

Office of Broadband Access and Expansion
Department of Information Technology

Connect New Mexico Pilot Program

Overview: Notice of Funding Opportunity (NOFO)

Webinar Series

August 2022

Exciting New Chapter in New Mexico

- The Connect New Mexico Pilot Program constitutes the first major federally-funded, state-managed broadband grant program for the State of New Mexico.

*“Every New Mexican deserves affordable access to quality high-speed internet. **High-speed internet is essential for work, education, and modern-day life, but unfortunately many families in our rural areas still live without access at home or even nearby.** The Connect New Mexico pilot project – providing broadband funding to underserved communities throughout our state – is the culmination of years of work to ensure that all New Mexicans have the tools they need to remain connected and competitive in today’s society.”*

House Bill 10 sponsors Rep. Natalie Figueroa, Rep. Joy Garratt, Rep. Susan K. Herrera, Rep. Candie G. Sweetser, and Rep. Christine Chandler

*“Broadband is an essential element of a modern, efficient, and effective infrastructure system. The Connect New Mexico program **opens an exciting new chapter in broadband infrastructure investment and digital equity** collaboration throughout New Mexico, investing millions and millions of dollars to provide quality and affordable broadband service across the state.”*

Governor Michelle Lujan Grisham

*“The first grant program of this kind sends a strong signal that we are serious about bringing broadband to rural New Mexico and realizing our goal of **reaching all new Mexicans** with high-speed broadband.”*

Senator Michael Padilla

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Funding Source and Key Agencies

Funding Source

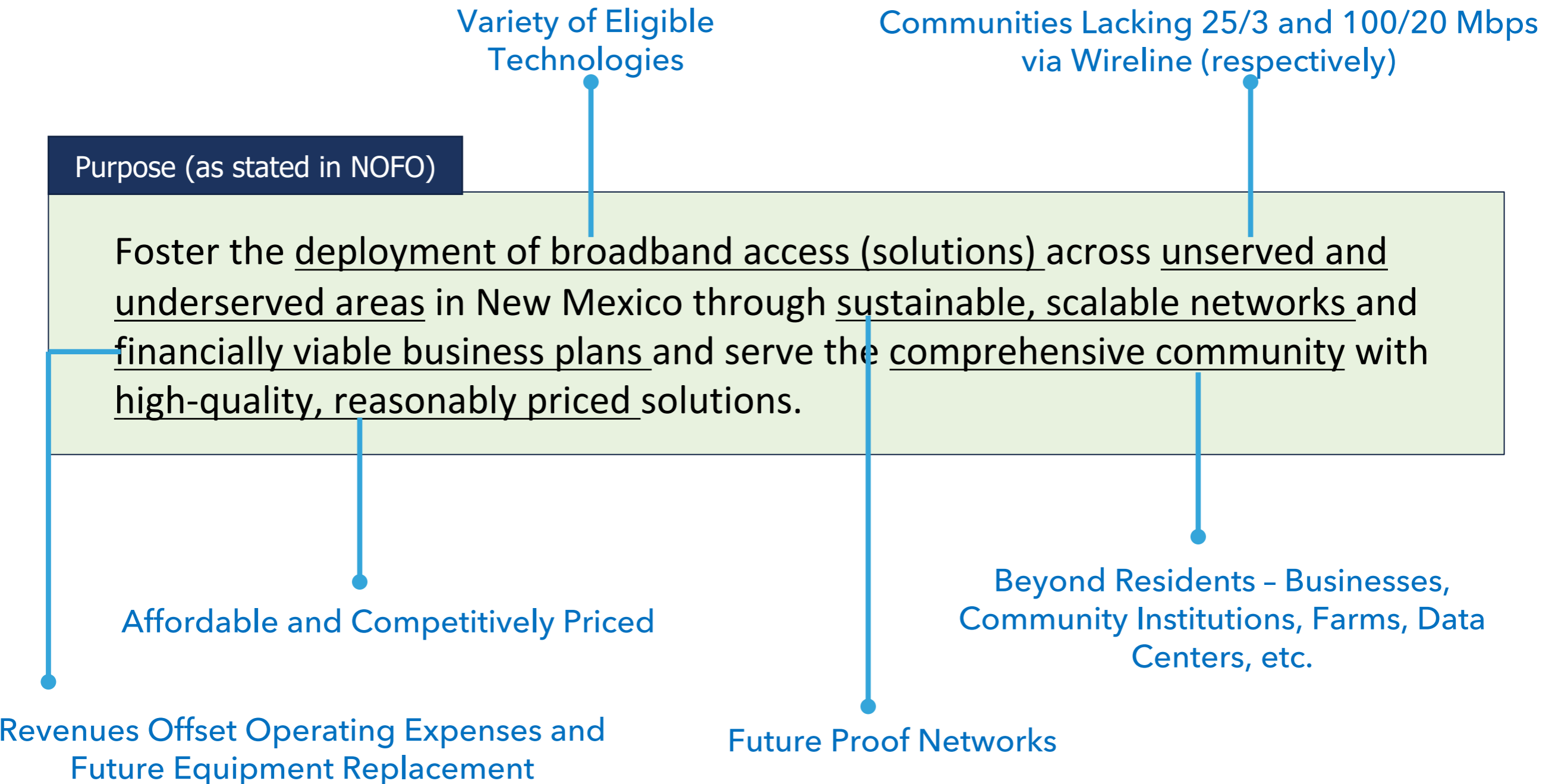
- House Bill 2 appropriated \$123M to “plan, design, construct, renovate and equip broadband, including alternative and satellite broadband, statewide.”
- Funds are applied from the American Rescue Plan Act (ARPA) and its Coronavirus Capital Projects Fund.
- The U.S. Department of Treasury administers the Capital Projects Fund.
- Funds are awarded to States which then lead program development, award selection, and administration.

State Agencies and Council Contribution

- The Department of Information Technology (“DoIT”) was assigned to manage the program by House Bill 2.
- The Office of Broadband Access and Expansion (“OBAE”) is administratively attached to DoIT.
- OBAE leads the program design, launch, and overall administration for the Pilot Program.
- Members of the Connect New Mexico Council have provided valuable input into the drafting of the NOFO, application, and scoring guide.

Purpose of the Pilot Program

- The multifaceted purpose of the Pilot Program aims to achieve several objectives.
- The program requirements, application process, and scoring guide collectively support OBAE's mission of selecting the best projects toward achieving this purpose.

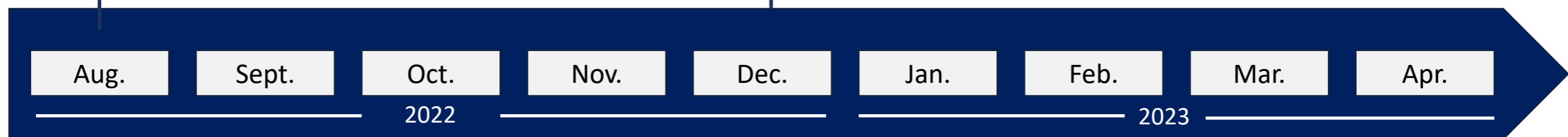


Timeline

- The Pilot Program is structured into three waves. This structure recognizes that some entities have already developed a detailed network design and business plan, whereas others require more time.
- Applications will be accepted and reviewed on a rolling basis.
- Award announcements may also occur on a rolling basis and may not necessarily be announced before the start of the new wave.
- Encourage prospective applicants to primarily focus on preparing a strong proposal and submitting when ready.

NOFO Release
August 10

Wave Two Applications Due
December 9



Wave One Applications Due
September 23

Wave Three Applications Due
February 27
(Contingent on Funds Remaining Unallocated)

Qualifying Project Areas

- The threshold defining an eligible project area involves the speed threshold defined below based on wireline technologies.
- The focus on wireline recognizes that the Capital Projects Fund (and other federal programs) prioritize fiber-based solutions.

Rule on Eligible Project Areas

Defining Eligible Project Area

- Areas in which 80% of the household and business locations in the applicant's Project Area are either unserved and/or underserved.

Served Area

- The household or business location that has access to a wireline-based broadband connection that reliably offers at least 100 Mbps download and 20 Mbps upload.

Unserved Area

- An unserved household or business lacks access to a wireline-based broadband connection offering at least 25/3 Mbps (download/upload)

Underserved Area

- An underserved household or business has access to a wireline-based broadband connection offering at least 25/3 Mbps but less than 100/20 Mbps

Note: A Project Area does not need to be contiguous and may include gaps, given that adjacent households and businesses may already be served. However, the Office of Broadband expects to have the Project Area include all unserved or underserved premises in the census block intersected by the Project Area.

Corroborating Data Sources

- New Mexico Broadband Map
- Survey Data (encouraged but not a requirement)
- Speed Test Data
- Other Data Sets (e.g., NTIA Indicators of Needs)

Validation Process to Avoid Overbuild

- OBAE will publicly post project areas.
- Service providers are invited to assert that a project area is either:
 - Served today
 - Will be served in the near future based upon a detailed business plan that stands ready to be implemented (e.g., network design completed, financing secured, etc.)

Eligible Project Types

- The Pilot Program funds last-mile networks that deliver connectivity to end users and other complementary network facilities to enable high-speed Internet to the premise.
- Last-mile networks should deliver symmetrical 100 Mbps, or if not practicable, demonstrate a path for scalability.
- Dept. of Treasury encourages states to fund fiber-based networks; the scoring framework awards additional points for offering fiber-type speeds.
- OBAE is open to other technologies, given that the low density and/or challenging terrain surrounding rural and remote areas may not make fiber-based projects feasible.

Network Purpose

- Last-mile networks that provide connectivity to unserved and underserved households and businesses
- Network facilities complementary to last-mile network for enabling broadband are also eligible – e.g., middle-mile, community Wi-Fi networks

Performance

- Delivers 100 Mbps symmetrical download/upload speeds (or scalable toward this threshold)
- Networks not meeting this standard may be funded when impracticable to deploy due to geography, topography, or excessive cost barriers. In such cases, the network must reliably offer at least 100/20Mbps and be scalable to 100 Mbps symmetrical.
- Supports low latency to enable real-time, interactive applications

Technologies

- Fiber-optic wireline
- Fixed wireless
- Alternative technologies meeting the speed and latency thresholds
 - Examples
 - Non-terrestrial networks: including high altitude platform stations (HAPS) and satellite networks
 - Alternative terrestrial networks – e.g., mobile wireless networks that also provide high-speed fixed wireless.

Eligible Project Expenditures

- Eligible expenses generally include those upfront costs to plan and deploy a broadband network.
- Ineligible expenses involve recurring expenses and other prohibited items designated by the Capital Projects Fund.
- Reimbursable expenses, with exceptions, must be incurred after the award date.

Eligible Expenditures

Eligible

- Application Preparation
- Market Assessment
- Permitting and Regulatory Reviews
- Network Planning and Design
- Network Infrastructure Deployment
- Network Facilities
- Personnel
- Grants Administration and Reporting

Ineligible

- Acquisition of spectrum licenses
- Operations and maintenance costs (other than grant admin. costs)
- Short-term operating leases
- Payment of interest or principal on outstanding debt instruments
- Expenditures related to land buildings, structures, improvements, or equipment not directly used to support the deployment of a broadband network
- Passthrough expenditures with respect to subcontractors or other third parties operating on an Awardee's behalf to the extent they are not the result of arm's length transactions or are not reflective of fair market rates.

** Please see NOFO for comprehensive list.

Other Stipulations

Timing

- Must be incurred after the award date
- Certain expenses can be incurred before the award date but after NOFO publication
 - E.g., application preparation; market assessment; and other planning expenses directly related to the project.

Avoiding Duplication with Other Government Funded Broadband Projects

- Pilot Program funds cannot be applied for costs that will be reimbursed by the other federal or state funding stream(s).
- Funding applied can be used for complementary purposes (e.g., building middle-mile, additional tower for fixed wireless, building community Wi-Fi).

Eligible Entities

- The rules are flexible about the types of entities that can apply.

Eligible Entities

- Government
 - Tribal government
 - Local unit of government (e.g., municipalities, counties and other political subdivisions)
 - Local and state agency
- Non-Profit Entities
- For-Profit Entities
- Cooperative or Mutual Organizations
- Utilities

Other Requirements to Receive Expenditures

- ✓ Has a valid Federal Tax Identification Number (FEIN)
- ✓ Is not on the Federal Excluded Parties List
- ✓ Is in Good Standing with the New Mexico Secretary of State, as applicable
- ✓ Is not on the New Mexico Stop Payment list
- ✓ A federal Debarred and Suspended status cannot be remediated.
- ✓ Pursuant to the policy of the New Mexico Office of the Comptroller, to receive grant funds from the State of New Mexico, a grantee must be considered a regarded entity by the IRS for federal income tax purposes. Disregarded entities will not be eligible to receive grant funds.

Matching Contribution

- OBAE requires a 25% minimum matching contribution. Additional points are offered for a higher percentage.
- Waivers may be accepted for extenuating circumstances.
- In-kind contributions are allowed when they are a necessary part of the project and would otherwise be required for purchase.

Importance of Match

- **Policy Justification**
 - Helps maximize the total available grant funding for the state.
 - Match demonstrates “skin in the game” and makes applicants more accountable through the process – e.g., network efficiency, procurement, market penetration, cost management, and overall sustainability.
- **Right Sizing the Match**
 - The match should reflect the “gap” in the business case.
 - In financial terms, this may mean a negative NPV after considering the capital investment and cash flows over a 10-year period.

Match Waivers

- A lower match contribution may be allowed if unique, extenuating circumstances prevent the 25% contribution.
 - Business case not earning the required rate of return due to a limited revenue opportunity (e.g., few customers, low average revenue per subscriber, etc.) or uniquely high-cost structure for capital or operating expenses.
 - The project focuses on a socially disadvantaged group or community facing severe economic distress

In-Kind Contributions

- May include donated equipment, outside plant, supplies, land, capital leases, and services.
- Fee waivers or discounts for access (e.g., rights of way, pole attachments, conduits, easements, or other types of tangible or intangible property required to deploy the network)

Performance Requirements

- The following stipulations apply to encourage the timely deployment of awarded projects, and serve the public interest.

Key Stipulations

- **Buildout Time Requirements**
 - Completion within three years after signing the grant Award Agreement
 - Extensions may be allowed under extenuating circumstances
- **Five-Year Service Agreement**
 - Provide all the services and pricing stated in the application for at least five years (provision will be included in the Award Agreement)
- **Affordability Programs**
 - Offer at least one low-cost service option at speeds sufficient for a household with multiple users to telework and engage in remote learning simultaneously.
 - Participation in federal programs that provide low-income consumers with subsidies for broadband service, such as the FCC's Affordable Connectivity Program (ACP)
- **Performance Testing**
 - Engage in network performance testing (speed, latency) during the five-year service period; test results are to be reported to the Office of Broadband periodically.

Open Access for Middle Mile Projects and Segments

- Pilot Program awards for middle-mile network projects will require the grantee to make the network open for interconnection with other broadband service providers.

Open Access Requirements

- **Interconnection:** Allow interconnection to grant-funded facilities at any technically feasible point along the network without exceeding current or reasonably anticipated capacity limitations. This obligation includes, at a minimum, the physical interconnection of the grantee's facilities to a requesting party's facilities for the exchange of traffic. In addition, the grantee must connect to the public Internet directly or indirectly and provide requesting parties with the ability to connect to the Internet. Rates and terms for interconnection shall be reasonable and non-discriminatory.
- **Wholesale Broadband Service:** A middle-mile grantee must offer wholesale broadband service at rates and terms that are reasonable and non-discriminatory.
- **Negotiate in Good Faith:** Middle-mile grantees shall negotiate in good faith with all requesting parties (i.e., public, private, non-profit, or other parties) making a bona fide request for interconnection or wholesale services.
- **Dark Fiber for State, Tribal, and Local Government Agencies and Institutions:** In exchange for the public funding, middle-mile grantees deploying fiber-based networks will be required to specifically sell dark fiber to state, Tribal, and government agencies, as well as public institutions of higher education. The contractual arrangement may involve a 25-year IRU. The price of the IRU and supporting services (e.g., maintenance) shall be reasonable and comparable to IRU pricing reflected in competitive, urban markets. The capacity will primarily serve the broadband needs of the government agencies. Rates and terms for maintenance services for the dark fiber shall be reasonable and non-discriminatory.
- **Commercial Dark Fiber Sale to Broadband Service Providers:** Middle-mile grantees are encouraged to offer the sale of dark fiber via IRUs to broadband service providers at prices consistent with those offered in major metropolitan areas nationally. (additional points awarded)

Post-Award Requirements

- Grantees are subject to several post-award requirements.
- Please review all requirements stated in the NOFO. These requirements will also be specified in the award agreement.

Requirements

- **Competitive Procurement Requirements**
 - Follow applicable federal and state laws and guidelines for procurement.
- **Tax Obligations**
 - Grant awards and contract payments to vendors may be subject to state or federal taxes.
 - Please consult with a tax professional, and account for potential tax obligations, as part of the business case.
- **Network Testing**
 - Test and report results for speed and latency.
- **Project Reporting**
 - Periodically filed reports with OBAE regarding project status and milestones during the period of performance (e.g., permits secured, the infrastructure deployed, expenditures, network testing results) and into commercial roll-out (e.g., customer sign-ups, adoption assistance, etc.)
 - Details will be issued as part of the Award Agreement

- **Worker and Contractor Hiring Guidelines**
 - Funded projects must comply with all relevant federal laws and regulations and all requirements for state, Tribal, and local laws and ordinances.
 - Federal Davis-Bacon Act prevailing wage rate requirements do not apply to projects funded solely by the Capital Projects Fund program.
 - Treasury does request States to ensure that projects “incorporate strong labor standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions, not only to promote effective and efficient delivery of high-quality infrastructure projects but also to support the economic recovery through strong employment opportunities for workers.”
 - Scoring framework awards additional consideration for plans to hire local and regional staff and contractors to design, plan, deploy, and operate the project

Closing Remarks

- Please review the NOFO for detailed guidance.
- Submit questions to the broadbandpilot@state.nm.us
- Attend the webinars
 - Application Overview: August 19 - Friday at 12:00 PM (MT)
 - Scoring Guide Overview: August 22 - Monday 12:00 PM (MT)
 - Interactive Broadband Map Overview: August 23 - Tuesday 12:00 PM (MT)
- Office hours will be offered soon.
- Other program resources will be launched soon.
- The application intake system will be available later this month.