

Connect New Mexico Fund
Frequently Asked Questions
Second Iteration - March 2024

Mapping Data

1.0 Reporting Locations

➤ *How do I report which locations will be served by my Proposed Project Area (PPA)?*

→ **If I you do not have a CostQuest license for the BSL locations, i.e., you are “unlicensed”:**

1. Submit your PPA boundary (within which all locations must be served by proposed project) to OBAE-gis@doit.nm.gov, as KML/SHP/FGDB
2. OBAE will calculate a report of all FCC Location IDs with the classification of un/under/served that intersect (are within) your PPA.
 - a. Summary table of numbers of BSL’s by service status
 - b. Screenshot of the project area overlaid on the BSLs (symbolized by current service status) from the public map.
3. You can then submit this list as-is with your PPA, to represent the locations to be served by your proposal.
 - a. If you need a further breakdown of the BSLs by technology type being proposed (i.e., if your PPA includes a technology mix), you’ll need to submit a separate polygon for each technology type.
 - b. As detailed in the NOFO, within a PPA, you must serve every unserved and underserved location. Any served locations may only be served if incidental to connect the qualifying locations. If our location report includes more locations than you plan to serve, then you must submit separate polygons that clearly exclude those locations that you aren’t serving.
4. If our report still does not match your expected results (more or fewer BSLs than you calculate in your records), please also submit your proposed address list so that these discrepancies can be resolved as the grant assessment process proceeds. *Please use this opportunity also to challenge the data reported by the FCC as BSLs (as described more here: <https://maps.connect.nm.gov/pages/map-challenges>)

For Licensees

1. Submit a copy of your CostQuest license to OBAE-gis@doit.nm.gov
2. OBAE will then provide a link to a map service (a REST endpoint) that you can add to your GIS software of choice to view the BSLs relative to your data. This is provided via a secure user account in OBAE’s web GIS environment, so submit the full name, e-mail address, and phone number of the person managing these data. This data will be the “BEAD Eligible” (grant-deduplicated) layer visible on our public maps.
3. If you cannot use the map service, OBAE can also provide a CSV of the location records with their service status for the areas covered in your CostQuest license. This option should be used with discretion, because this will be a static copy of the data, which are subject to change as NM proceeds with additional mapping activities such as the state-run BEAD challenge.

Connect New Mexico Fund
Frequently Asked Questions
Second Iteration - March 2024

Managing Confidential Documents

2.0 Confidentiality

- *Will applications be subject to the New Mexico Inspection of Public Records Act (IPRA)?*
- Any documents submitted to and maintained by the Office of Broadband Access and Expansion (“OBAE”) can be considered a public record. Anyone can request public records as part of the Inspection of Public Records Act (IPRA). This state-created Act aims to allow inspection of records generally maintained by public entities to provide transparency and insight into the operations and functions of the departments and agencies that fall within the jurisdiction of IPRA. The Connect New Mexico Fund application requests documents the applicant may deem to reflect confidential information, such as trade secrets.
- *Will steps can be taken to protect confidentiality?*
- OBAE will try to protect such confidential information from an IPRA request but cannot guarantee that such information will be protected. Nevertheless, this process enhances OBAE’s ability to protect such information.
- Please follow these steps to provide OBAE with a further understanding of the confidential nature of a document.
 - Please do not submit any documents that you deem to involve confidential data.
 - Complete a Request for Confidential Status concerning the specified data, which OBAE must approve.
 - Complete a Justification Declaration in Support of a Request for Confidential or Privileged Status.
 - Please attach both forms to the application portal.

Labor Standards

3.0 Wage Requirements

- *Are recipients subject to prevailing wage rates?*
- As the NOFO states, OBAE aims 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. This policy not only promotes effective and efficient delivery of high-quality infrastructure projects but also supports economic recovery through strong employment opportunities for workers. Such practices help to ensure a reliable supply of skilled labor that would minimize disruptions, such as those associated with labor disputes or workplace injuries.
- Applicants must follow the Public Works Minimum Wage Act. Specifically, awardees receiving grant funding from the State of New Mexico for broadband construction projects will have to

Connect New Mexico Fund
Frequently Asked Questions
Second Iteration - March 2024

comply with job classification and wage determinations stipulated by statutory authority and administered through the New Mexico Department of Workforce Solutions (NMDWS).

- Awardees will have to register with the NMDWS' Public Works Apprenticeship Application (PWAA) online database system to obtain prevailing wage determinations.
- Applicants are encouraged to communicate and register with NMDWS' PWAA online portal prior to the selection of grant award and grant agreement execution to ensure fidelity with the State of New Mexico statutory regulation and state agency grant administrative processes. This practice ensures that the project budget reflects prevailing wage rates.

Please Note: Tribal sovereign nations in New Mexico are exempt from Public Works Minimum Wage Act requirements.

Service Offerings and Pricing

4.0 Pricing

- *Can an awardee change the service offerings and pricing post-award during the five-year service period?*
 - Awardees must provide the service offerings at the pricing stated in the application during the service period. Per the NOFO, the service period is defined as the period established at closeout and five years thereafter when the grantee's solutions are commercially offered. Performance and pricing commitments are monitored and enforced during this period.
 - In scoring the application, the evaluation team considers the range of service offerings and price competitiveness to national urban rates. Thus, the NOFO had stated that "grantees must provide all the services and pricing stated in the application for at least five years. This provision will be included in the Award Agreement."
 - Reasonable adjustments may include those that serve the public interest. Any adjustments must be proposed in writing by the Awardee to the Office of Broadband Access and Expansion and approved in writing by OBAE. The Awardee should consider the risk that such price adjustments may not be approved.
 - Reasonable adjustments that may serve the public interest include increasing the speed in a given service tier, but maintaining the price would be acceptable. A nominal increase in the price may also be considered for a substantial increase in speed. Minor adjustments due to inflation may also be acceptable if tied to the Consumer Price Index (CPI).
 - OBAE recognizes this policy creates complexity for regional or national carriers with a uniform set of service tiers and pricing across several markets, and their practice of launching new marketing and promotional campaigns. For this reason, OBAE may consider any price adjustments on a case-by-case basis, taking into account the type of changes to the service tiers and pricing, and the assertions made by the awardee regarding how such changes serve the public interest (e.g., market demand for new service tiers and potential take rates). The Awardee should consider the risk that such price adjustments may not be approved. This leads to an outcome where price packages may vary within a state or region, with one services menu for grant-funded areas and an alternate services menu for privately funded areas. In sum, OBAE aims to enforce the programmatic requirements noted in the NOFO but also recognizes that

Connect New Mexico Fund
Frequently Asked Questions
Second Iteration - March 2024

carefully considered flexibility on policy can serve the public interest and benefit participating stakeholders.

Implications of Current Policy to Limit Grants Funding to Expenditures Incurred by June 30, 2025

5.0 Project Period Overview

- *The NOFO noted that the current statutory authority limits payment for expenditures incurred by the end of fiscal year 2025 (June 30, 2025). However, OBAE has mentioned that it is working with the Legislature to extend this deadline to at least fiscal year 2028 (June 30, 2028). Please provide a status update.*
 - OBAE has not received legislative approval during the 2024 Session. OBAE will ask for an extension during the 2025 Session, with a specific request that expenditures may be allowed until the end of FY 2028 (June 30, 2028).

- *Will the Award Agreement recognize the unique time constraints absent a legislative-approved extension?*
 - The Award Agreement will recognize that absent legislative extension, the only grant funds that will be issued are those requested and processed before June 30, 2025.

- *Are applicants allowed to propose projects that require a timeline that extends past June 30, 2025?*
 - OBAE recognizes that many infrastructure deployment projects, especially for fiber, require at least two years of planning and implementation. An applicant may propose a project plan that extends past FY2025, with the recognition that absent legislative action, all purchase orders have to be submitted and payments issued by OBAE before June 30, 2025 for grant-funded items in the budget.

- *If all the grant funds are not applied, does the Awardee still have to invest their full match amount?*
 - The Awardee is still responsible for achieving the project scope. The Awardee will have to contribute their full match and likely any extra funds to cover the grant amount that is not allocated after June 30, 2025.

- *Should applicants consider submitting a budget in which grant funds reimburse all planned activities occurring before the end of FY 2025?*
 - Generally, OBAE aims to see grant and match funds be proportionally spent during the project period. Given the current time constraint, OBAE recognizes that applicants may submit a budget that “front loads” the grant expenses or lists expenditures on the grant side of the ledger that will likely be incurred before FY2025. This may include expenses for such items as engineering design, permitting and right of way, electronics, and materials.

Connect New Mexico Fund
Frequently Asked Questions
Second Iteration - March 2024

- *Will OBAE provide favorable consideration to projects that require a shortened project period?*
 - The scoring guide will not change. Reviewers will still review and assign points based on the published Scoring Guide.
 - Applicants should provide a detailed narrative in their risk mitigation plan regarding how they will manage potential challenges for a project that requires grant funding after June 20, 2025.
 - During the due diligence process, OBAE will further inquire about this risk mitigation plan.

- *If the business case does not support investing in extra cash-based match, how can an applicant manage this challenge?*
 - Applicants should consider several factors. First, it will be OBAE's intent to seek a legislative extension during the 2025 session. The applicant should calculate the risk that this extension does not materialize versus the benefits that it does. This "risk to reward" calculation should guide its thought process. Second, OBAE encourages Awardees to advocate to their legislators the negative consequences of not having this extension (e.g., adverse impacts on community investment and project sustainability). Third, applicants should strategize on how they can potentially fast-track activities to enable a higher allocation of grants before June 30, 2025.

- *Will there be other changes to any reporting, performance, and other compliance requirements?*
 - All compliance requirements stated in the NOFO remain applicable and enforceable. Please see the NOFO for these requirements – some of which pertain to the project period and others remain in effect after the project closeout.

Connect New Mexico Fund
Frequently Asked Questions
Second Iteration - March 2024

- *Can awardees pay contractors, in advance, for labor?*
 - OBAAE cannot pre-pay for services not rendered at the time of payment. OBAAE can only cover expenses incurred at the time of payment.

Community Involvement

6.0 Letters of Support

- *What constitutes a compelling letter of support?*
 - A compelling support letter includes several themes to support the project and applicant, including:
 - gaps regarding the availability of reliable broadband
 - examples of how the project benefits the community
 - distinct advantages regarding several facets of the project
 - confidence in the applicant's ability to plan, deploy, and maintain the network
 - personal commentary from the supporter (not a boilerplate letter)

Eligible Locations

7.0 Location Eligibility

- *Can served locations be passed with fiber?*
 - A Proposed Project Area is eligible if at least 80% of the locations in the Project Area are unserved or underserved. Moreover, "served" locations should only be incidentally included to target the unserved and/or underserved locations.
 - The NOFO states that served locations may only be included if they are incidental toward targeting the unserved and/or underserved locations (e.g., a wireline network has to bypass such units to reach the unserved and underserved location; a wireless network covers the served locations because the RF signal permeates to such locations).

8.0 Unserved vs. Underserved Areas

- *Will unserved areas be given a higher priority of funding than underserved areas?*
 - The Scoring Guide presents a table in Section A1 of Project Impact in which more points are assigned to unserved areas over underserved areas for the same project size and post-award speeds.

- *How does Section A1 of the Project impact work when the application contains a mix of unserved and underserved areas?*

Connect New Mexico Fund
Frequently Asked Questions
Second Iteration - March 2024

- OBAE will apply a weighted average to determine the final points based on the number of premises applicable to the specific points in the table.

9.0 Project Area

- *The application requests the applicant to provide a detailed map and to identify every passed or covered premise. Must every premises be identified?*
- Please identify all passed and covered premises within the proposed service area residents, businesses, farms, and institutions). This map, and the entire application, are part of the Award Agreement and will help OBAE validate that every cited premise receives service and whether the number of passed locations undermines the project value. Please review the directions in Question 4 from the application.

Application Review

10.0 Review Process

- *Is the score the most critical factor in determining which projects are awarded?*
 - The score is a significant factor but not the only factor. The NOFO notes projects that receive a higher proportion of the available points move into the Due Diligence phase.
 - The project moves into Phase III- Final Selection if all open issues are resolved during Due Diligence. State Leadership will make a final determination for the award and consider funding various projects across organizations, geographies, technologies, and business models; socioeconomic development priorities; broadband strategic planning activities; and coordination with other federal funding programs. Any challenges from existing service providers are also considered. Therefore, the score is an essential factor but not the sole factor.
- *How many reviewers score an application?*
 - Each application will have at least three reviewers.
 - They will score the application based on the criteria stated in this Scoring Guide. The score may be adjusted based on additional information received and cured during the due diligence phase.
- *Are projects compared to each other?*
 - Projects are reviewed based on their individual merits. As noted in the NOFO, projects that receive a higher proportion of the available points, especially relative to the average scores in a particular wave, then move into the Phase II - Due Diligence process.

11.0 Due Diligence Process

- *What factors are considered during the due diligence process?*

Connect New Mexico Fund
Frequently Asked Questions
Second Iteration - March 2024

- The due diligence process aims to resolve critical shortcomings related to one or more of the following. This list is not exhaustive.
 - Budgets exhibiting excessive costs (e.g., high cost per mile, high cost per pole replacement)
 - Budgets that lack detail around units and/or unit pricing
 - Locations deemed “served” by the NOFO
 - Pricing that is higher than rates seen in competitive markets
 - Statements or information that counters programmatic requirements
 - Low match (i.e., private investment) based on evaluating key metrics such as net cost per passing, return on investment, etc.
 - Pro formas that lack detail
 - Information that is found to be missing, incomplete, redacted, unclear, or requiring clarification
 - Lack of evidence-based justification for match waiver (lower than 25%)

Professional Engineer

12.0 Professional Engineer

- *Will a Professional Engineer be required to certify the project?*
- The Grant Agreement will require a Professional Engineer (or another expert) to certify that the project conforms with the technical and performance specifications noted in the awarded application.
- *Does the Professional Engineer need to be licensed in New Mexico?*
- The Professional Engineer does not need to be licensed in New Mexico.
- *Can a Professional Engineer be an applicant's employee or a project partner?*
- The Professional Engineer can be affiliated with the applicant or project partner.

Matching Contribution

13.0 Project Matching Contribution

- *Under what circumstances can a match be lower than 25%?*
- Per the NOFO, an applicant can file a waiver if unique circumstances prevent a matching contribution of at least 25%.
- These exceptional circumstances may include a business case that does not earn the required rate of return, even with a 75% grant amount, 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. Alternatively, a socially disadvantaged group or community facing severe

Connect New Mexico Fund
Frequently Asked Questions
Second Iteration - March 2024

economic distress may cite specific challenges that limit its ability to contribute the 25% matching contribution. Or, an extenuating circumstance may prevent the applicant from raising matching funds after repeated efforts.

- OBAE will carefully review the evidence and data to determine if the waiver is justified based on the extenuating circumstances.
- If the application is deemed compelling, based on its initial evaluation, but the matching share waiver fails to provide an evidence-based justification, the applicant may be asked to contribute a reasonable matching share that allows the applicant to earn a return on investment commensurate with its cost of capital.

➤ *Can the waiver of permits be considered an in-kind contribution?*

- An in-kind match is a non-cash contribution of value provided by the applicant (or supporting stakeholders). These contributions are a necessary part of the project and would otherwise be required for purchase if not contributed in-kind. In-kind contributions have to reflect market value.
- Waiver of permit fees can be an eligible in-kind contribution if they are a necessary part of the project and would otherwise be required for purchase if not contributed in-kind. In-kind donations must have and be relative to market value.
 - NOFO states these items are eligible for in-kind consideration: Waivers associated with free or discounted access to rights of way, pole attachments, conduits, easements, or other types of tangible or intangible property required to deploy the network.

Miscellaneous

14.0 Project Size

- *Can an applicant file multiple applications if the budget exceeds \$6 million per project?*
- The Applicant can file multiple applications to manage this \$6 million ceiling.

15.0 Grant Agreement

- *Can applicants see an Award Agreement?*
- The Award Agreement will be posted online in the near future.

16.0 Templates

- *Which of the attachments will have templates provided for submission with the application?*
- Templates have been provided for the Project Budget and Project Plan.

Connect New Mexico Fund
Frequently Asked Questions
Second Iteration - March 2024

17.0 Duplication of Funding

- *Can an applicant apply for funding to deploy fiber for a project previously funded by a federal program to deploy fixed wireless or upgraded DSL?*
- The Applicant may still apply for Connect New Mexico funds so long as the funds are applied to cost components that are distinguishable from costs reimbursed by the other federal funding program. An awardee will be required to certify in the Award Agreement that the funds requested from the Connect New Mexico Fund have not been and will not be reimbursed by any other state or federal funding programs.

18.0 Procurement

- *Our vendors provided price quotes, which enabled the project budget preparation. Are we prohibited from choosing that vendor?*
- An awardee must follow applicable state laws and guidelines for procurement. For example, public sector grantees must ensure that purchases requiring competitive procurement reflect a process and practices that allow multiple vendors to participate. In such cases, applicants must document the following: the method used for vendor notification and requirements documentation (e.g., Request for Proposal); evaluation criteria (e.g., price, quality, availability, special support, etc.); ranking of responses.
- Sole source contracts are allowed for extenuating circumstances (e.g., recently completed competitive process; vendor offers a product or service unavailable by others; long-standing commercial relationship by which bringing aboard a new product may disrupt an existing network).