures should include the following:
  - Direct costs, such as equipment, materials, labor, construction wages, and permitting review.
  - Indirect costs, such as repair and maintenance expenses for equipment and facilities, utilities, rent of equipment and facilities, administrative costs, indirect materials and supplies, insurance on equipment and machinery, indirect labor and contract supervisory wages, and production period interest expense.

- A certification by a professional engineer affirming that the proposed network has the ability to deliver broadband service meeting the prescribed performance criteria to all the locations covered by the project.

**2.4.14. Text Box: Describe how the Eligible Entity will ensure any prospective subgrantee deploying network facilities meets the minimum qualifications for compliance with applicable laws, as outlined on page 74 of the BEAD NOFO. If the Eligible Entity opts to provide application materials related to the BEAD subgrantee selection process, the Eligible Entity may reference those to outline alignment with requirements for this section.**

- a. Detail how the Eligible Entity will require prospective subgrantees to demonstrate that they are capable of carrying out funded activities in a competent manner in compliance with all applicable federal, state, territorial, and local laws.**

As part of the pre-qualification application, prospective subgrantees will be required to provide three items:

- Information about broadband deployment project compliance with federal, state, and local laws in the last 5 years
  - This includes compliance with legal clauses outlined in New Jersey's Board of Public Utility's grant including state affirmative action legal citations: requirements of N.J.A.C. 17:27, applicable provisions of N.J.S.A 10:14, et al., and P.L. 1975, c.127 and all implementing regulations.
- Certification from the Director or equivalent evidencing consistent past compliance
- Written confirmation disclosing violations of labor and employment laws in the last 3 years

Prospective subgrantees will also be required to check a box certifying adherence to all relevant federal, state, and local laws. Should an applicant be selected, the subgrantee contract will also commit awardees to follow applicable laws.

- b. Detail how the Eligible Entity will require prospective subgrantees to permit workers to create worker-led health and safety committees that management will meet with upon reasonable request.**

All prospective subgrantees will be required to outline the following as part of their pre-qualification applicants:

- Prospective subgrantees must provide a description of public notice provided to employees to form worker-led health and safety committees, as

well as detailed descriptions of any existing committees, terms and conditions, and time provided for committees to meet.

- Prospective subgrantees must document the reasonable time provided during working hours for the worker-led health and safety committees to meet independently of key management personnel in the workplace.
- Key management personnel must respond to a reasonable request to meet with the worker-led health and safety committees within 10 business days of the request.
- Prospective subgrantees must check a box certifying no retaliation is permitted to the worker-led health and safety committee or its members.

The following are additional requirements for specific cases:

- Prospective sub-grantees lacking worker-led health and safety committees will be required to provide a notice to employees outlining their rights to create such committees and the obligations described above. Pre-qualification applications will request an attachment of the notice as evidence.
- Prospective subgrantees with existing worker-led health and safety programs must describe programs and document past meetings with key management personnel.
- Prospective subgrantees with union contracts must disclose terms and conditions in the contract applying to worker-led health and safety committees.

**2.4.15. Text Box: Describe how the Eligible Entity will ensure that any prospective subgrantee deploying network facilities meets the minimum qualifications for operational capabilities, as outlined on pages 74–75 of the BEAD NOFO. If the Eligible Entity opts to provide application materials related to the BEAD subgrantee selection process, the Eligible Entity may reference those to outline alignment with requirements for this section.**

Different types of prospective subgrantees must comply with different portions of the requirements described below:

- Current broadband providers must respond to A, B, and C
- Electric co-ops must respond to D
- New broadband providers must respond to E

**a. Detail how the Eligible Entity will require prospective subgrantees to certify that they possess the operational capabilities to qualify to complete and operate the project.**

The prequalification application will require current broadband providers to provide the following operational details:

1. The number of years that the prospective subgrantees (or partners) have been providing internet service
2. The current number of subscribers, including households, businesses, and CAIs in New Jersey and nationally
3. A record of federally, state, or locally-funded deployment projects, along with their funding sources and sizes and completion or non-completion timelines
4. Any penalties incurred by the prospective applicant, its subsidiaries, affiliates, or holding companies related to deployment projects
5. The number of instances where the prospective applicant has been involved as a defendant in federal or state criminal proceedings or civil litigation
6. Whether the prospective subgrantee has ever defaulted or was otherwise unable to complete a federal or state obligation to deploy broadband infrastructure as originally envisioned and if so, to provide a summary

**b. Detail how the Eligible Entity will require prospective subgrantees to submit a certification that they have provided a voice, broadband, and/or electric transmission or distribution service for at least two consecutive years prior to the date of their application submission or that they are a wholly owned subsidiary of such an entity, and attest to and specify the number of years that the prospective subgrantee or its parent company has been operating.**

If a prospective subgrantee has offered voice, broadband, and/or electric transmission or distribution services for a continuous period of at least two years before the date of application submission, or if it is a wholly-owned subsidiary of such an entity, a certification must be submitted. Certifications should:

- Confirm these facts and specify the number of years that the prospective subgrantee has been in operation
- Confirm these facts and specify the number of years that the parent company has been in operation
- Be signed by an officer of the prospective subgrantee

**c. Detail how the Eligible Entity will require prospective subgrantees that have provided a voice and/or broadband service to certify that they have filed FCC Form 477s and a Broadband Deployment Accuracy and Technological Availability Act submission, if applicable, as required during this time period, and otherwise have complied with the FCC's rules and regulations.**

The prequalification application will require prospective subgrantees to provide the following operational details:

- If the prospective subgrantee has offered voice and/or broadband services, it must certify its timely submission of FCC Form 477s. Evidence

supporting certification may include bi-annual Submission Acknowledgements by the FCC of Form 477 filing.

- For wired, fixed wireless, and satellite providers, a Broadband Deployment Accuracy and Technological Availability Act submission is requested, as required during this period, in compliance with the FCC's rules and regulations.
- Alternatively, if there is a pending or completed enforcement action, civil litigation, or any other matter related to non-compliance or alleged non-compliance with page 75 of the BEAD NOFO, the prospective subgrantee should provide an explanation.

**d. Detail how the Eligible Entity will require prospective subgrantees that have operated only an electric transmission or distribution service to submit qualified operating or financial reports that they have filed with the relevant financial institution for the relevant time period, along with a certification that the submission is a true and accurate copy of the reports that were provided to the relevant financial institution.**

The prequalification application will require prospective subgrantees who have exclusively operated an electric transmission or distribution service to provide the following operational details:

- Qualified operating or financial reports from the previous two fiscal years that have been filed with financial regulators. Acceptable submissions include the following, as specified by the BEAD NOFO on page 75: Rural Utilities Service (RUS) Form 7, Financial and Operating Report Electric Distribution; the RUS Form 12, Financial and Operating Report Electric Power Supply; the National Rural Utilities Cooperative Finance Corporation (CFC) Form 7, Financial and Statistical Report; the CFC Form 12, Operating Report; or the CoBank Form 7; or the functional replacement of one of these reports. See Rural Digital Opportunity Fund Order, 35 FCC Rcd at 719, n. 202.
- Certification confirming the accuracy and authenticity of these submissions signed by an officer of the prospective subgrantee (President, CEO, etc).
- Proposed organizational structure separating the electric transmission or distribution service from its broadband operations to prevent any cross-subsidization of electric transmission or distribution operations by broadband operations.

Submissions must be signed by an officer of the prospective subgrantee.

- e. **In reference to new entrants to the broadband market, detail how the Eligible Entity will require prospective subgrantees to provide sufficient evidence to demonstrate that the newly formed entity has obtained, through internal or external resources, sufficient operational capabilities.**

If the prospective subgrantee is a new entrant to the broadband market, it is required to present sufficient evidence demonstrating that the newly established entity has acquired adequate operational capabilities, either through internal development or external resources. Prospective subgrantees should provide the following to support their claims:

- Discussion of hires of key personnel, including any succession planning in the event key staff leave
- Description of all contractors and subcontractors with relevant operational experience that are supporting the new entrant in establishing the project
- Narrative describing key risks and proposed evidence-based mitigation strategies

**2.4.16. Text Box: Describe how the Eligible Entity will ensure that any prospective subgrantee deploying network facilities meets the minimum qualifications for providing information on ownership, as outlined on page 75 of the BEAD NOFO. If the Eligible Entity opts to provide application materials related to the BEAD subgrantee selection process, the Eligible Entity may reference those to outline alignment with the requirements for this section.**

- a. **Detail how the Eligible Entity will require prospective subgrantees to provide ownership information consistent with the requirements set forth in the Code of Federal Regulations Title 47 § 1.2112(a)(1)–(7)**

The Code of Federal Regulations Title 47 § 1.2112(a)(1)–(7) includes seven requirements which prospective subgrantees must comply with:

1. List the real party or parties in interest in the applicant or application, including a complete disclosure of the identity and relationship of those persons or entities directly or indirectly owning or controlling (or both) the applicant.
2. List the name, address, and citizenship of any party holding 10 percent or more of stock in the applicant, whether voting or nonvoting, common or preferred, including the specific amount of the interest or percentage held.
3. List, in the case of a limited partnership, the name, address, and citizenship of each limited partner whose interest in the applicant is 10 percent or greater (as calculated according to the percentage of equity paid in or the percentage of distribution of profits and losses).
4. List, in the case of a general partnership, the name, address, and citizenship of each partner, and the share or interest participation in the partnership.



5. List, in the case of a limited liability company, the name, address, and citizenship of each of its members whose interest in the applicant is 10 percent or greater.
6. List all parties holding indirect ownership interests in the applicant as determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain, that equals 10 percent or more of the applicant, except that if the ownership percentage for an interest in any link in the chain exceeds 50 percent or represents actual control, it shall be treated and reported as if it were a 100 percent interest.
7. List any FCC-regulated entity or applicant for an FCC license, in which the applicant or any of the parties identified in paragraphs (a)(1) through (a)(5) of this section, owns 10 percent or more of stock, whether voting or nonvoting, common or preferred. This list must include a description of each such entity's principal business and a description of each such entity's relationship to the applicant (e.g., Company A owns 10 percent of Company B (the applicant) and 10 percent of Company C, then Companies A and C must be listed on Company B's application, where C is an FCC licensee and/or license applicant).

OBC's application will require prospective subgrantees to provide information responsive to each of these items. If prospective subgrantees include this information in audited financial statements or other public record services, that will be sufficient to meet the requirement and is the recommended option by OBC. Otherwise, OBC will validate disclosures of ownership through various sources of information including SEC filings, FCC filings, State Corporate Registrations, and other regulatory bodies.

**2.4.17. Text Box: Describe how the Eligible Entity will ensure that any prospective subgrantee deploying network facilities meets the minimum qualifications for providing information on other public funding, as outlined on pages 75–76 of the BEAD NOFO. If the Eligible Entity opts to provide application materials related to the BEAD subgrantee selection process, the Eligible Entity may reference those to outline alignment with the requirements for this section.**

- a. **Detail how the Eligible Entity will require prospective subgrantees to disclose any application that they or their affiliates have submitted or plan to submit, and every broadband deployment project that they or their affiliates are undertaking or have committed to undertake using public funds at the time of the application.**

OBC's prequalification application will require prospective subgrantees to provide details about every broadband deployment project the prospective subgrantee or its affiliates are currently undertaking, or have committed to undertake that uses or will use public funds. These public funds include, but are not limited to, funds provided under:

- Families First Coronavirus Response Act (Public Law 116-127; 134 Stat. 178)
- Coronavirus Aid, Relief, and Economic Security (CARES) Act (Public Law 116-136; 134 Stat. 281)
- Consolidated Appropriations Act, 2021 (Public Law 116-260; 134 Stat. 1182)
- American Rescue Plan, 2021 (Public Law 117-2; 135 Stat. 4)
- Federal Universal Service high-cost program (including the Rural Digital Opportunity Fund, Connect America Fund, and Enhanced Alternative Connect America Cost Model)
- Any state or local universal service or broadband deployment funding program

OBC will require that the prospective subgrantee disclose if any details about any projects materially change, including whether new projects are undertaken, after the submission of an application. Prospective subgrantees must submit these disclosures within 5 business days of the change/adjustment.

- b. At a minimum, the Eligible Entity shall require the disclosure, for each broadband deployment project, of (a) the speed and latency of the broadband service to be provided (as measured and/or reported under the applicable rules), (b) the geographic area to be covered, (c) the number of unserved and underserved locations committed to being served (or, if the commitment is to serve a percentage of locations within the specified geographic area, the relevant percentage), (d) the amount of public funding to be used, (e) the cost of service to the consumer, and (f) the matching commitment, if any, provided by the subgrantee or its affiliates.**

Every prospective subgrantee will be required to share the following information for each broadband deployment project it is undertaking or committed to undertaking using other public funds at the time of application:

- The speed and latency of the broadband service to be provided, as measured and/or reported under the applicable rules.
- The geographic area intended to be covered by the project (BSLs).
- The number of unserved and underserved locations committed to being served.
- The subsidy request allocated for the project.
- The cost of service to the consumer (including marketed plans and prices for each speed offered; one-time and recurring fees and taxes; and a broadband consumer label submitted to FCC (guidance established here: <https://www.fcc.gov/broadbandlabels>).
- Any matching commitment, if applicable, provided by the prospective subgrantee or its affiliates, along with details on the commitment, source of funding, and type of funding (e.g., cash or in-kind).

## 2.5 Non-Deployment Subgrantee Selection (Requirement 9)

**2.5.1 Describe a fair, open, and competitive subgrantee selection process for eligible non-deployment activities. Responses must include the objective means, or process by which objective means will be developed, for selecting subgrantees for eligible non-deployment activities. If the Eligible Entity does not intend to subgrant for non-deployment activities, indicate such.**

OBC is committed to implementing a fair, open, and competitive process to select non-deployment subgrantees. To do this, OBC will incorporate the following elements:

- **Public Notice and Opening of Subgrantee Selection:** OBC will conduct outreach through various channels (e.g., OBC website, press releases, webinars, emails to its existing stakeholder list and those of other relevant departments) to raise awareness about the grant program(s). To ensure an open and transparent process, announcements will include clear instructions on evaluation criteria, eligibility, and program objectives. At a pre-determined date and time, OBC will begin accepting project applications.
- **Initial Review:** OBC will conduct an initial review of all applications to determine whether prospective subgrantees meet a set of minimum requirements, including qualifications for operational and managerial capabilities.
- **Evaluation and Selection:** OBC will design a fair evaluation process that is free from bias, conflicts of interest, and arbitrary decisions.
  - **Evaluation Criteria:** To ensure that the selection process is competitive, OBC will select winning applications based on a pre-defined set of neutral criteria, including a scoring rubric.
  - **Review Panel:** OBC will convene a panel of reviewers to select winning project applications. Reviewers will have sufficient expertise and training to provide an objective score or ranking. They will also be required to disclose any potential conflicts of interest that could induce biased project evaluations. Additionally, OBC will enforce strict confidentiality during the review process to reduce the risk of collusion.

OBC will implement a subgrantee selection process that embodies the principles of fairness, openness, and competition. Safeguards against collusion, bias, conflicts of interest, and arbitrary decisions during the evaluation phase will ensure that the selection process is completely fair. Timely public notice of this funding opportunity will help OBC foster a diverse and inclusive applicant pool. Finally, selection based on a clear set of neutral evaluation criteria will guarantee the competitiveness of these procedures.

## 2.5.2 Describe the Eligible Entity’s plan for the following:

- c. How the Eligible Entity will employ preferences in selecting the type of non-deployment initiatives it intends to support using BEAD Program funds;

If sufficient funds are available, OBC will prioritize available non-deployment funding according to the following framework:

### Goals

OBC will use non-deployment funds for programs or projects that further one or more of the goals outlined below, which included both priorities in the state’s draft Digital Equity Plan (DEP) and state priorities:

- Improving **broadband adoption** (e.g., % of households with speeds greater than 100/20 Mbps);
- Improving **device adoption** (e.g., % of households with computing device other than a smartphone);
- Improving **introductory digital literacy/skills** (e.g., workforce programs);
- Improving **advanced digital skills** (e.g., computer science training and educational trainings in artificial intelligence and machine learning);
- Improving **digital infrastructure/experience** (e.g., accessibility of state services).

### Projects

Second, OBC will also use non-deployment funds for projects that have one or more sources of alignment to the draft DEP:

- **Needs/barriers:** The proposed program or project addresses a barrier outlined in section 3.2 of the draft DEP, agnostic of population (e.g., the program demonstrably helps bridge gaps for broadband subscriptions)
- **Population served:** The program or project disproportionately serves at least one of the eight Covered Populations enumerated in the draft DEP. Programs and projects may also be eligible if they disproportionately serve:
  - Households that are below the asset-limited, income-constrained, employed “ALICE” income threshold by county. The draft DEP covers households with incomes below 150% of the federal poverty level; just 16.6% of the state’s households fall in this category.<sup>3</sup> ALICE expands the definition of poverty, accounting for cost of living on a county-by-county level. 37% of New Jersey households qualify as ALICE households.<sup>4</sup> Expanding income eligibility beyond the draft DEP standard could help the state more effectively reach households that may be cost-burdened by broadband.

- Geographic areas that did not receive BEAD or other broadband-related infrastructure funds. BEAD is likely to prioritize suburban and rural areas of the state, creating an opportunity to ensure funding distributions reach urban New Jerseyans as well.
- **Activities:** The proposed program conducts an activity listed in Section 5.2 of the draft DEP (e.g., ACP outreach and enrollment).

## Subgrantee Requirements

Third, OBC would require all subgrantees receiving non-deployment funds to meet the following evaluation criteria:

- **Programmatic capacity:** The subgrantee has the requisite programmatic capacity and experience to implement the proposed program. For example:
  - The subgrantee has served the target population;
  - The subgrantee has operated similar programs or plans in the past; or
  - The subgrantee has served the geography.
- **Administrative capacity:** The subgrantee has the requisite administrative capacity and experience to implement the proposed program. For example:
  - The subgrantee has experience deploying grants/awards of similar sizes in the past;
  - The subgrantee has experience managing federal awards; or
  - The subgrantee has demonstrated capacity to comply with federal subgrantee reporting requirements.

**Feasibility:** The subgrantee provides clear feasibility of program implementation (e.g., a clear roadmap to deploy funds, a reasonable budget).

**Impact:** The subgrantee provides a clear description of the program's impact and, if not an estimate of its impact, a proposed method to measure impact.

- d. How the non-deployment initiatives will address the needs of residents within the jurisdiction;

New Jersey is committed to meeting the needs of its residents across key aspects of digital equity, including high-speed broadband adoption, device access, basic and advanced digital skills, and digital experience in using online government services. OBC's non-deployment grant initiatives will respond to these needs.

For example, as described in New Jersey's [draft Digital Equity Plan](#):

- Broadband access data shows that nearly 1 in 5 New Jersey households lack a broadband subscription. Low-income households (-19.3 percentage points), English language learners (-18.4 percentage points), and individuals with disabilities (-14.7 percentage points) report the highest gaps in broadband subscriptions to the state average.

- Nearly 1 in 10 New Jersey households lack internet access, with low-income households (-12.3 percentage points), individuals with disabilities (-11.8 percentage points), and English language learners (-9.8 percentage points) reporting the highest gaps out of all Covered Populations.
- Nearly 1 in 10 New Jerseyans lack device access outside of a smartphone, with English language learners (-19.8 percentage points), low-income households (-17.8 percentage points), and individuals with disabilities (-7.9 percentage points) reporting the highest gaps.
- Among racial and ethnic minorities, American Indian/Alaskan Natives and Black/African Americans report the highest gaps across all three metrics.

New Jersey's non-deployment priorities aim to address the gaps above by building upon priorities outlined in the state's draft Digital Equity Plan.

In addition to the type of connectivity gap, New Jersey's digital equity priorities can also be categorized across six broad topical themes:

- Adult/continuing education (e.g., job training, digital literacy)
- K-12 education (e.g., digital skills education)
- Healthcare (e.g., telehealth applications)
- Public safety (e.g., digital safety, cybersecurity)
- Business/workforce development (e.g., employment services, Main Street Attraction)
- Government functions (e.g., accessing services, civic engagement)

Refer to Section 3.2 of the draft Digital Equity Plan for a more detailed overview of the Needs Assessment for New Jersey. For a complete discussion on goals, strategies, outcome metrics, and activities, please refer to Section 2.3 and Section 5.2.

- e. The ways in which engagement with localities and stakeholders will inform the selection of eligible non-deployment activities;

To date, OBC has conducted significant stakeholder engagement around the draft Digital Equity Plan, which is informing OBC's plan for nondeployment activities:

- The state has conducted 120+ listening sessions and engaged 600+ participants over 10 months of engagement to solicit feedback on key needs, resources, and goals across several New Jersey communities. These engagements included participants from all eight Covered Populations.
- OBC hosts regular sessions with its digital equity working group, consisting of key public, private, and non-governmental stakeholders operating in the state.
- The state has identified four active digital equity plans among municipalities, including Newark, Jersey City, Atlantic City, and Plainfield, and is continuing to collaborate with municipalities on local plans.

As a result of these interactions, the state has assembled an asset inventory of 40+ programs and tools that will assist in the creation of inclusive, locally oriented non-deployment activities. These assets span several categories and can overlap between them:

- ACP enrollment and outreach programs;
- Upskilling, education, and certification;
- Device assistance and technology support;
- Resource and advocacy groups;
- Free or low-cost public broadband access;
- Research and analysis;
- End-user adoption tools and resources; and
- Organizations and working groups.

Refer to Section 3.1 of the draft Digital Equity Plan for a complete inventory of assets.

The State of New Jersey's stakeholder engagement efforts have informed nearly every component of the state's draft Digital Equity Plan. In considering appropriate uses of additional BEAD funds towards non-deployment purposes, the state will continue to leverage knowledge gained from engagement efforts in prioritizing allocation.

Going forward, OBC will continue to engage relevant stakeholders to refine its plan for potential uses of non-deployment funds and when engaging potential subgrantees. It will do so by (but not limited to):

- Fielding public comment feedback on the state's draft Digital Equity Plan;
- Hosting webinars and listening sessions;
- Reviewing emerging and best practices in the digital equity field.

- f.** How the Eligible Entity will determine whether other uses of the funds might be more effective in achieving the BEAD Program's equity, access, and deployment goals.

Not applicable; OBC plans to adhere to the list of eligible non-deployment uses outlined in Figure 6 of the BEAD Initial Program Guidance and align its funded activities to the state's approved Digital Equity Plan.

## 2.6 Implementation activities (Requirement 10)

### 2.6.1 Describe any initiatives the Eligible Entity proposes to implement as the recipient without making a subgrant, and why it proposes that approach.

To ensure the successful implementation of the BEAD program, OBC proposes an eligible use of funds for programmatic costs to support the challenge and subgrantee selection processes. Specifically, OBC proposes leveraging funds for 1) technical support, and 2) personnel support.

OBC will need to develop the technical infrastructure to run the challenge and subgrantee selection processes, and to adjudicate challenges and evaluate all potential subgrantee applications. In alignment with NTIA guidelines, these non-grant initiatives will include the following activities:

- **Technical support:** OBC will need to build and/or acquire the tool(s) to manage the:
  - Challenge Portal NTIA describes in the Initial Proposal guidance
  - Subgrantee Selection Process
- **Personnel support:** OBC will need to hire and/or subcontract for resources to support the implementation of the:
  - Challenge Process, including review and evaluations of challenges and rebuttals and adjudication by technical experts.
  - Subgrantee Selection Process, including technical assistance, review and evaluation of applications, and negotiations with potential subgrantees.



## 2.7 Labor Standards and Protections (Requirement 11)

**2.7.1 Describe the specific information that prospective subgrantees will be required to provide in their applications and how the Eligible Entity will weigh that information in its competitive subgrantee selection processes. Information from prospective subgrantees must demonstrate the following and must include information about contractors and subcontractors:**

- a. Prospective subgrantees' record of past compliance with federal labor and employment laws, which:
  - i. Must address information on these entities' compliance with federal labor and employment laws on broadband deployment projects in the last three years;
  - ii. Should include a certification from an Officer/Director-level employee (or equivalent) of the prospective subgrantee evidencing consistent past compliance with federal labor and employment laws by the subgrantee, as well as all contractors and subcontractors; and
  - iii. Should include written confirmation that the prospective subgrantee discloses any instances in which it or its contractors or subcontractors have been found to have violated laws such as the Occupational Safety and Health Act, the Fair Labor Standards Act, or any other applicable labor and employment laws for the preceding three years.

New Jersey is committed to ensuring that all workers are treated fairly and with respect in the workplace. OBC will ensure that BEAD investments support jobs that comply with federal labor and employment laws, including protecting workers from discrimination, harassment, and unsafe working conditions. New Jersey will require prospective applicants to provide information on past records and future commitments to comply with federal labor and employment laws for themselves and for all contractors and subcontractors.

Prospective subgrantees will be required to provide the following information to demonstrate a history of compliance with federal labor and employment laws, including for contractors and subcontractors, as part of the BEAD application process:

- Summary of federal labor and employment law compliance for broadband deployment projects over the last three years, including past use of subcontractors, staffing plans, and past performance for all subcontractors.
- Certifications from a Director-level employee (or equivalent) of the prospective subgrantee and each contractor or subcontractor evidencing

consistent past compliance with federal labor and employment laws by the subgrantee, contractors, and subcontractors.

- Written confirmation disclosing any instances in which the prospective subgrantee or its contractors or subcontractors have been found to have violated laws such as the Occupational Safety and Health Act, the Fair Labor Standards Act, the New Jersey Law Against Discrimination, or any other applicable labor and employment laws for the preceding three years.
- New broadband service providers without compliance records will be permitted to submit forward-looking commitments to strong labor and employment standards and protections with respect to any BEAD-funded projects. See Section B below for further details on required forward-looking commitments.

**b. Prospective subgrantees' plans for ensuring compliance with federal labor and employment laws, which must address the following:**

- i.** How the prospective subgrantee will ensure compliance in its own labor and employment practices, as well as that of its contractors and subcontractors, including:
  1. Information on applicable wage scales and wage and overtime payment practices for each class of employees expected to be involved directly in the physical construction of the broadband network; and
  2. How the subgrantee will ensure the implementation of workplace safety committees that are authorized to raise health and safety concerns in connection with the delivery of deployment projects.

Prospective subgrantees, as well as their contractors and subcontractors, will be required to provide information about how they will each continue to comply with federal labor and employment laws and practices through the end of their grant obligations. Prospective subgrantees will be required to provide the following:

- Narrative describing policies and standard operating procedures (SOPs) to ensure compliance with state and federal labor protection laws and regulations.
- Narrative describing applicable wage scales and wage and overtime payment practices for each class of employees expected to be involved directly in the physical construction of the broadband network, as described by New Jersey's prevailing wage laws, as applicable.
- Narrative describing how the subgrantee will ensure the implementation of workplace safety committees that are authorized to raise health and safety concerns in connection with the delivery of deployment projects.

**Labor practices in competitive subgrantee selection:**

See Section 2.4 for a description of how labor standards and protections are reflected in applicant scoring.

## 2.7.2 Describe in detail whether the Eligible Entity will make mandatory for all subgrantees (including contractors and subcontractors) any of the labor standards and protections and, if required, how it will incorporate them into binding legal commitments in the subgrants:

- a. Using a directly employed workforce, as opposed to a subcontracted workforce;
- b. Paying prevailing wages and benefits to workers, including compliance with Davis-Bacon and Service Contract Act requirements, where applicable, and collecting the required certified payrolls;
- c. Using project labor agreements (i.e., pre-hire collective bargaining agreements between unions and contractors that govern terms and conditions of employment for all workers on a construction project);
- d. Use of local hire provisions;
- e. Commitments to union neutrality;
- f. Use of labor peace agreements;
- g. Use of an appropriately skilled workforce (e.g., through Registered Apprenticeships or other joint labor-management training programs that serve all workers, particularly those underrepresented or historically excluded);
- h. Use of an appropriately credentialed workforce (i.e., satisfying requirements for appropriate and relevant pre-existing occupational training, certification, and licensure); and
- i. Taking steps to prevent the misclassification of workers.

OBC is committed to ensuring that deployment subgrantees, contractors, and subcontractors support strong labor standards and protections. New Jersey will apply all applicable labor standards and protection laws in all subgrants,

Additionally, OBC will require the following standards and protections based on both New Jersey law and OBC priorities:

**Paying prevailing wages and benefits to workers, as applicable:** The New Jersey Prevailing Wage Act (N.J.S.A. 34:11-56.72(b) et seq.) establishes a prevailing wage level for workers engaged in public works in order to safeguard the worker's efficiency and general well-being and to protect them as well as their employers from the effects of serious and unfair competition resulting from wage levels that are detrimental to the efficiency and well-being of all concerned. The Act requires the payment of minimum rates of pay to laborers, craftsmen, and apprentices employed on public works projects. Covered workers must receive the appropriate craft prevailing wage rate as determined by the Commissioner of Labor and Workforce Development. Subgrantees, as well as contractors and subcontractors, must comply with New Jersey's prevailing wage legislation. Further

details, including on submission of payroll certifications, can be found here: <https://www.nj.gov/labor/wageandhour/prevaling-rates/public-works/>.

The Board of Public Utilities' prevailing wage statute (NJSA 48:2-29.47) applies to "any construction undertaken in connection with Board of Public Utilities financial assistance," where financial assistance is defined to include "any . . . grant . . . administered or provided" by the Board.

**Supporting local hire provisions** New Jersey is committed to ensuring that BEAD is an opportunity to grow the State's economy at large. Consequently, OBC emphasizes the importance of a local workforce consisting of New Jersey residents for BEAD projects. Prospective subgrantees may be asked to specify what strategies they will employ to prioritize, and potentially meet a minimum threshold for hiring a local workforce, including transportation, childcare, and related support wraparound support to enable New Jersey workers from one part of the state to support projects in another part of the state when it is not possible to hire employees or contractors closer to where the construction is taking place. Nothing related to local hiring provisions will conflict with NJSA 40A:11-25, which focuses on project bidders and not individual employees.

**Commitment to union neutrality:** Subgrantees and their contractors or subcontractors must remain neutral in union organizing and operations. New Jersey construction jobs are among the most highly unionized. BEAD is an opportunity to build on New Jersey's strong tradition of unionization (as the 6th-ranking state for union density<sup>5</sup>) to create new, high-quality, broadband-related jobs in partnership with organized labor.

**Use of an appropriately skilled and credentialed workforce:** In addition to deploying broadband infrastructure, New Jersey is committed to using BEAD to support quality jobs and expanded opportunities for workers from underserved communities and vulnerable populations. OBC will build on existing New Jersey Department of Labor ("NJ DOL") workforce development initiatives and also work closely with New Jersey's Council of County Colleges (NJCC), New Jersey's Department of Education Career and Technical Education (CTE) program, and other existing state programs described in Section 2.8.1 below to support on-the-job training, pre-apprenticeship and apprenticeship opportunities.

Prospective subgrantees will be required to provide evidence of an existing internship, pre-apprenticeship, apprenticeship, or on-the-job training program or plans to create one, focusing on students and graduates of relevant programs within New Jersey's career and technical education programs, known as Career Clusters and Career Pathway programs. Particular attention will be paid to providing opportunities for those underrepresented or historically excluded. Graduates of skills-based training programs will also receive proper certification and licensure of their skillsets to further empower a skilled and credentialed workforce.

BEAD subgrantees, directly or through their subcontractors, must maintain an apprenticeship program.

**Taking steps to prevent the misclassification of workers:**

In addition to strong legislation to protect workers, Governor Murphy's Administration has more than doubled the number of Wage-Hour investigators at the New Jersey Department of Labor & Workforce Development (LWD), and most recently created an Office of Strategic Enforcement and Compliance to coordinate resources and enforcement authorities throughout LWD and across state government to protect workers and compliant employers from the threats of wage theft, employee misclassification, workers compensation fraud, and dozens of other worker protection statutes. OBC will request applicants to explain the steps they are taking to prevent the misclassification of workers in their application.

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## 2.8 Workforce Readiness (Requirement 12)

**2.8.1 Describe how the Eligible Entity and their subgrantees will advance equitable workforce development and job quality objectives to develop a skilled, diverse workforce. At a minimum, this response should clearly provide each of the following, as outlined on page 59 of the BEAD NOFO:**

Overall, New Jersey has long recognized the importance of developing a skilled and diverse workforce to drive economic growth and prosperity. The state has implemented a number of initiatives to support this goal, including investing in education and training programs, promoting apprenticeships and internships, and partnering with businesses to create job opportunities. These investments are particularly important given the current shortage of skilled workers in the broadband and telecommunications sector. OBC has made it a top priority to meet with workforce stakeholders, including through hosting a series of meetings with the Workforce Development Working Group, to better understand challenges in the broadband workforce.

- a. A description of how the Eligible Entity will ensure that subgrantees support the development and use of a highly skilled workforce capable of carrying out work in a manner that is safe and effective;

As described in Section 2.7.2, it is a high priority for New Jersey to champion apprenticeship programs and ensure strong workforce development efforts broadly and as it relates to BEAD. The State of New Jersey has strong existing trainings and apprenticeship programs to prepare workers, including for jobs in construction, telecommunications, and other related fields. OBC will work with key workforce development stakeholders (e.g., employers, labor unions, career and technical education, and community college leaders) to identify training/certification opportunities and employers who are committed to hiring graduates of these programs

New Jersey has significant workforce programs in place that can support BEAD including, but not limited to

- The New Jersey Office of Apprenticeship is a state office within the New Jersey Department of Labor that manages the state's pre-apprenticeship and apprenticeship programs, along with the Federal Apprenticeship Office of New Jersey. The New Jersey Office of Apprenticeship runs three key programs focused on apprenticeships, pre-apprenticeships, and on-the-job training that can be leveraged to create good-paying construction jobs in partnership with industry. The Office of Apprenticeship programs will be a cornerstone asset to implement the state broadband workforce strategy.

- The NJBUILD program provides \$4.5M in funding to bring on 352 apprentices through the NJBUILD Women and Minorities in Construction program, including occupations such as fiber tech, telecom, and construction.
- New Jersey's Council of County Colleges (NJCC) and Career and Technical Education (CTE) program, run through the State's Department of Education, both provide career pathways for students through pre-apprenticeship and apprenticeship programs.
- New Jersey's Laborers Union (LiUNA) facilitates various apprenticeship programs, including for trenching jobs that will be part of BEAD deployment.
- Women and Minority Veterans in Construction Trades program provides \$3M in funding to provide training or apprenticeship.
- Associated Builders and Contractors (ABC) New Jersey offers apprenticeships in 21 US-DOL-approved programs.
- Int. Brotherhood of Electrical Workers (IBEW) 164 has a registered telecom and system training program.
- Fiber optic broadband training with a lab opening in Newark with an ecosystem of training partners; apprenticeship recently acquired with the state.
- The New Jersey Apprenticeship Network provides funding and support for apprenticeship programs in a variety of industries. These programs offer on-the-job training and classroom instruction, helping workers develop the skills they need to succeed in high-demand fields.
- Growing Apprenticeship in Nontraditional Sectors (GAINS) and Pre-Apprenticeship in Career Education (PACE) are part of the over \$50M dollars in grant funding invested into the creation and development of apprenticeship and pre-apprenticeship programs - this includes utilities and infrastructure, and construction and building trades. In the past 4 years, NJ has increased the number of Registered Apprenticeship programs by 100% and has more than doubled the number of women in RA programs<sup>6</sup>
- Governor Murphy's Future of Work Task Force recommendations include expanding low-cost opportunities to access training and apprenticeships, including collaborating with employers<sup>7</sup>

In coordination with New Jersey's Department of Labor and Workforce Development, OBC will work to build on these existing apprenticeship programs to support the development of a highly skilled workforce.

- b. A description of how the Eligible Entity will develop and promote sector-based partnerships among employers, education and training providers, the public workforce system, unions and worker organizations, and community-based organizations that provide relevant training and wrap-around services to support workers to access and complete training (e.g., child care, transportation, mentorship), to attract, train, retain, or transition to meet local workforce needs and increase high-quality job opportunities;

OBC is in discussion with the Department of Labor and Workforce Development to identify whether BEAD can be integrated into an existing sector-based partnership (e.g., Energy Industry Partnership, Pre-Apprenticeship in Career Education “PACE” program, Growing Apprenticeship in Non-traditional Sectors “GAINS” program). Through these DOL-sponsored programs, New Jersey has established strategic private-public partnerships with state entities, the private sector, and educational institutions.<sup>8</sup> To date, these programs have graduated over 2,700 residents into career pathways. In addition, DOL has partnered to create apprenticeship roles in construction jobs to date. DOL will work with existing and new partners to expand upon to include the broadband and telecommunications sectors. These existing programs represent best-in-class practices for apprenticeship and training programs, including stipends to cover not just wages and training, but also wraparound and supportive services. These services include childcare, transportation, and GED attainment costs. New Jersey is prepared to scale investments in these existing programs, including comprehensive wraparound support, to build the workforce required for BEAD implementation.

- c. A description of how the Eligible Entity will plan to create equitable on-ramps into broadband-related jobs, maintain job quality for new and incumbent workers engaged in the sector; and continually engage with labor organizations and community-based organizations to maintain worker voice throughout the planning and implementation process; and

The State of New Jersey is committed to creating equitable on-ramps into jobs by removing barriers to entry, and by maintaining job quality and worker voice. Many of these efforts can support BEAD. For example, NJDOL and the NJ Office of Innovation created the Worker Experience Portfolio of projects that focus on designing digital services for user-friendly access training to and career information. NJDOL research found that expanding services was critical to meeting the needs of diverse constituencies in New Jersey, including responding to a tighter labor market, shifting interests of workers, and digital access.<sup>9</sup> The project includes:

- NJ Career Central, a digital portal.
- NJ Career Navigator, an AI-powered recommendation engine to help career seekers identify jobs, career changes, and training programs.
- NJ Training Explorer, in beta release, ETPL digital application enabling career seekers to explore training programs that meet professional goals and personal requirements.



Additionally, the New Jersey Office of Apprenticeship, under DOL facilitates interactions between employers, workers, and job seekers, as well as educational institutions and training providers to learn how to best develop a skilled and educated workforce.

Finally, OBC holds monthly meetings with its Workforce Development Working Group to incorporate feedback from stakeholders into BEAD planning. As BEAD moves into the implementation phase, OBC will use this group to identify opportunities and challenges to creating equitable on-ramps for broadband-related jobs. OBC is considering building on the Working Group by beginning to host an annual conference and job fair starting in 2024, where various providers and students of the State's technical and community colleges can gather and share opportunities, with a focus on transferability of skills.

- d. A description of how the Eligible Entity will ensure that the job opportunities created by the BEAD Program and other broadband funding programs are available to a diverse pool of workers.

New Jersey has taken steps to promote diversity and inclusion in the workforce. The state's Office of Diversity and Inclusion works to ensure that all workers have equal access to job opportunities and are treated fairly and with respect in the workplace. OBC aims to ensure prospective subgrantees, at a minimum, abide by equal opportunity non-discrimination laws. Additionally, OBC will request that prospective applicants take steps to ensure widespread dissemination of job opportunities through targeted outreach and alternative communication platforms. Additional details on efforts to ensure a diverse worker pool can be found in Section 2.9.1 below.

## 2.8.2 Subgrantee workforce readiness

Describe the information that will be required of prospective subgrantees to demonstrate a plan for ensuring that the project workforce will be an appropriately skilled and credentialed workforce.

- a. The ways in which the prospective subgrantee will ensure the use of an appropriately skilled workforce, e.g., through Registered Apprenticeships or other joint labor-management training programs that serve all workers;
- b. The steps that will be taken to ensure that all members of the project workforce will have appropriate credentials, e.g., appropriate and relevant pre-existing occupational training, certification, and licensure;
- c. Whether the workforce is unionized;
- d. Whether the workforce will be directly employed or whether work will be performed by a subcontracted workforce; and
- e. The entities that the proposed subgrantee plans to contract and subcontract with in carrying out the proposed work.

If the project workforce or any subgrantee's, contractor's, or subcontractor's workforce is not unionized, the subgrantee must also provide with respect to the non-union workforce:

- a. The job titles and size of the workforce (FTE positions, including for contractors and subcontractors) required to carry out the proposed work over the course of the project and the entity that will employ each portion of the workforce.
- b. For each job title required to carry out the proposed work (including contractors and subcontractors), a description of:
  - ii. Safety training, certification, and/or licensure requirements (e.g., OSHA 10, OSHA 30, confined space, traffic control, or other training as relevant depending on title and work), including whether there is a robust in-house training program with established requirements tied to certifications, titles; and
  - iii. Information on the professional certifications and/or in-house training in place to ensure that deployment is done at a high standard.

New Jersey is committed to ensuring a broadband-ready workforce. Subgrantees will be asked to provide details about the following elements as part of their applications, which will be evaluated as part of the Workforce and Fair Labor Practices Scoring Criteria:

- Steps to ensure the project workforce will be appropriately skilled (e.g., use of Registered Apprenticeships) and credentialed (e.g., appropriate and relevant preexisting occupational training, certification, and licensure) include:
  - As a first step, OBC will evaluate the operational and managerial capacity of prospective subgrantees (see Sections 2.4.11-2.4.17) to ensure they are capable of comprehensively tracking the skills and credentials of the project workforce.
  - Next, prospective subgrantees will provide their plans to use existing technical and vocational training programs described in Section 2.8.1, which provide graduates with certifications and licenses for specific BEAD-related job pathways, and hire apprentices.

In addition, subgrantees must provide the following information, which will be scored as either responsive or non-responsive:

- Whether the workforce is unionized
- Whether the workforce will be directly employed or whether work will be performed by a subcontracted workforce
- A list of entities that the proposed subgrantee plans to contract and subcontract with in carrying out the proposed work

If the project workforce or any applicant, contractor, or subcontractor workforce is not unionized, OBC will require prospective subgrantees to also provide the following for the non-union workforce:

- The job titles and size of the workforce full-time equivalent positions, including for contractors and subcontractors) required to carry out the proposed work over the course of the project and the entity that will employ each portion of the workforce.
- For each job title required to carry out the proposed work (including contractors and subcontractors), a description of:
  - Safety training, certification, and/or licensure requirements (for example, Occupational Safety and Health Administration 10 and 30, confined space, traffic control, or other training as relevant depending on title and work), including whether there is a robust in-house training program with established requirements tied to certifications or titles.
  - Information on the professional certifications and/or in-house training in place to ensure that deployment is done at a high standard.

OBC will foster awareness of regulations and requirements prior to and throughout the subgrantee selection process by including requirements in the pre-qualification application, conducting sessions with the Workforce Working Group, and posting relevant content on OBC's website.

## 2.9 Minority Business Enterprises (MBEs)/Women’s Business Enterprises (WBEs)/Labor Surplus Area Firms Inclusion (Requirement 13)

### 2.9.1 Describe the process, strategy, and the data tracking method(s) the Eligible Entity will implement to ensure that minority businesses, women-owned business enterprises, and labor surplus area firms are recruited, used, and retained when possible.

The State of New Jersey and BPU have a strong record of supporting supplier diversity efforts. Within the BEAD subgrant process, OBC will ensure that minority businesses, women-owned business enterprises, and labor surplus area firms are recruited, used, and retained when possible.<sup>10</sup> To achieve this goal, OBC has identified the following two-part outreach strategy:

- Coordinate with the New Jersey Board of Public Utilities Commission Supplier Diversity Development Council (SDCC) to increase awareness of BEAD opportunities for minority and women-owned businesses.
- Collaborate with New Jersey’s Chief Diversity Officer to identify other opportunities to support engagement with minority and women-owned businesses.

To ensure accountability, OBC will require relevant subgrantee reporting as part of its grantee monitoring program. Subgrantees will report on the number, length, and size of contracts awarded to diverse businesses, including those with New Jersey business certifications in the following categories:

- Minority and/or Women-owned
- Veteran-Owned and Disabled Veteran-Owned Business
- Lesbian, Gay, Bisexual, Transgender, Queer, Questioning (LGBTQ+)

Subgrantees will also be required to report on the use of Labor Surplus Area firms. As part of its commitment to transparency, OBC will make this information public.

### 2.9.2 Certify that the Eligible Entity will take all necessary affirmative steps to ensure minority businesses, women’s business enterprises, and labor surplus area firms are used when possible, including the following outlined on pages 88–89 of the BEAD NOFO:

- a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists
- b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources
- c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises
- d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises
- e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce
- f. Requiring subgrantees to take the affirmative steps listed above as it relates to subcontractors

OBC certifies that it will take all necessary affirmative steps to ensure minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

## 2.10 Cost and Barrier Reduction (Requirement 14)

**2.10.1: Identify steps that the Eligible Entity will take to reduce costs and barriers to deployment. Responses may include but not be limited to the following:**

**a. Promoting the use of existing infrastructure**

Use of existing infrastructure (e.g., poles and conduit) can support timely and cost-effective deployment of broadband to unserved and underserved locations in the State. OBC intends to maintain close coordination with the New Jersey Department of State, which supports infrastructure planning, throughout the BEAD planning and implementation process.

The New Jersey Department of State has established an interagency planning working group to ensure various state agencies involved in infrastructure planning processes remain coordinated. In addition to NJ BPU (which houses OBC), the working group includes the:

- Department of Transportation (NJ DOT)
- New Jersey Economic Development Authority (NJEDA)
- Office of the Attorney General (NJAG)
- New Jersey State Police (NJSP)
- Department of Community Affairs (NJ DCA)
- New Jersey Transit (NJT)
- Housing and Mortgage Finance Agency (HMFA)
- Department of Environmental Protection (NJ DEP)
- New Jersey Office of Emergency Management (ReadyNJ)
- New Jersey Department of Agriculture (NJDA)
- New Jersey Department of Health (NJDOH)
- New Jersey Infrastructure Bank
- New Jersey Highlands Council
- New Jersey Pinelands Commission
- New Jersey Meadowlands Commission
- New Jersey Attorney General's Office (NJ AG)

- New Jersey State Police (NJSP)
- New Jersey Division of Banking and Insurance (NJ DOBI)

OBC has also designed its subgrantee scoring criteria to account for speed of deployment, which could incentivize providers to make use of existing infrastructure where possible. See Section 2.4.2.

**b. Promoting and adopting dig-once policies**

Dig Once policies promote coordination between municipalities, broadband providers, utilities, and other stakeholders on capital improvement projects by aligning design, permitting, and construction schedules for major new construction. When feasible, Dig Once policies minimize disruption due to excavation and construction of critical infrastructure (e.g., installing infrastructure when a roadway is already planned to be open or in coordination with other projects). New Jersey’s DOT and OBC will work together to coordinate a Dig Once policy in New Jersey for broadband implementation.

In the interim, New Jersey’s Underground Facility Protection Act, better known as the “One Call Law,” requires that anyone digging must call 1-800-272-1000 or 811, so that operators can mark-out their underground utilities. This can help prevent potential damage to pipelines and other underground facilities, while also supporting the State’s efforts to coordinate projects and streamline the deployment of various right-of-way-based infrastructure projects.

**c. Streamlining permitting processes**

OBC intends to raise the following key goals for New Jersey regarding streamlining permitting for the inter-agency working group run by New Jersey’s Department of State:

- Aim to publish a comprehensive guide on all local, state, and federal permits required for broadband projects, building on existing guides that have already been published, though not specific to New Jersey
- Send a public notice regarding the specific requirement for subgrantees to complete the Fiber Optic Markout Request Form to deploy underground fiber optic networks a minimum of 10 State business days prior to the commencement of work. Full instructions can be found here: <https://nj.gov/transportation/eng/elec/ITS/requests.shtm>
- Streamline permitting approval by state entities and municipalities
- Ensure that required inspections will be scheduled and completed promptly based on construction timelines
- Enable all necessary E-permit forms, applications, and documents to be submitted and signed electronically for efficiency, in line with State Assembly Bill A1145, approved as P.L. 2021, c.70. Called the “Electronic Permit Processing Review System”, the legislation requires all municipalities and counties in New Jersey to leverage a digital platform for all construction related applications and permits, in compliance with the state’s Department of Consumer Affairs guidance here:

<https://granicus.com/blog/new-state-permitting-bills-confirm-digital-government-future/>.<sup>11</sup>

- Coordinate with the New Jersey State Planning Commission, which is actively facilitating webinars and public sessions to garner input on updating New Jersey's State Development and Redevelopment Plan for the first time since 2001<sup>12</sup>

OBC has also required that prospective subgrantees prepare and account for permitting timelines when establishing project plans, as part of the minimum qualifications for technical capabilities outlined in Section 2.4.13.

**d. Streamlining cost-effective access to poles, conduits, easements**

OBC is investigating methods to streamline cost-effective access to poles, conduits, and easements, by:

- Collaborating with the State's interagency working group on infrastructure coordination, as well as the Leagues of Municipalities, to facilitate the reduced cost of materials necessary for BEAD deployment<sup>13</sup>.
- Share best practices from existing broadband deployment projects across the state during ongoing stakeholder engagement and technical assistance sessions to promote cost-effective access to poles, conduits, and easements.
- Encourage providers to enter into resource-sharing agreements to reduce costs and risks and to create joint purchasing coalitions to get additional leverage to negotiate lower materials costs.

**e. Streamlining rights of way, including the imposition of reasonable access requirements**

OBC will partner with the New Jersey Department of Transportation, which offers land use permits for potential providers in the installation of broadband facilities in the state right-of-way. NJDOT is also working to comply with the Federal Highway Administration's new Broadband Infrastructure Deployment rule § 645.307(a), which adds four new requirements to Section 607 of the MOBILE NOW Act. Additional right-of-way efforts may require the involvement of local, state, and federal legislative officials.

<https://www.federalregister.gov/documents/2020/08/13/2020-17525/broadband-infrastructure-deployment>

OBC will continue coordinating with the individual municipalities and the League of Municipalities to identify best practices to, in particular, gain access to poles.

Though OBC requests public comment across all components of the Initial Proposal, targeted feedback from stakeholders regarding permitting is specifically requested.



## 2.11 Climate Assessment (Requirement 15)

**2.11.1 Describe the Eligible Entity’s assessment of climate threats and proposed mitigation methods. If an Eligible Entity chooses to reference reports conducted within the past five years to meet this requirement, it may attach this report and must provide a crosswalk narrative, with reference to page numbers, to demonstrate that the report meets the five requirements below. If the report does not specifically address broadband infrastructure, provide additional narrative to address how the report relates to broadband infrastructure.**

- f. Identify the geographic areas that should be subject to an initial hazard screening for current and projected future weather and climate-related risks and the time scales for performing such screenings;
- g. Characterize which projected weather and climate hazards may be most important to account for and respond to in these areas and over the relevant time horizons;
- h. Characterize any weather and climate risks to new infrastructure deployed using BEAD Program funds for the 20 years following deployment;
- i. Identify how the proposed plan will avoid and/or mitigate weather and climate risks identified; and
- j. Describe plans for periodically repeating this process over the life of the Program to ensure that evolving risks are understood, characterized, and addressed, and that the most up-to-date tools and information resources are utilized.

Climate change is having a significant impact on New Jersey, with rising sea levels and increased frequency of extreme weather events such as hurricanes and flooding. According to NOAA’s State Climate Summaries, annual average temperatures have risen more than 3.5F in New Jersey since the beginning of the 20<sup>th</sup> century, and historically unprecedented warming is projected during this century.<sup>14</sup> Sea level along the New Jersey coast has also risen by more than 16 inches (double the global average), since 1911.<sup>15</sup> Global average sea level is projected to rise another 1 to 4 feet by 2100, posing the risk of severe coastal flooding.<sup>16</sup> As New Jersey’s Strategic Climate Action Plan (September 2023) outlines, these risks are leading to damage to infrastructure, homes, and businesses, as well as loss of life and displacement of communities.<sup>17</sup> Additionally, the warming temperatures are affecting agriculture and wildlife, with changes in growing seasons and habitat loss.<sup>18</sup>

It is important for OBC to examine and address the challenges imposed by climate change, including potential threats to BEAD-deployed broadband infrastructure. OBC recognizes that climate-resilient infrastructure can help ensure that emergency communications remain operational during and after extreme weather events, enabling first responders to coordinate their efforts and aid affected communities, too. As such, OBC proposes a set of climate mitigation methods, including asking BEAD applicants to develop climate mitigation plans that include plans to bury fiber in counties identified as having the highest climate risk (see Section 2.11.1a below for list of counties) and place broadband electronics in hardened waterproof vaults in these same high-risk coastal counties.

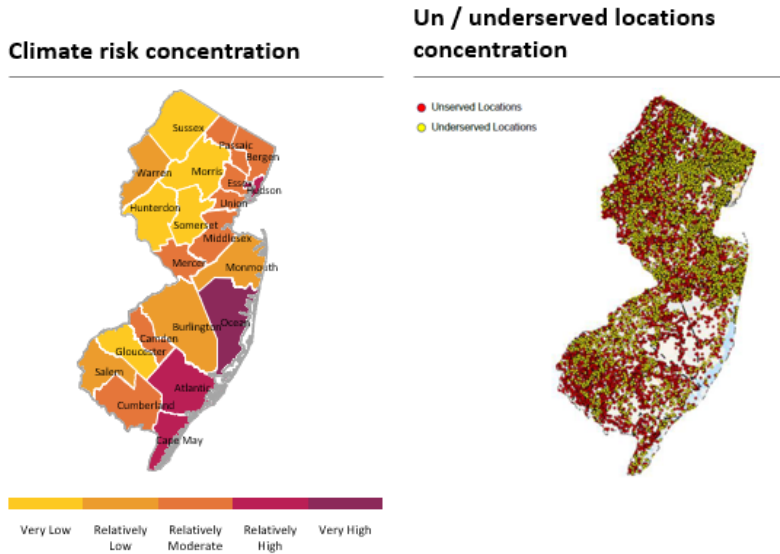
To ensure BEAD mitigation plans and activities align with state priorities, OBC plans to regularly meet with related departments such as the Department of Environmental Protection and the Office of Emergency Management. This engagement will be kicked off during the public comment period and continue through the planning period for BEAD implementation. Project areas will not be impacted by climate planning, as they will be defined by geographic location and business risk.

- a. Identify the geographic areas that should be subject to an initial hazard screening for current and projected future weather- and climate-related risks and the time scales for performing such screenings.

OBC used several reports to determine geographic areas that should be subject to an initial hazard screening due to climate risk, including FEMA's National Risk Index,<sup>19</sup> New Jersey's September 2023 Strategic Climate Action Plan,<sup>20</sup> and New Jersey's 2021 Climate Change Resiliency Strategy,<sup>21</sup> among others. This combination of sources considers both current and projected climate risks. Counties that will be subject to an initial hazard screening are described below, and other counties or geographies may be identified through additional input during the public comment process.

Counties facing the highest level of climate risk are concentrated in the Southeastern coast of New Jersey (see figure below), while unserved and underserved populations are concentrated in the Northwest.

**Figure 3<sup>22</sup>**



OBC identified four coastal counties in Southeastern New Jersey, with a total of 8,634 unserved BEAD locations and 1,280 underserved BEAD locations that are most susceptible to climate risk (see below). These counties will have specific plant mix requirements (i.e. buried fiber), as detailed in Section 2.11.1d below. The identified counties are:<sup>23</sup>

- Ocean
- Atlantic
- Cape May
- Hudson

Screenings will be refreshed every five years, in conjunction with updates to New Jersey’s Hazard Mitigation Plan (see further details in Section 2.11.1e).<sup>24</sup>

**b. Characterize which projected weather and climate hazards may be most important to account for and respond to in these areas and over the relevant time horizons.**

Using FEMA’s National Risk Index, along with the State’s Hazard Mitigation Plan and recent Strategic Climate Action Plan, OBC identified and characterized the most critical projected weather and climate hazards. The FEMA National Risk Index is a tool used to assess the risk of natural hazards across the United States. It includes 18 different hazards, such as hurricanes, earthquakes, and wildfires, and evaluates their potential impact on communities and infrastructure. The Index is used to inform disaster preparedness and response efforts at the national, state, and local levels. OBC’s analysis specifically focused on risks to infrastructure.

Counties most affected by climate in New Jersey are especially vulnerable to flooding and storm-related hazards, including coastal and riverine flooding, strong wind, winter weather, and hurricanes. Other natural hazards, such as droughts in the middle of New Jersey, present a generally limited risk to broadband infrastructure and are thus less of a focus for climate mitigation strategies.<sup>25</sup>

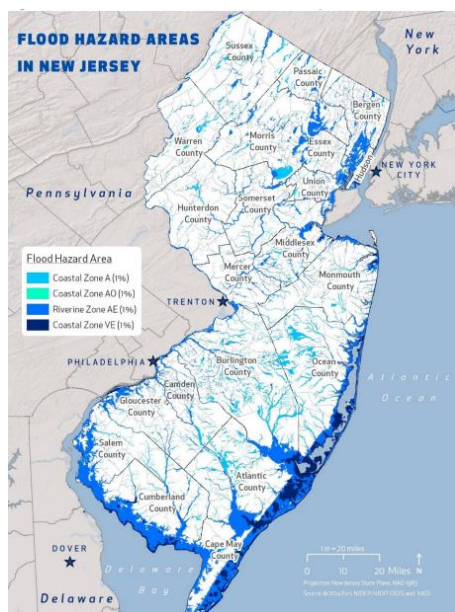
## Water-related hazards

New Jersey's FEMA Risk Index, Strategic Climate Action Plan, and most recent Hazard Mitigation Plan detail flooding as one of New Jersey's most significant natural hazards, including riverine flooding in the north of the state and coastal flooding in the southeast and east<sup>26</sup>

### Coastal flooding

New Jersey's coastal communities, spanning 127 miles across 126 municipalities, are vulnerable to the damaging impacts of major storms. Affected communities stretch from Raritan Bay in the north, along the Atlantic Coast to Delaware Bay in the south and includes the counties of Atlantic, Cape May, Ocean, and Monmouth. Coastal flooding has become a costly type of flooding events, causing significant beach erosion, damage to dunes and shore protection structures as well as tidal flooding impacts, like in the case of Superstorm Sandy. Moreover, New Jersey's Climate Change Resiliency Strategy anticipates that this risk will only increase in coming decades, stating that "Sunny day flooding" (associated with high tides rather than storms) will occur more often across the entire coastal area of New Jersey due to sea-level rise, and coastal areas are particularly vulnerable to flooding from storm surge and increased intensity of coastal storms."<sup>27</sup>

Figure 4: New Jersey flood hazard areas



### Riverine flooding

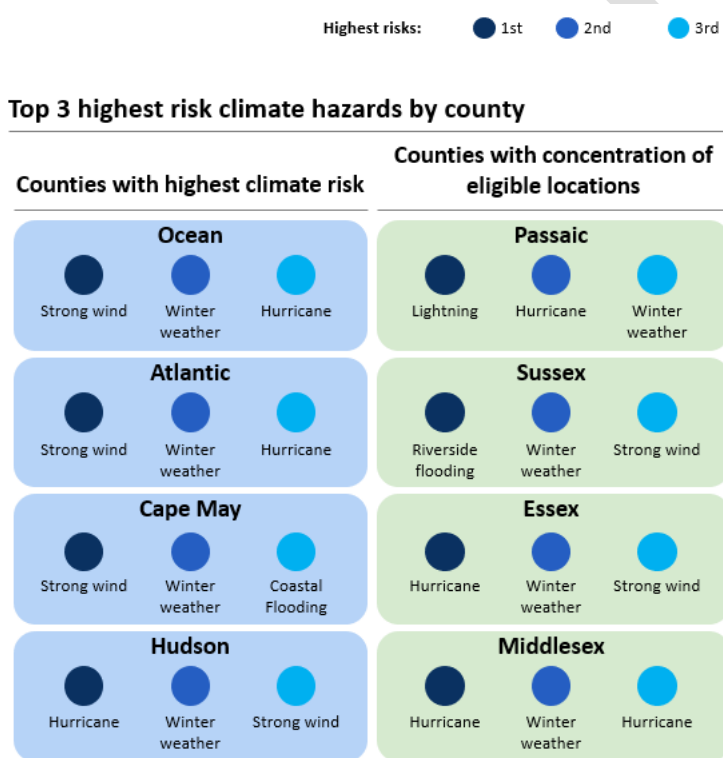
New Jersey's Hazard Mitigation Plan analysis reveals that riverine (or inland) flooding is most damaging in the northern half of the state. This is a function of several physiographic and physical features of the landscape, as well as the densely developed

floodplain. Greater geographic relief in the northern half results in flowing water moving down steeper gradients and being naturally or artificially channelized through valleys and gullies.<sup>28</sup> Northern New Jersey counties, positioned along the Delaware, Raritan and Passaic Rivers, are common locations for flooding.<sup>29</sup>

### Storm-related hazards

FEMA’s risk index and New Jersey’s Hazard Mitigation Plan suggest that storm-related hazards, including strong winds, winter weather, hurricanes, and lightning are among the greatest risks in the Southeast region of the state.<sup>30</sup> As detailed in the New Jersey Scientific Report on Climate Change released by the State’s Department of Environmental Protection last year, severe storms are becoming more frequent and intense, such as with Tropical Storm Ida in September 2021.<sup>31</sup> As described further in Section C, storm-related hazards also pose a great risk to broadband infrastructure specifically. Consequently, they are likely an important hazard type to consider in mitigation planning.

**Figure 5: Top 3 highest risk climate hazards by county<sup>32</sup>**

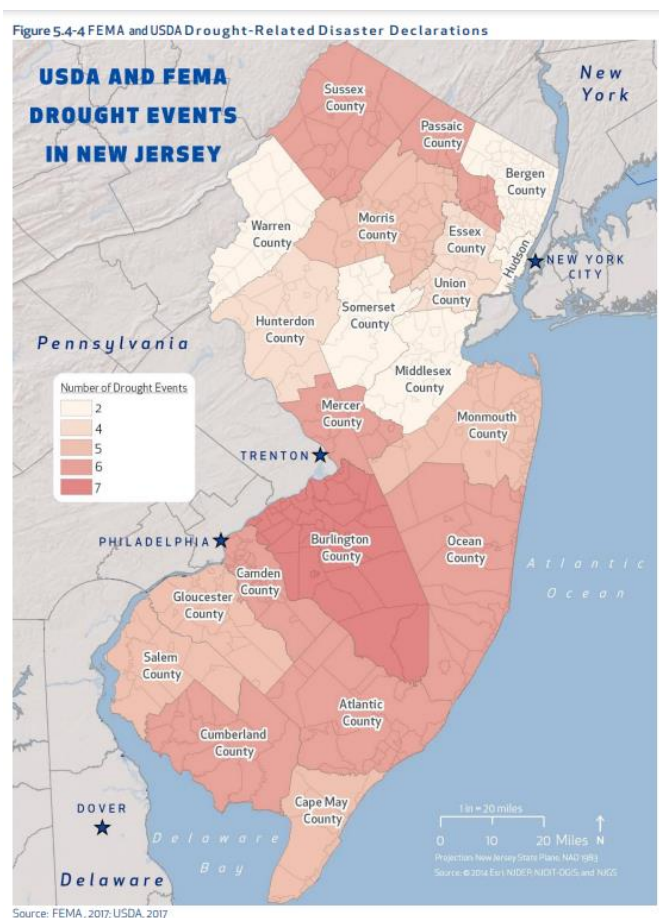


### Droughts

New Jersey’s FEMA Risk Index and most recent Hazard Mitigation Plan rank drought as a moderate to low risk natural hazard for the state. Moreover, drought events generally do not impact infrastructure and buildings.<sup>33</sup> No structures are anticipated to be directly

affected by a drought, and all are expected to be operational during a drought event. However, droughts contribute to conditions conducive to wildfires. Consequently, the State will continue to monitor this natural hazard closely over the coming years.

**Figure 6: USDA and FEMA drought events in New Jersey**



- c. Characterize any weather and climate risks to new infrastructure deployed using BEAD program funds for the 20 years following deployment.

As described above, flooding and storms pose the greatest climate risk in the identified high-risk counties. In tandem, storm-related hazards appear to present the greatest risk to broadband infrastructure in New Jersey generally, posing the threat of severed connectivity. Flooding, often taking place in tandem, may also result in significant equipment degradation. The frequency and severity of both are projected to increase in the coming decades.<sup>34</sup>

### Storm-related hazards and severed connectivity

Broadband infrastructure can be especially vulnerable to storms and associated winds, particularly when components and cabling are placed on utility poles, which can be

damaged and even blown down.<sup>35</sup> Above-ground deployments are at greater risk than buried lines of pole failures, damage from debris and falling objects, and breakage from tension caused by extreme wind speeds. Communication blackouts can hamper disaster relief and the management of infrastructure repair efforts, interfering with the system just when it is needed most for disaster recovery.

**Figure 7: Image of flooding and storm-related effects in New Jersey<sup>36</sup>**



### **Flooding and equipment degradation**

As described in Section B, flooding (particularly coastal) represents one of the strongest projected risks for New Jersey, given the State's location on the Eastern coast of the United States and anticipated sea level rise in the coming decades. Sea level along the New Jersey coast has also risen by more than 16 inches (double the global average), since 1911.<sup>37</sup> Global average sea level is projected to rise another 1 to 4 feet by 2100, posing the risk of severe coastal flooding.<sup>38</sup> While fiber cables are meant to be water resistant, they are not intended to fully under water, and in turn flooding can lead to equipment degradation and corrosion over time.<sup>39</sup> Central broadband electronics are also at risk of damage by inundation.<sup>40</sup> Therefore, it is crucial for climate mitigation strategies to consider the potential impacts of flooding on infrastructure, and potentially to harden infrastructure and protect against signal loss from equipment degradation. This choice will require nuance, however, given that buried fiber infrastructure presents the risk of equipment

degradation from flooding hazard, while aerial fiber may be “safer” in the case of flooding risk but is highly vulnerable to the storm and wind hazards described previously.<sup>41</sup>

- d. The Eligible Entity must identify how the proposed climate readiness plan will address the weather and climate risks identified through various measures.

New Jersey plans to build on existing state efforts to assess natural hazards, mitigate climate change, invest in resiliency solutions, such as the Strategic Climate Action Plan published in September 2023 by the Department of Environmental Protection.<sup>42</sup>

### Required climate mitigation plans for subgrantees

To address the climate risks described above, OBC will require all prospective subgrantees to submit a Climate Mitigation Plan with 5 components as detailed below. OBC will provide a template for all subgrantees as part of the technical assistance materials to be shared in Spring of 2024. Prospective subgrantees are encouraged to reference existing climate mitigation plans when building their own, such as the State’s Hazard Mitigation Plan, New Jersey Climate Action Plan, or the assessment provided here.

- **Plant Mix Proposal:** Buried fiber optics are perhaps the strongest mitigation method to protect against storm and wind induced damages such as line breakages and cuts, due to their underground placement. Therefore, OBC plans to prioritize buried fiber as a practical measure to improve infrastructure resilience and reliability promptly. Subgrantees will **be required to commit to deploying with 90%+ buried fiber** to connect un- and underserved locations with BEAD funds in the counties identified as having the highest overall climate risk in Section A (Ocean, Atlantic, Cape May, and Hudson). Climate mitigation plans should include an outlined implementation plan to meet this requirement.

Outside of these counties, OBC still encourages burying fiber and will preference subgrantee proposals leveraging buried fiber through the scoring criteria described in Section 2.4.2. Prospective subgrantees are further encouraged to consider existing best practices on developing underground utilities, such as Atlantic County’s Regional Resilience and Climate Action Plan (RRCAP).<sup>43</sup>

- **Infrastructure Hardening Practices:** For BEAD-deployment in high-risk counties identified in Section A (Ocean, Atlantic, Cape May, and Hudson) – all of which are subject to severe flooding risk – plans must articulate a commitment to put infrastructure **electronics in hardened waterproof vaults above ground**. For BEAD-deployment in other counties, prospective subgrantees are encouraged to consider other infrastructure hardening measures. Subgrantees are encouraged to reference New Jersey’s Strategic Climate Action Plan, which elaborates on existing state efforts to ensure resilience of coastal infrastructure, to secure additional funding that supports climate resilience.<sup>44</sup> Infrastructure hardening measures are



intended to strengthen the resiliency of critical infrastructure in the case of extreme weather events.

- **Description of Network Facility Redundancies:** Prospective subgrantees will also be required to detail commitments to network and facility redundancies to minimize potential disruptions to BEAD-deployed infrastructure caused by extreme weather. Examples may include backup devices or system components (such as backup routers, switches, or servers) to supplement coverage in cases of outages, or establishment of multiple network routes between communication endpoints that reduce the impact of infrastructure failures.<sup>45</sup>
- **History of natural hazards, best practices:** Prospective subgrantee climate mitigation plans should also include a description of any natural hazards that have affected the prospective subgrantee or relevant partner's infrastructure in the last five years and resulting best practices (across their regional or national footprints, not just New Jersey; if relevant, should also specify a cadence for plan updates and alignment with the most recent State Hazard Mitigation Plan).
- **Ongoing maintenance:** Lastly, climate mitigation plans should include a description of ongoing maintenance or infrastructure hygiene efforts of subgrantees – not in reaction to any natural hazard, but rather as general best practices. For example, subgrantees may discuss periodic equipment inspections and replacements.

Please see Section 2.4.13 for further detail on minimum requirements relating to climate risk mitigation, and Section 2.4.2 for further detail on scoring criteria relating to climate risk.

### **Additional considerations**

OBC encourages prospective subgrantees to publish existing plans to support knowledge sharing in the industry– both for broadband providers and New Jersey residents. Moreover, New Jersey continues to publish various reports sharing best practices on climate mitigation methods:

- New Jersey's Department of Environmental Protection is actively developing the State's climate priorities and mitigation methods, with the most updated thinking captured in the September 2023 Strategic Climate Action Plan<sup>46</sup>
- New Jersey's Office of Emergency Management publishes FEMA-approved Hazard Mitigation Plan every five years (additional details in Section E below). The Hazard Mitigation Plan outlines state efforts to mitigate evolving natural hazard risk, including supporting local governments with securing mitigation-focused grants, providing education for local governments to build their own hazard mitigation plans, and increasing use of mass notification systems for hazard alerts.

OBC encourages applicants to refer to these plans.

- e. Describe plans for periodically repeating this process over the life of the program to ensure that evolving risks are understood, characterized, and addressed, and that the most up-to-date tools and information resources are utilized.

OBC will conduct a refreshed climate risk screening every five years, coordinating with New Jersey's Department of Environmental Protection and the Office of Emergency Management, which specifically refreshes New Jersey's Hazard Mitigation Plan every five years.<sup>47</sup> Hazard Mitigation Plans are comprehensive assessments and planning processes for natural hazards conducted approximately every five years for submission to FEMA. FEMA approves the plan to ensure New Jersey is eligible for disaster response grants, and counties also publish mitigation plans approximately every five years. New Jersey's most recent plan was approved by FEMA in 2019. OBC will work with the Office of Emergency Management to review its most recent Hazard Mitigation Plan as assessments are refreshed, incorporate any updated information from the Department of Environmental Protection, and reassess risks to BEAD-deployed infrastructure every five years. As hazards evolve, providers will be asked to revise natural hazard mitigation plans to protect against new or changing risks.

- f. As an optional attachment, submit any relevant reports conducted within the past five years that may be relevant for this requirement and will be referenced in the text narrative above.

New Jersey's 2019 Hazard Mitigation Plan: <https://nj.gov/njoem/mitigation/2019-mitigation-plan.shtml>  
New Jersey's 2023 Strategic Climate Action Plan: <https://dep.nj.gov/wp-content/uploads/strategic-climate-action-plan/strategic-climate-action-plan-draft.pdf>

## 2.12 Low-Cost Broadband Service Option (Requirement 16)

**2.12.1 Describe the low-cost broadband service option(s) that must be offered by subgrantees as selected by the Eligible Entity, including why the outlined option(s) best services the needs of residents within the Eligible Entity's jurisdiction. At a minimum, this response must include a definition of low-cost broadband service option that clearly addresses the following, as outlined on page 67 of the BEAD NOFO:**

- a. All recurring charges to the subscriber, as well as any non-recurring costs or fees to the subscriber (e.g., service initiation costs);
- b. The plan's basic service characteristics (download and upload speeds, latency, any limits on usage or availability, and any material network management practices);
- c. Whether a subscriber may use any Affordable Connectivity Benefit subsidy toward the plans rate; and
- d. Any provisions regarding the subscriber's ability to upgrade to any new low-cost service plans offering more advantageous technical specifications

OBC will adopt the NTIA-provided example broadband service option definition as described on pages 67-68 of the BEAD NOFO. *OBC's responses to elements a-d below are identical to NTIA's sample plan.*

- a. All recurring charges to the subscriber, as well as any non-recurring costs or fees to the subscriber (e.g., service initiation costs);

The proposed service option costs \$30 per month or less, inclusive of all taxes, fees, and charges <sup>48</sup>with no additional non-recurring costs or fees to the consumer.

- b. The plan's basic service characteristics (download and upload speeds, latency, any limits on usage or availability, and any material network management practices);

The proposed service option provides the greater of (a) typical download speeds of at least 100 Mbps and typical upload speeds of at least 20 Mbps, or the fastest speeds the infrastructure is capable of if less than 100 Mbps/20 Mbps or (b) the performance benchmark for fixed terrestrial broadband service established by the Federal Communications Commission pursuant to Section 706(b) of the Communications Act of 1934, as amended.

The proposed service option provides typical latency measurements of no more than 100 milliseconds; is not subject to data caps, surcharges, or usage-based throttling; and is subject only to the same acceptable use policies to which subscribers to all other

broadband internet access service plans offered to home subscribers by the participating subgrantee must adhere.

- c. Whether a subscriber may use any Affordable Connectivity Benefit subsidy toward the plans rate; and

Yes. The proposed service option allows the end user to apply any Affordable Connectivity Benefit [e.g., the Affordable Connectivity Program] subsidy to the service price.

- d. Any provisions regarding the subscriber's ability to upgrade to any new low-cost service plans offering more advantageous technical specifications

In the event the provider later offers a low-cost plan with higher speeds downstream and/or upstream, permits Eligible Subscribers that are subscribed to a low-cost broadband service option to upgrade to the new low-cost offering at no cost.

### **2.12.2 Certify that all subgrantees will be required to participate in the Affordable Connectivity Program or any successor program**

OBC certifies that all subgrantees will be required to participate in the Affordable Connectivity Program or any successor program, and Eligible Subscribers that are eligible for a broadband service subsidy can apply the subsidy to the proposed service option.

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## 2.13 Middle Class Affordability Plan

2.13 Describe a middle-class affordability plan that details how high-quality broadband services will be made available to all middle-class families in the BEAD-funded network's service area at reasonable prices. This response must clearly provide a reasonable explanation of how high-quality broadband services will be made available to all middle-class families in the BEAD-funded network's service area at reasonable prices.

The Eligible Entity must articulate a middle-class affordability plan designed to ensure that a BEAD-funded network's service area provides high-quality broadband service to all middle-class households at reasonable prices, though the Eligible Entity has a wide degree of discretion in detailing an "affordable" standard.

The Eligible Entity's middle-class affordability plan may include the following:

- Requiring providers receiving BEAD funds to offer low-cost, high-speed plans to all middle-class households using the BEAD-funded network;
- Providing consumer subsidies using BEAD funding, if the Eligible entity has surplus funds after meeting its obligation to connect all unserved and underserved areas;
- Using regulatory authority to promote structural competition such as eliminating barriers to entry, opening access to multi-dwelling units, or promoting alternative technologies;
- Promoting consumer pricing benchmarks that provide consumers an objective criterion to use in determining whether the rate offerings of broadband service providers are reasonable and to encourage providers to adopt affordable pricing; and
- Establishing a regime of continued monitoring and public reporting to ensure that high-speed Internet connections are affordable for middle-class households in their state or territory.

Ensuring that all middle-class households have access to high-quality broadband service provided by BEAD-funded networks at a reasonable price is a priority for OBC. To advance this priority, OBC will implement two primary strategies within the BEAD program: overall affordability and transparency.

### **Affordability**

Current data indicates that middle-class households adopt broadband at a significantly higher rate than lower-income households.<sup>49</sup> For example, 85% of households earning between \$20,000 and \$75,000 subscribe to broadband, but only 66% of households earning < \$20,000 subscribe. Similarly, however, there is an 11 percentage point difference in adoption between households earning more than \$75,000 and those earning between \$20,000 and \$75,000 - 15% to 4% (Table 4)<sup>50</sup>. This gap indicates that while broadband may

be more affordable for some middle-income households, cost could remain a barrier for some.

**Table 4: Household Income Bands and Broadband Subscription Rates for New Jersey<sup>51</sup>**

Ranges of Household Income	% of households in range with no broadband subscription
<\$20K	34%
\$20K-75K	15%
\$75K+	4%

To address this issue for BEAD-funded locations, OBC plans to ensure affordability is a key factor in OBC’s scoring rubric. NTIA indicates that 75% of points for a state’s BEAD program are to be divided among 3 elements: BEAD outlay (i.e., the size of the grant award), affordability (the price of a 1 Gbps symmetrical connection in the proposed service area for priority broadband deployment projects) and adherence to fair labor standards. In the Notice of Funds Opportunity (NOFO), NTIA suggests that states can support middle-class affordability by “assign[ing] especially high weights to selection criteria relating to affordability”<sup>52</sup>. OBC believes providing significant weight to affordability will be an effective way to incentivize applications at affordable prices for middle-class households. See Section 2.4.2 to review OBC’s proposed scoring rubric.

Incentivizing BEAD applicants to expand their affordable offerings through the scoring guidelines could benefit middle-class households without adding significant costs to the program. OBC will also strongly encourage all applicants to commit to making a broadband service option affordable to middle-class New Jerseyans throughout the entirety of their service territory within New Jersey.

**Transparency**

In alignment with New Jersey’s continued commitment to transparency (e.g., State of New Jersey Transparency Center, COVID-19 Compliance and Transparency website), OBC will regularly report the broadband prices of BEAD subgrantees and, if resources allow, develop consumer pricing benchmarks to provide all New Jerseyans, include middle-class households, with an objective measure to make informed decisions about their broadband options.

## 2.14 Use of 20% of funding (Requirement 17)

**2.14.1 Describe the Eligible Entity’s planned use of any funds being requested, which must address the following: If the Eligible Entity is requesting more than 20 percent (up to 100 percent) of funding allocation during the Initial Proposal round, it must detail the amount of funding requested for use upon approval of the Initial Proposal, the intended use of funds, how the proposed use of funds achieves the statutory objective of serving all unserved and underserved locations, and provide rationale for requesting funds greater than 20 percent of the funding allocation.**

OBC requests 100% of its \$263,689,548.65 allocation for use upon approval of its Initial Proposal. In addition to the use of administrative and programmatic costs, OBC requests this funding now to increase applicant certainty that the funds will be immediately available for provisional applications once NTIA has approved OBC’s Final Proposal. OBC is planning for a highly competitive grant program and demonstrating this certainty will, OBC believes, increase the likelihood of provider participation in the program. Additionally, clarity that the full allocation will be available to support programmatic and administrative needs will improve OBC’s ability to set benchmark prices for project areas at the most competitive level it is able. Finally, OBC plans to implement an approximately \$30M non-deployment program in 2024. The NTIA-provided CQA data indicates that OBC projects New Jersey will have sufficient funds to cover all un and underserved locations with a potentially significant surplus remaining post-deployment of the subgrants. This is a relatively small investment compared to the potential funds that could remain after covering all unserved and underserved locations and implementing these activities in 2024 allows New Jersey to accelerate its vision for reaching digital equity.

**2.14.2 Enter the amount of the Initial Proposal Funding Request. If not requesting initial funds, enter ‘\$0.00.’**

OBC will request \$263,689,548.65 (to be updated before submission of the Final Proposal)

**2.14.3 Certify that the Eligible Entity will adhere to BEAD Program requirements regarding Initial Proposal funds usage. If the Eligible Entity is not requesting funds in the Initial Proposal round and will not submit the Initial Funding Request, note “Not applicable.”**

OBC certifies that it will adhere to BEAD Program requirements regarding Initial Proposal funds usage.

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## 2.15 Regulatory approach (Requirement 18)

### 2.15.1 Text Box

- a. Disclose whether the Eligible Entity will waive all laws of the Eligible Entity concerning broadband, utility services, or similar subjects, whether they predate or postdate enactment of the Infrastructure Act that either (a) preclude certain public sector providers from participation in the subgrant competition or (b) impose specific requirements on public sector entities, such as limitations on the sources of financing, the required imputation of costs not actually incurred by the public sector entity, or restrictions on the service a public sector entity can offer.

The State of New Jersey will waive none of its laws concerning broadband, utility services, or similar subjects, that either: (a) preclude certain public sector providers from participation in the subgrant competition; or (b) impose specific requirements on public sector entities, such as limitations on the sources of financing, the required imputation of costs not actually incurred by the public sector entity, or restrictions on the service a public sector entity can offer.

Pursuant to N.J.S.A. 40:9D-2(a), the governing body of a local unit, through the establishment of a related competitive business segment, is authorized to: (1) construct, own, or operate broadband telecommunications infrastructure to provide broadband telecommunications service via a wireless community network; or (2) provide broadband telecommunications service via a wireless community network.

Additionally, pursuant to 40:9D-2(b) the governing body of a local unit may enter into a contract with a private entity to provide broadband telecommunications service via a wireless community network or to construct, own, use, acquire, deliver, grant, operate, maintain, sell, purchase, lease, or equip broadband telecommunications infrastructure used for the purpose of providing broadband telecommunications service via a wireless community network. By written contract or lease, such governing body may sell capacity in, or grant other similar rights for a private entity to use, broadband telecommunications infrastructure owned or operated by the local unit that provides broadband telecommunications service via a wireless community network.

Notably, 40:9D-5(b) provides as follows: “A State agency that assists in project financing shall not assist in financing the costs of constructing, operating or maintaining any broadband telecommunications infrastructure used for the purpose of providing broadband telecommunications service via a wireless community network if such network is offered commercially to the public.”

An award from a state agency to a municipality may trigger 40:9D-5(b) in cases described above. It seems to apply only to broadband telecommunications service via a wireless community network but may be applicable in OBC’s subgrant competition.

- b.** If the Eligible Entity will not waive all such laws for BEAD Program project selection purposes, identify those that it will not waive (using the Excel attachment) and their date of enactment and describe how they will be applied in connection with the competition for subgrants. If there are no applicable laws, note such.

See attached. The above cited law was passed as P.L 2007, c. 191, § 5, eff. Oct. 18, 2007.

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## 2.16 Certification of compliance with requirements (Requirement 19)

### 2.16.1 Check Box Certify the Eligible Entity's intent to comply with all applicable requirements of the BEAD Program, including the reporting requirements.

OBC will complete check box.

### 2.16.2 Text Box: Describe subgrantee accountability procedures, including how the Eligible Entity will, at a minimum, employ the following practices outlined on page 51 of the BEAD NOFO:

- a. Distribution of funding to subgrantees for, at a minimum, all deployment projects on a reimbursable basis (which would allow the Eligible Entity to withhold funds if the subgrantee fails to take the actions the funds are meant to subsidize);

OBC will distribute funds to deployment subgrantees on a reimbursable basis only, in alignment with service milestones, and as committed to in subgrantee agreements. OBC will use the fixed subaward and as such will determine a final process pursuant to final NTIA rule modification and related guidance. Subgrantees will be responsible for submitting verifiable documentation (e.g., matching invoice) to support each request. As described in Section 2.4.11, successful applicants will have sufficient funding available to cover eligible costs until OBC authorizes additional reimbursements.

The final 10% of each grant award will be retained until all contract obligations have been met and OBC has been able to verify satisfactory completion. This last 10% will be withheld in addition to any disbursements for incomplete milestones, including regular monitoring reports. Final disbursement of the 10% retained will occur only after OBC has verified that all work has been completed, including a financial review, physical verification, and other approved monitoring methods. The subgrantee must comply with all of its grant obligations to receive the final payment.

All subgrant agreements issued by OBC will include provisions allowing for the withholding of funds in the event of a subgrantee's noncompliance with the BEAD Program's requirements. These requirements include, but are not limited to, failure to:

- Deploy network infrastructure in accordance with agreed-upon deadlines;
- Meet associated requirements for the low-cost service option, middle-class affordability plan, stakeholder outreach, fair labor practices, workforce development, women-or minority-owned businesses, and climate resiliency and mitigation measures; and
- Meet all OBC-mandated quarterly progress reporting requirements (described below).

- b.** The inclusion of clawback provisions (i.e., provisions allowing recoupment of funds previously disbursed) in agreements between the Eligible Entity and any subgrantee;

All grant agreement between OBC and subgrantees will include clawback provisions for failure to meet timeline commitments, failure to demonstrate deployment progress, or failure to provide the minimum advertised connection speed and cost at the advertised rate. Claw back provisions are considered a last resort to be implemented after all other performance improvement activities and associated technical assistance have been exhausted.

All repayments plus accumulated interest will be due within a reasonable time period, to be determined by OBC. If subgrantees fail to make any payment by the due date, OBC reserves the right to deem further collection action as necessary. In situations where a subgrantee fails to return the full forfeited amount required, the ownership and use of the broadband infrastructure funded by the BEAD program shall revert to the State of New Jersey.

OBC will continue working with its legal counsel to refine claw back provisions for the state's BEAD subgrant process through the public comment period.

- c.** Timely subgrantee reporting mandates; and

All subgrantees will be required to submit a quarterly progress report for each BEAD infrastructure grant with the purpose of monitoring performance, assessing progress against funds spent, tracking timeline compliance, and ensuring that timely reporting is available to the NTIA as required. OBC will use this data to identify potential implementation barriers and will provide technical assistance to subgrantees to support their successful completion of the subaward.

Quarterly progress reports will include a program narrative that describes the various types of projects and/or other eligible activities carried out with BEAD funds. The reports will include, at a minimum, the following required elements, as detailed in Section VII.E.2 of the BEAD NOFO:

1. A list of addresses or location identifications (including the Broadband Serviceable Location Fabric established under 47 U.S.C. 642(b)(1)(B)) that constitute the service locations that will be served by the broadband infrastructure to be constructed and the status of each project
2. A list of new locations served within each project area at the relevant reporting intervals, and service taken (if applicable)
3. Whether each address or location is residential, commercial, or a community anchor institution
4. A description of the types of facilities that have been constructed and installed
5. A description of the peak and off-peak actual speeds of the broadband service being offered

6. A description of the maximum advertised speed of the broadband service being offered
7. A description of the non-promotional prices, including any associated fees, charged for different tiers of broadband service being offered
8. A list of all interconnection agreements that were requested, and their current status
9. The number and amount of contracts and subcontracts awarded by the subgrantee disaggregated by recipients of each such contract or subcontracts that are MBEs or WBEs
10. Any other data that would be required to comply with the data and mapping collection standards of the Commission under Section 1.7004 of title 47, Code of Federal Regulations, or any successor regulation, for broadband infrastructure projects
11. An SF-425: Federal Financial Report and any other information necessary to meet the requirements described in the Department of Commerce Financial Assistance Standard Terms and Conditions (dated November 12, 2020), Section A.01 for Financial Reports
12. For projects over \$5,000,000 (based on expected total cost):
  - a. A subgrantee may provide certification that, for the relevant Project, all laborers and mechanics employed by contractors and subcontractors in the performance of such Project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the “Davis-Bacon Act”), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate State entity pursuant to a corollary State prevailing-wage-in-construction law (commonly known as “baby Davis-Bacon Acts”). If such certification is not provided, a Recipient must provide a project employment and local impact report detailing:
    - o The number of contractors and sub-contractors working on the Project;
    - o The number of workers on the Project hired directly and hired through a third party
    - o Project by classification; and
    - o Whether those wages are at rates less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the “Davis-Bacon Act”), for the corresponding classes of laborers and mechanics employed on

projects of a character similar to the contract work in the civil subdivision of the State in which the work is to be performed.

- b. If a subgrantee has not provided a certification that a Project either will use a unionized project workforce or includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)), then the subgrantee must provide a project workforce continuity plan, detailing:
  - o Steps taken and to be taken to ensure the Project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure construction is completed in a competent manner throughout the life of the Project (as required in Section IV.C.1.e), including a description of any required professional certifications and/or in-house training, Registered Apprenticeships or labor-management partnership training programs, and partnerships with entities like unions, community colleges, or community-based groups;
  - o Steps taken and to be taken to minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the Project;
  - o Steps taken and to be taken to ensure a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities, including descriptions of safety training, certification, and/or licensure requirements for all relevant workers (e.g., OSHA 10, OSHA 30, confined space, traffic control, or other training required of workers employed by contractors), including issues raised by workplace safety committees and their resolution;
  - o The name of any subcontracted entity performing work on the Project, and the total number of workers employed by each such entity, disaggregated by job title; and
  - o Steps taken and to be taken to ensure that workers on the Project receive wages and benefits sufficient to secure an appropriately skilled workforce in the context of the local or regional labor market.

Subgrantees will also be required to submit to OBC the following information specific to subgrants in New Jersey as part of their quarterly reports:

1. ACP enrollment:
  - a. Total BEAD-funded households enrolled
  - b. Total BEAD-funded households enrolled within each unserved service project and each underserved service project
  - c. For all, disaggregated by new households and recertified households

2. Stakeholder outreach activities (e.g., ACP outreach events, local emergency management meetings, community meetings)
3. Compliance with New Jersey's prevailing wage laws and project labor agreement requirements, as applicable
4. Current status of apprenticeship program(s) (e.g., total participants, number/percentage of participants who complete, number that have been hired from the program)
5. Number of local hires (i.e., within the state of New Jersey) and description of roles and whether full- or part-time.
6. Description and status of all required permits
7. Description of proposed mitigation measures and/or technical assistance required for any milestone that is behind schedule, or at risk for becoming behind schedule

Additionally, subgrantees will be required to submit a final report within 90 days after the completion of their project. This final report will include an outline of all the activities, construction, and potential new facility installations that took place through the duration of the grant, a summary of all new facilities' service capabilities, the total, overarching financial analysis including all costs associated with the project, a summary of the affordability options offered to residents, and a map detailing all the locations and CAIs that were connected through the project.

**d. Robust subgrantee monitoring practices.**

OBC will monitor all subgrantees to ensure proper usage of BEAD funds, identify potential reasons for timeline non-compliance, and ensure subgrantees are instituting the necessary mitigation strategies to successfully fulfill all their project objectives and responsibilities.

As part of the application evaluation process, OBC will perform an initial risk assessment on all applications. For those who receive awards, OBC will continue performing regular monitoring through the duration of the grant.

**Risk Assessment**

All potential subgrantees will undergo a detailed risk assessment to identify any potential threats to the timely completion of project objectives. To perform this risk assessment, OBC will require that each subgrantee complete a questionnaire designed to assess a set of key risk indicators. These risk indicators could include subgrantees':

- System for Award Management Record (sam.gov)
- Federal Awardee Performance and Integrity Information System (FAPIIS) records
- Management team report
- Financing information

This initial risk assessment will influence OBC's decisions regarding the depth and frequency of future monitoring needs for each subgrantee through the lifetime of the grant. Subgrantees will be categorized by low, medium and high risk, and monitoring plans will be adjusted accordingly.

Additional, OBC will complete an assessment of all the outside factors that could potentially affect a subgrantee's ability to complete their project within their designated timeline. Among others, risk factors identified could include application size, or project area overlap with large environmental or historical preservation areas.

### **Monitoring Plan**

OBC will develop a monitoring plan for each subgrantee based on the results of their respective risk assessment.

Required information in the subaward for monitoring includes those required under 2CFR200.331:

- All requirements imposed by the federal government on the recipient are imposed on the subgrantee.
- The subgrantee will permit the awarding agency/recipient and auditors to have access to the subgrantee's records and financial statements.
- Appropriate terms and conditions concerning closeout of the subaward, including when final invoices must be received.
- The frequency of submission of invoices and monitoring reports. The frequency will be determined based on the risk assessment performed by the state.

Ongoing monitoring performed by OBC will include activities undertaken to monitor the subgrantee's progress in implementation of its award (e.g., administration, billing, and progress review of risk assessment audit findings).

While each monitoring plan will be developed in response to a subgrantee's individual risk rating, all monitoring plans could include:

- Quarterly Reports (as specified in 2.16.2.c)
- Site Visits: OBC staff will visit the worksite of each subgrantee to verify that construction progress is on schedule and activities discussed in the quarterly report can be verified.
- Communication with subgrantee: Frequent communication between OBC and the subgrantee in order to provide assess progress, potential challenges and technical assistance needs. Documentation of communication will be captured.
- Invoice Review: To ensure proper use of funds, requests for reimbursement invoices will be monitored for completeness, allowability, appropriateness and accuracy, as described in the subgrant agreement. Documentation of invoice review will be captured.



- Desk Reviews: OBC staff will regularly review subgrantee service milestones, as well as changes in procedures, policies, and procedures.
- Internal Compliance Reviews: OBC staff will, at regular intervals, verify that subgrantees are in compliance with 2 CFR 200 regulations and that they are adhering to appropriate fiscal and project management procedures.
- Performance Improvement Plans: Subgrantees unable to meet required milestones will be placed on a Performance Improvement Plan (PIP). While on a PIP, OBC will provide significantly greater oversight and tailored technical assistance to support the subgrantee in meeting its obligations.
- Closeout Process: Award closeout includes activities related to ensuring that the work was performed and properly billed. At the end of the award, the subgrantee is responsible for ensuring that all documentation related to project performance and financial obligations is received. OBC will monitor for proper closeout procedures. Subrecipient monitoring activities that will be performed at award closeout include reviewing all technical/financial reports to ensure that the subrecipient provided all project deliverables and met project obligations. All required documentation will be stored in accordance with record retention requirements.

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<sup>1</sup> See the [NJ Department of State website](#) for a description of NJCAIA. There are no federally recognized Tribal lands in New Jersey, but there are three state-recognized tribes: Nanticoke Lenne-Lenape Indians, Powhatan Renape Indians, and Ramapough Lenape Indian Nation. NJCAIA represents these three tribes, as well as New Jersey's inter-tribal people.

<sup>2</sup> Exact [NOFO](#) text: "Prospective subgrantees shall submit to the Eligible Entity resumes for all key management personnel and any necessary organizational chart(s) detailing all parent, subsidiaries, and affiliates. Each prospective subgrantee must also provide a narrative describing the prospective subgrantee's readiness to manage a broadband services network. This narrative should describe the experience and qualifications of key management for undertaking this project, its experience undertaking projects of similar size and scope, recent and upcoming organizational changes including mergers and acquisitions, and relevant organizational policies. An Eligible Entity shall not approve any grant for the deployment or upgrading of network facilities unless it determines that the documents submitted to it demonstrate the prospective subgrantee's managerial capability with respect to the proposed project. Eligible Entities may require a prospective subgrantee to agree to special grant conditions relating to maintaining the validity of representations a prospective subgrantee has made regarding its organizational structure and key personnel."

<sup>3</sup> As an example, according to the Census Bureau, from 2017-2021, the average household size in New Jersey was 2.66 persons. This figure was rounded to 3 persons per household to calculate the income threshold for eligibility for DEA. According to the Census Bureau, the 2022 poverty threshold for a 3-person household, including 2 minor dependents, was \$23,578. 150% of this value is \$35,367, or the approximate threshold for a "low-income household" under the DEA. The exact federal poverty line threshold varies by household size but, in general, larger households have higher thresholds and smaller households have lower thresholds.

<sup>4</sup> The [ALICE threshold](#) represents the minimum income level necessary to afford a bare-minimum household budget. Derived from the Household Survival Budget, the ALICE Threshold is rounded to the nearest American Community Survey income category and adjusted for household size and composition for each county. Households earning below the ALICE Threshold include both those in poverty (with income below the FPL) and those that are

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ALICE (earning above the FPL but below the Household Survival Budget for their county). The ALICE Household Survival Budget is the bare-minimum estimated cost of household basics needed to live and work in the modern economy. These basic budget items include housing, child care, food, transportation, health care, and technology, plus taxes and a contingency fund (miscellaneous) equal to 10% of the household budget. The budget is calculated separately for each county and for different household types and is updated as costs and household needs change over time.

<sup>5</sup> [Rutgers University study on New Jersey unionization](#) (2022)

<sup>6</sup> [New Jersey FY21 WIOA Annual Performance Narrative Report](#)

<sup>7</sup> [New Jersey FY21 WIOA Annual Performance Narrative Report](#)

<sup>8</sup> For more information about New Jersey's existing sector-based partnerships, see <https://www.nj.gov/labor/employer-services/industry-partnerships/>

<sup>9</sup> [New Jersey FY21 WIOA Annual Performance Narrative Report](#)

<sup>10</sup> For more information about Labor Surplus Areas see: <https://www.dol.gov/agencies/eta/lsa/faq>

<sup>11</sup> [Electronic Permitting](#)

<sup>12</sup> The NJ State Planning Commission is hosting a series of eight webinars in October to gather input on how to update the [New Jersey State Development and Redevelopment Plan](#). Last adopted in 2001, the State Plan provides a comprehensive framework intended to guide future development, redevelopment, conservation, preservation, and restoration efforts in the state of New Jersey.

<sup>13</sup> Note: OBC does not have the regulatory authority to compel municipalities to require access to poles

<sup>14</sup> [NOAA State Climate Summary](#)

<sup>15</sup> [NOAA State Climate Summary](#)

<sup>16</sup> [NOAA State Climate Summary](#)

<sup>17</sup> [New Jersey Climate Action Plan](#)

<sup>18</sup> [2018 National Climate Assessment](#)

<sup>19</sup> [FEMA National Risk Index](#)

<sup>20</sup> [New Jersey Climate Action Plan](#)

<sup>21</sup> [NOAA State Climate Summary](#)

<sup>22</sup> [FEMA National Risk Index](#) and [FCC National Broadband Map](#)

<sup>23</sup> [FEMA National Risk Index](#)

<sup>24</sup> [2019 New Jersey Hazard Mitigation Plan](#)

<sup>25</sup> [Infrastructure Bend or Break Under Climate Stress](#)

<sup>26</sup> [2019 New Jersey Hazard Mitigation Plan](#)

<sup>27</sup> [New Jersey Climate Change Resiliency Strategy](#)

<sup>28</sup> [2019 New Jersey Hazard Mitigation Plan](#)

<sup>29</sup> [2019 New Jersey Hazard Mitigation Plan](#)

<sup>30</sup> [FEMA National Risk Index](#) and [2019 New Jersey Hazard Mitigation Plan](#)

<sup>31</sup> [New Jersey Scientific Report on Climate Change](#)

<sup>32</sup> [FEMA National Risk Index](#)

<sup>33</sup> [2019 New Jersey Hazard Mitigation Plan](#)

<sup>34</sup> [NOAA State Climate Summary](#)

<sup>35</sup> [Infrastructure Bend or Break Under Climate Stress](#)

<sup>36</sup> [Superstorm Sandy Underscores Need for a Resilient Grid](#)

<sup>37</sup> [NOAA State Climate Summary](#)

<sup>38</sup> [NOAA State Climate Summary](#)

<sup>39</sup> [Climate Change Risk to Internet Infrastructure](#)

<sup>40</sup> State expert interviews

<sup>41</sup> [Infrastructure Bend or Break Under Climate Stress](#)

<sup>42</sup> [New Jersey Climate Change Resiliency Strategy](#)

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<sup>43</sup> [Atlantic County Regional Resilience and Adaptation Action Plan](#)

<sup>44</sup> [New Jersey Climate Action Plan](#)

<sup>45</sup> [How Redundancy Strengthens Telecommunications Infrastructure](#)

<sup>46</sup> [New Jersey Climate Action Plan](#)

<sup>47</sup> [2019 New Jersey Hazard Mitigation Plan](#)

<sup>48</sup> In the sample plan, NTIA includes language setting the price of the low-cost service to \$75 on Tribal lands. New Jersey has excluded this because there are no federally recognized Tribal lands in the state.

<sup>49</sup> While definitions of “middle class” vary, a most recent example is the New Jersey Treasury’s 2020 Middle Class Tax Rebate, which was made available for joint filers with gross incomes below \$150,000 and single filers with incomes below \$75,000. See <https://www.nj.gov/treasury/taxation/individuals/mctr.shtml>.

<sup>50</sup> U.S. Census Bureau, American Community Survey 5-Year 2021 Table S2801.

<sup>51</sup> U.S. Census Bureau, American Community Survey 5-Year 2021 Table S2801.

<sup>52</sup> BEAD NOFO, pg 66.

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