



STATE OF NEW MEXICO
OFFICE OF BROADBAND ACCESS & EXPANSION

Office of Broadband Access and Expansion
Department of Information Technology
State of New Mexico

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Notice of Funding Opportunity (NOFO)
Connect New Mexico Fund
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Table of Contents

A.	PROGRAM SUMMARY	4
B.	PROGRAM OVERVIEW	6
1.	SITUATIONAL ASSESSMENT	6
2.	STATUTORY AUTHORITY AND FUNDING SOURCES.....	8
3.	KEY DATES	9
4.	DEFINITIONS	10
C.	PROGRAM PURPOSE	12
D.	ELIGIBLE PROJECTS	12
1.	ELIGIBLE NETWORK TYPES	12
2.	ELIGIBLE TECHNOLOGIES	14
3.	NETWORK PERFORMANCE REQUIREMENTS	15
E.	ELIGIBLE PROPOSED PROJECT AREAS.....	15
1.	CRITERIA.....	15
2.	DATA TO SUBSTANTIATE ELIGIBLE SERVICE LOCATIONS AND ELIGIBLE COMMUNITY INSTITUTIONS.....	16
3.	PUBLIC POSTING OF PROPOSED PROJECT AREAS	16
4.	TRIBAL GOVERNMENT CONSENT AND SERVICE STATUS CONFIRMATION.....	17
F.	ELIGIBLE ENTITIES	17
G.	FINANCIAL POLICIES AND REQUIREMENTS	17
1.	MAXIMUM AND MINIMUM GRANT REQUEST	17
2.	MATCHING SHARE.....	18
3.	ELIGIBLE EXPENDITURES	19
4.	INELIGIBLE EXPENDITURES	20
5.	TIMING OF ELIGIBLE EXPENDITURES	20
6.	DUPLICATION OF FUNDING	21
H.	OTHER POST-AWARD REQUIREMENTS AND OBLIGATIONS	21
1.	BUILDOUT REQUIREMENTS	21
2.	FIVE-YEAR SERVICE AGREEMENT	21
3.	LOW-COST SERVICE OPTION.....	21
4.	PARTICIPATION IN PRICE SUBSIDY PROGRAMS.....	22
5.	REPORTING REQUIREMENTS	22
6.	WORKER AND CONTRACTOR EMPLOYMENT GUIDELINES	23
7.	COMPETITIVE PROCUREMENT REQUIREMENTS.....	23
8.	NETWORK PERFORMANCE TESTING REQUIREMENTS POST-COMMERCIAL SERVICE LAUNCH	24
9.	TAX OBLIGATIONS	24
10.	ASSET OWNERSHIP AND FUTURE CHANGES.....	24
I.	APPLICATION COMPONENTS AND PROJECT EVALUATION PROCESS.....	24
1.	APPLICATION	24
2.	SCORING GUIDE	25
3.	PROJECT REVIEW PROCESS	26
J.	ADMINISTRATIVE GUIDELINES	27
1.	REQUIREMENTS TO RECEIVE PAYMENT.....	27
2.	APPLICATION SUBMISSION	27
3.	AWARD AGREEMENT.....	28
K.	PROGRAM SUPPORT	29

1. QUESTIONS	29
2. SUPPORT SERVICES.....	29
3. GRANT WRITING, ENGINEERING, AND PLANNING GRANT (GWEP)	29
L. REFERENCE LINKS.....	29

A. Program Summary

This Notice of Funding Opportunity (“NOFO”) formally establishes the funding availability for the Connect New Mexico Fund. The NOFO sets forth the program purpose, eligibility factors (e.g., project types, technologies, service areas, entities), allowable expenditures, performance requirements (e.g., network performance, service offerings, etc.), evaluation criteria, and post-award compliance requirements.

Summary	
Program Name	Connect New Mexico Fund
Administrator	Office of Broadband Access and Expansion (OBAE)
Available Funding	<ul style="list-style-type: none"> • Size: \$70 million funding pool • Grant Request per Application: \$6,000,000 (maximum); \$250,000 (minimum)
Matching Share	<ul style="list-style-type: none"> • <u>Matching share requirement</u>: 25% minimum • Note: a) Waivers to allow for a lower match may be considered under extenuating circumstances that justifiably prohibit the minimum contribution; b) The scoring rubric awards additional points for contributing a greater than 25% match, and also providing a match amount commensurate with the demonstrated level of financial need.
Authorizing Legislation	<ul style="list-style-type: none"> • <u>House Bill 10</u>: Established the Connect New Mexico Fund. • <u>Senate Bill 377</u>: Appropriated the \$70 million funding amount. • <u>House Bill 262</u>: Directed OBAE to implement a grant program and cited several factors to consider during project evaluation and selection • <u>House Bill 2</u>: Provided further guidance on the timeline for when the appropriated funds must be expended.
Program Purpose and Objective	<ul style="list-style-type: none"> • <u>Statute-Defined Purpose</u>: Develop and expand broadband infrastructure and services and support digital inclusion • <u>Program Objective</u>: Foster the deployment of broadband access to unserved and underserved locations (residents, businesses, and community institutions) through scalable, sustainable networks and financially viable business plans that serve the comprehensive community with reliable, reasonably priced high-speed solutions while promoting digital inclusion.
Eligible Project Types	<ul style="list-style-type: none"> • <u>Last-Mile Networks</u>: Networks that provide direct connectivity to unserved and underserved residents, businesses, and community institutions • <u>Middle-Mile Networks</u>: Networks that provide backhaul to last-mile networks serving eligible project areas that lack open-access, high-capacity transport networks to aggregate and deliver traffic to the Internet backbone • <u>5G Wireless Networks</u>: Networks that provide 5G coverage in areas both lacking reliable signal strength AND having a concentration of unserved and underserved locations • <u>Special Network Projects</u>: Special projects that aim to support the deployment of infrastructure to unserved and underserved locations. These may include: network facility replacement in communities impacted by wildfires; fiber and conduit for Dig Once projects; pole replacement costs; public safety networks that also support fixed broadband solutions.
Eligible Technologies	<ul style="list-style-type: none"> • <u>Priority Technology</u>: Fiber-optic wireline constitutes a priority technology due to reliability, scalability, and long-term sustainability. • <u>Alternative Technologies</u>: Fixed wireless (licensed); 5G mobile wireless offering fixed broadband; non-terrestrial solutions (e.g., high altitude platform stations and satellite networks); emerging commercial technologies with a track record of meeting performance standards. <p>** Note: Alternative technologies meeting the speed and latency thresholds may be considered when fiber is impracticable to deploy due to geography, topography, or excessive cost barriers.</p>

<p>Performance Standard</p>	<ul style="list-style-type: none"> • <u>Speed and Latency Threshold</u>: Delivers 100 Mbps symmetrical download/upload speeds and supports low latency to enable real-time, interactive applications. • Note: When impracticable to achieve this speed threshold due to geography, topography, or excessive cost barriers, a project may be funded if the network can reliably offer at least 100/20Mbps and be scalable to 100 Mbps symmetrical.
<p>Eligible Locations</p>	<p><u>Unserved and Underserved Residential and Business Locations</u></p> <ul style="list-style-type: none"> • An “unserved” household or business lacks access through wireline and fixed wireless (using licensed spectrum) that offers a reliable data rate of at least 25/3 Mbps (download/upload) • An “underserved” household or business location that has access to a wireline-based or fixed wireless (using licensed spectrum) broadband connection that reliably offers at least 25/3 but less than 100/20 Mbps <p><u>Community Institution Locations Lacking Symmetrical Gbps Service</u></p> <ul style="list-style-type: none"> • A community institution lacking a reliable data rate of at least symmetrical 1 Gbps
<p>Relevance of Unlicensed Fixed Wireless Solutions</p>	<ul style="list-style-type: none"> • <u>Potential Challenge Opportunity</u>: A wireless Internet service provider offering reliable broadband of at least 100/20 Mbps with an advanced generation of unlicensed wireless technology, to a location otherwise deemed unserved or underserved, will have the opportunity to challenge an overlapping project and demonstrate performance standards consistent with this NOFO. • <u>Solution Opportunity</u>: An applicant may propose an unlicensed fixed wireless solution using an advanced generation of technology with demonstrated ability to meet performance requirements and mitigate against signal interference from other wireless networks. Please note federal funding programs may still classify such locations as unserved or underserved.
<p>Eligible Proposed Project Areas</p>	<ul style="list-style-type: none"> • Areas in which 80% of the household and business locations in the applicant’s delineated Proposed Project Area (PPA) are either unserved and/or underserved. • Note: Served locations may only be included if they are incidental toward targeting the unserved and/or underserved locations (e.g., must be passed by wireline to reach eligible locations).
<p>Eligible Entities</p>	<ul style="list-style-type: none"> • <u>Entity Types</u>: Local and tribal government; state agencies; public educational institutions; entities created by a joint powers agreement pursuant to the Joint Powers Agreements Act; and private entities for broadband infrastructure to provide service primarily for residential purposes • <u>Private Entity Types</u>: Non-profit entities; for-profit entities; cooperative or mutual organizations; utilities • <u>Consortium</u>: Collaborations among multiple eligible entities are eligible. One partner must be identified as the lead applicant.
<p>Eligible Expenses</p>	<ul style="list-style-type: none"> • <u>Type</u>: Application preparation, market assessment (e.g., data gathering, feasibility studies); permitting and regulatory reviews (e.g., rights of way, easement, environmental, historical and cultural assessment); network planning & design; infrastructure deployment; network facilities & equipment; long-term leases; project management; grants administration and reporting during the project period • <u>Date</u>: Project expenditures are allowable after the date of signed Award Agreement and processing of a Purchase Order (estimated June 2024). Certain expenses can be incurred before the award date but <u>after</u> the NOFO publication date, including: application preparation, market feasibility assessment; and other planning expenses directly related to the project.
<p>Timeline</p>	<ul style="list-style-type: none"> • Current statutory authority limits payment for expenditures incurred by the end of fiscal year 2025 (June 30, 2025). • OBAE is working with the Legislature to extend this deadline to fiscal year 2028 (June 30, 2028). If approved, OBAE aims to offer awardees three years for project completion.

Scoring Framework	<ul style="list-style-type: none"> • Eight key areas: project impact, community engagement, economic efficiency, project readiness, organization qualifications, marketing and services strategy, adoption assistance programs, project sustainability
Application Window Closing Dates	<ul style="list-style-type: none"> • <u>Due Date</u>: March 11, 2024 (11:59 pm) • <u>Rolling Basis</u>: Applications will be accepted and reviewed on a rolling basis. Award announcements may also occur on a rolling basis. • <u>Contingency</u>: Any unused funds will be applied in a subsequent round for funding that may complement the BEAD funding program.
Website	https://connect.nm.gov/connect-nm-fund/
Questions	Please submit questions to: broadband@connect.nm.gov

B. Program Overview

1. Situational Assessment

➤ **Three-Year Broadband Plan and Key Goals**

New Mexico published its first statewide Three-Year Broadband Plan earlier this year.¹ The Plan encompasses a collective set of priorities and initiatives to achieve the four key goals listed below.

- Universal Availability of Terrestrial-Based High-Speed, Scalable Broadband Networks
- Widespread Adoption and Meaningful Usage of the Internet
- Advancement of Next-Generation Statewide Networks
- Program Stewardship

The Office of Broadband Access and Expansion (“OB AE”) continues to make progress on these goals, as evidenced by the advancement of several priorities and initiatives identified in the Plan. A key achievement has been lowering the percentage of residential and business locations lacking high-speed Internet access. This has been due to the collective investment from federal and state funding programs, and contributions from New Mexican service providers, local and tribal government, and private capital.

Broadband Availability Objectives

Regarding broadband availability, the State established the following measurable goal. New Mexican residents and businesses should have access to terrestrial-based high-speed broadband networks that reliably deliver at least 100/20 Mbps (download/upload) by 2029 – the period when planned grant-funded broadband networks should be deployed. This speed constitutes the current federal definition of “served.”

In addition, the Three-Year Broadband Plan also noted that all terrestrial networks funded by the State’s grant programs should offer at least 100/100 Mbps unless the applicant can demonstrate extraordinary circumstances limiting this speed. In such cases, the networks must offer 100/20 Mbps and be scalable to at least 100/100 Mbps.

Finally, to meet the 100/100 Mbps standard, the Plan noted the State’s priority for fiber-based networks – given their distinct advantages of being scalable, sustainable, “future ready,” and having relatively lower operating and upgrade expenditures. For those highly remote communities where terrestrial

¹ Three Year Broadband Plan, <https://connect.nm.gov/uploads/1/4/1/9/141989814/state-of-new-mexico-three-year-broadband-plan-1-1-23-version-1.0-file-011723.pdf>

networks cannot be deployed due to extraordinarily high costs or technical barriers, the State will consider initiatives to foster non-terrestrial solutions.

➤ **State of Broadband**

The State of New Mexico has over 870,000 broadband serviceable locations. Of these, eight percent are unserved, and another eight percent are underserved. This data is based on the FCC’s address fabric from May 2023.

Locations	Count	Percentage
Unserved	70,609	8%
Underserved	72,384	8%
Served	730,804**	84%
Total	873,797	100%

** These include addresses that that are slated to receive 100/20 Mbps connectivity under enforceable commitments such as RDOF funding or State grants

The State’s Data Collection Report provides further data on the state of broadband at the County level. ²

➤ **Connect New Mexico Pilot Program**

The Connect New Mexico Pilot Program constituted the first statewide broadband fund. Funding for the Pilot Program has been sourced from the American Rescue Plan Act (“ARPA”) Coronavirus Capital Projects Fund (“CPF”), which is administered by the U.S. Department of Treasury. OBAE awarded \$115.7 million in grants to 19 projects, which were complemented by nearly \$71.9 million in matching contributions, yielding a total investment of approximately \$187.7 million. These projects aim to deploy over 1,300 fiber miles and connect approximately 22,400 premises. Most of the designated awardees have entered into an Award Agreement with OBAE.

➤ **Broadband Equity, Access and Deployment Program**

The Broadband Equity, Access, and Deployment (BEAD) Program – authorized by the Infrastructure Investment and Jobs Act of 2021 – provides federal funding for grants for broadband planning, deployment, mapping, equity, and adoption activities.³ The principal focus involves deploying broadband service to unserved and underserved locations. For last-mile infrastructure projects, the Program prioritizes fiber-based solutions. New Mexico received \$675.3 million.⁴ OBAE anticipates the launch of the BEAD fund to occur later in Year 2024, with applications likely due during the middle of the year. OBAE anticipates to announce awards for the Connect New Mexico Fund before the application deadline for the BEAD program.

² Data Collection Report, https://connect.nm.gov/uploads/1/4/1/9/141989814/new_mexico_data_collection_annual_report_-_10022023.pdf

³ See Division F, Title I, Section 60102, Public Law 117-58, 135 Stat. 429 (November 15, 2021)

⁴ NTIA Press Release, <https://www.ntia.gov/press-release/2023/biden-harris-administration-announces-state-allocations-4245-billion-high-speed>

➤ **Need for Subsidy Funding**

Recent external-based analysis indicates that the capital expenditure to deploy fiber to all unserved and underserved locations ranges between \$2.2 and \$4.4 billion. A key obstacle preventing the deployment of high-speed, reliable broadband through terrestrial-based networks – especially in rural communities – involves the lack of a financially viable business case funded solely through private capital. The challenge starts with low population densities, which means the high upfront capital cost and recurring operating expenses are allocated across a relatively smaller base of customers as compared to urban and suburban communities. Moreover, lower adoption rates, fewer higher-margin customers (e.g., businesses and community institutions), and lower average revenue per user (ARPU) limit the revenue opportunity.

The analysis also found that a combination of terrestrial and non-terrestrial satellite technologies, with the latter used for the highest-cost locations, may involve a deployment cost of at least \$1.3 billion. In this case, the funding gap is approximately \$675 million; this is defined as the required subsidy to achieve a reasonable rate of return after considering a fair match contribution for the infrastructure deployment costs and the discounted net cash inflows based on recurring revenues and operating expenses over an extended period. The Connect New Mexico Fund aims to address part of this funding gap and serve as a catalyst to attract such private investment.

2. Statutory Authority and Funding Sources

➤ **House Bill 10 (§ 63-9K-6)**

The Connect New Mexico Act established the Connect New Mexico Fund in December 2021, per Section N.M. Stat. § 63-9K-6.⁵ The funding source comprises appropriations, gifts, grants, and donations.

➤ **Senate Bill 377 (§ 63-9K-6 NMSA 1978)**

Senate Bill 377 (Section 17B) allocated \$70 million from the general fund to plan, design, engineer, construct, purchase, and equip broadband infrastructure statewide.⁶ The legislation also requires that any unexpended or unencumbered funds shall revert to the general fund or public education reform fund at the end of fiscal year 2026 (June 30, 2026).

➤ **House Bill 262 (§ 63-9K-4 NMSA 1978)**

House Bill 262 provided further specificity regarding eligibility and evaluation factors for the Connect New Mexico Fund.⁷ It directed the broadband office (i.e., OBAE) to implement a grant program to develop and expand broadband infrastructure and services and support digital inclusion.

It further provided that the broadband office shall each year seek to award grants for proposals submitted by the following entities throughout the state: local governments, state agencies, public educational institutions, tribal governments, entities created by a joint powers agreement pursuant to the Joint Powers Agreements Act, and private entities for broadband infrastructure to provide service primarily for residential purposes.

⁵ House Bill 10, <https://www.nmlegis.gov/Sessions/21%20Regular/final/HB0010.pdf>

⁶ Senate Bill 377, <https://www.nmlegis.gov/Sessions/21%20Regular/final/SB0377.pdf>

⁷ House Bill 262, <https://nmlegis.gov/Sessions/23%20Regular/final/HB0262.pdf>

It directed the broadband office to consider the following factors when approving grants from the Connect New Mexico Fund.

Table A
<ul style="list-style-type: none"> ➤ The extent to which the project: <ul style="list-style-type: none"> ● Connects unserved and underserved populations of New Mexico, with priority given to projects that will connect unserved populations; ● Meets or exceeds the baseline standards established by the federal communications commission; ● Leverages existing infrastructure; ● Complements or coordinates with the statewide broadband plan; ● Leverages regional collaboration; ● Fosters digital inclusion; ● Stimulates in-state economic development, including the creation of jobs and apprenticeships; ● Leverages in-kind or financial support from local agencies or entities, federal assistance funding or federal Coronavirus Aid, Relief, and Economic Security Act, federal Consolidated Appropriations Act, 2021 or federal American Rescue Plan Act of 2021 funding; and ➤ For a grant award to a <u>private entity</u>: <ul style="list-style-type: none"> ● the extent to which the grantee contributes matching funds or in-kind support for the project, ● the number of existing residences to which internet services would be made available as a percentage of the total number of existing locations to which internet services would be made available by the project ● the extent to which the project fosters digital equity

The Scoring Rubric encompasses all these factors for consideration.

➤ **House Bill 2 (§ 63-9K-4 NMSA 1978)**

House Bill 2 provides further guidance on the appropriation for broadband expenditures by OBAE. It notes that any unexpended balances remaining at the end of fiscal year 2024 from this appropriation shall not revert and may be expended in fiscal year 2025. Therefore, the current statutory authority limits payment for expenditures incurred by the end of fiscal year 2025 (June 30, 2025).

OBAE is working with the Legislature to extend this deadline to at least fiscal year 2028 (June 30, 2028). If approved, OBAE aims to offer awardees three years for project completion.

3. Key Dates

The Connect New Mexico Fund involves a single round. Any unused funds may be applied in a subsequent round for funding for broadband infrastructure projects that complement the BEAD funding program.

Milestone	Target Dates
NOFO and Program Materials Issued	December 12, 2023
Applications Due	March 11, 2024 (11:59 pm MT)
Application Review and Due Diligence	March – April 2024
Award Announcements	May 2024
Contract Execution for Award Agreement	No later than June 30, 2024

➤ **Rolling Basis**

Applications will be accepted and reviewed on a rolling basis. Award announcements may also occur on a rolling basis.

4. Definitions

Key definitions follow:

Term	Definition
Geographic	
Proposed Project Area	<p>The service area defined by the Applicant for the proposed last-mile broadband network.</p> <ul style="list-style-type: none"> For a wireline network, the Proposed Project Area involves all the locations for which the grantee shall provide wireline-based service within a reasonable period (e.g., five business days) after a customer service request. These premises can be either directly connected or directly passed by the network. For a wireless and an alternative technology network, the Proposed Project Area involves the locations specifically targeted by the infrastructure investment, with the understanding that the signal from the radio access or other networks may permeate outside the Project Area. The grantee shall provide the broadband service within a reasonable period (e.g., five business days) after a customer service request. <p>Note: The Proposed Project Area does not have to be contiguous.</p>
Eligible Proposed Project Area	<p>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 in the attempt to target the unserved and/or underserved locations (e.g., wireline network has to bypass such units in order to reach the unserved and underserved location; wireless network covers the served locations because the RF signal permeates to such locations).</p>
Location Types	
Household	<p>A house, apartment, single room, or other group of rooms, if occupied or intended for occupancy as separate living quarters, and where the occupants do not live with any other persons in the structure and there is direct access from the outside or through a common hall</p>
Business	<p>Any lawful trade, investment, or other purpose or activity, whether conducted or undertaken for profit</p>
Community Institution	<p>Schools, libraries, medical and healthcare providers, public safety entities, community colleges and other institutions of higher education, and other community support organizations and agencies</p>
Location	<p>An individual residential or business location in the state of New Mexico</p>
Location Status	
Served Location	<p>The household or business location has access to a broadband connection that reliably offers at least 100 Mbps download and 20 Mbps upload (100/20 Mbps) through a wireline network or fixed wireless network using licensed spectrum.</p>
Unserved Location	<p>A household or business location that lacks access to a broadband connection that reliably offers at least 25/3 Mbps (download/upload) through a wireline network or fixed wireless network using licensed spectrum.</p>

Underserved Location	A household or business location that has access to a broadband connection that reliably offers at least 25/3 Mbps (download/upload) but less than 100/20 Mbps through a wireline network or fixed wireless network using licensed spectrum.
Eligible Service Location (ESL)	Involves a household or business location that meets the definition of unserved or underserved.
Enforceable Commitments	Involves unserved and underserved locations for which government funding (federal, state, local) has already been granted to deploy a broadband network that will convert the status of these locations to “served.”
Eligible Community Institution	A community institution lacking a reliable service for at least symmetrical 1 Gbps
Network Element	
Last Mile Networks	Defined as a network for which the predominant purpose is to provide broadband service to end-users (e.g., homes, businesses, community institutions).
Middle Mile Network	Defined as a network for which the predominant purpose involves connecting a last-mile network to a regional or national Internet backbone to enable transport of local traffic to the public internet; services may include interoffice transport, carrier-neutral internet exchange facilities, transport connectivity to data centers, lit service transport, leased dark fiber, and other similar services.
Colocation Facility	Defined as a physical data center hosting facility that allows customers to deploy their own servers, networks and storage hardware powered by electricity and backup power
Special Network Project	Aims to support the deployment of infrastructure to unserved and underserved locations. Examples include: network facility replacement in communities impacted by wildfires; fiber and conduit for Dig Once projects; pole replacement costs; public safety networks that also support fixed broadband solutions.
Financial Items	
Grant	The financial assistance award from the State of New Mexico to a grantee which bears responsibility for achieving the purpose and activities authorized in this NOFO
Matching Share	Refers to the non-state monetary funds and in-kind contributions provided by grantee and approved by OBAE.
In-kind Contributions	Non-cash donations of property, goods or services that are necessary to the grant-assisted project and would otherwise incur expenditures
Administrative Terms	
Awardee or Grantee	A party that is awarded a grant award from the Connect New Mexico Fund.
Award Agreement	A legal instrument of financial assistance between the Office of Broadband Access and Expansion (the awarding agency) and the Grantee that governs the terms and conditions of the award
Project Period	The time between the date of the signed Award Agreement the project close-out
Closeout	The process by which the state awarding agency determines that all commitments made in the application have been fulfilled and all compliance requirements have been met.
Service Period	The period that is established at closeout and five years thereafter when the grantee’s solutions are commercially offered, and all performance and pricing commitments are monitored and enforced.
Other	

Census Blocks	They are defined by the U.S. Census Bureau and refer to statistical areas bounded by visible features, such as streets, roads, streams, and railroad tracks, and by nonvisible boundaries, such as selected property lines and city, township, school district, and county limits and short line-of-sight extensions of streets and roads
Indefeasible Right of Usage (IRU)	Involves a contractual arrangement in which a network owner provides a buyer irrevocable usage rights to particular network facilities, such as one or more dark fiber strands, for the useful life of the asset. The arrangements are often structured as a capital lease, and Generally Accepted Accounting Principles (GAAP) may treat the purchase as a capital asset. The arrangement may involve a service contract for maintenance.
Open Access for Last-Mile	Refers to an arrangement in which the network owner offers nondiscriminatory access to and use of its network on a wholesale basis to other broadband service providers seeking to serve end-user locations, at just and reasonable wholesale rates for the network’s useful life. Rates should include a discount from the provider’s retail rates reflecting the costs that the awardee avoids by not providing retail service to the end user location (e.g., marketing, billing, and collection-related costs).

C. Program Purpose

The program focuses on subsidizing the capital expenditures for the network deployment to enable broadband access by residents, businesses, and community institutions currently unserved or underserved. Recent analysis indicates the required subsidy support to deliver fiber-based broadband to all unserved and underserved locations far exceeds the publicly available funding from BEAD and the Connect New Mexico Fund. The purpose of the Program follows.

<p>Program Purpose: Connect New Mexico Fund</p> <p><i>Foster the deployment of broadband access to unserved and underserved locations (residents, businesses, and community institutions) through sustainable, scalable networks and financially viable business plans that serve the comprehensive community with reliable, reasonably priced high-speed solutions while promoting digital inclusion.</i></p>

The scoring framework and information required in the application reflect this purpose. The statutory-driven request to foster digital inclusion will be reflected in a scoring rubric that significantly considers advancing affordability, adoption, awareness, and digital training.

D. Eligible Projects

An eligible project should meet the following criteria for network type, technology and performance.

1. Eligible Network Types

The eligible networks include the following.

➤ **Last-Mile Network**

The most direct way to achieve the program's purpose involves funding last-mile networks. A last-mile network is defined as one whose predominant purpose is to provide broadband service to end-users (e.g., homes, businesses, community institutions). For a wireline project, the last mile constitutes the

physical set of cables (most often fiber-optic) between the middle-mile network and the end user's terminal. For a wireless network, the last mile involves the radio link between the base station (usually on a tower or pole) and the antenna at the end-user's location.

A last-mile network is only eligible if it serves an eligible proposed project area. These are defined as those areas in which 80% of the household and business locations in the applicant's proposed project area are either unserved and/or underserved.** A last-mile project is also eligible if it directly connects eligible community institutions.

** Note: Any served locations are those that are incidentally included in the attempt to target the unserved and/or underserved locations (e.g., the wireline network has to bypass such units to reach the unserved and underserved location; the wireless network covers the served locations because the signal permeates to such locations). OBAE is committed to applying the funds to those locations and community institutions lacking high-speed Internet.

➤ **Middle-Mile Network**

Middle-mile infrastructure serves to connect a last-mile network to the Internet backbone. It does not directly connect to the end-user location. The network aggregates large quantities of local traffic and transports it to an interexchange point. Such a point may include a carrier hotel. The services may include interoffice transport, carrier-neutral internet exchange facilities, transport connectivity to data centers, lit service transport, leased dark fiber, and other similar services.

A middle-mile project is eligible to the extent that it meets the following requirements. First, the middle-mile network must interconnect to an existing or planned last-mile network that targets an eligible service area. Second, the middle-mile network projects require the grantee to open the network for interconnection with other broadband service providers. The Award Agreement will contain specific award conditions for compliance with open network requirements. Publicly funded middle-mile networks best serve the public interest when other carriers can interconnect on fair and non-discriminatory terms and conditions. Moreover, the public interest is best served when government agencies can have dedicated access to a portion of the capacity.

Such specific award conditions shall include the following:

- **Interconnection**: A middle-mile grantee must 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 nondiscriminatory.
- **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.
- **Mandatory Requirement for Dark Fiber Leasing**: In exchange for the public funding, middle-mile grantees deploying fiber-based networks will be required to lease dark fiber to third-parties (e.g., broadband service providers, government agencies, data centers, etc.). Dark fiber offers

several advantages to operators and enterprise customers, including virtually unlimited capacity through a few fiber strands, complete control over network and maintenance windows, cost-effective scaling and bursting, enhanced security protections, and lower total cost of ownership over the long-term with lower monthly costs.

The lease terms must be for an operating and capital lease. The latter usually involves an Indefeasible Right of Usage (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. Rates and terms for maintenance services for the dark fiber shall be reasonable and nondiscriminatory.

Note: The open-access network requirements do not apply to last-mile networks. However, additional scoring consideration is offered to last-mile projects with an open network program.

➤ **5G Wireless Networks**

The Three-Year Broadband Plan highlighted the long-term objective that every major New Mexican roadway and rural community should have a strong radio frequency signal to support 5G mobile data and voice coverage from the existing mobile network operators. Therefore, 5G networks are an eligible project type. The 5G network must demonstrate 5G connectivity to an area lacking a reliable mobile broadband signal AND serve an eligible proposed project area (i.e., those with a concentration of unserved and underserved locations.)

➤ **Special Projects**

Special projects involve those that facilitate the deployment of last-mile and middle-mile infrastructure to unserved and underserved locations. These may include: facility replacement of broadband networks damaged due to wildfires; fiber and conduit for Dig Once projects; pole replacement costs; and public safety wireless networks for which the facilities (e.g., towers) also foster fixed broadband service.

2. Eligible Technologies

The following are eligible technologies.

- **Fiber:** OBAE prioritizes fiber-based networks, consistent with the Three-Year Broadband Plan.
- **Fixed Wireless Solutions Over Licensed Spectrum:** Fixed wireless may be necessary where fiber deployment is impracticable due to geography, topography, or excessive cost barriers. These solutions should leverage an advanced generation of technologies to meet the performance requirements noted below.
 - Note: An applicant may propose an unlicensed fixed wireless solution using an advanced generation of technology with a demonstrated ability to meet performance requirements and avoid signal interference issues. The Applicant must address specific challenges in using licensed spectrum in such cases. Please note federal funding programs may still classify such locations as unserved or underserved, which may result in future overbuild of a fixed wireless network using unlicensed spectrum.
- **Mobile Wireless Networks:** 5G networks, as noted earlier, are eligible. These solutions should leverage an advanced generation of technologies to meet the performance requirements stated below.
- **Non-Terrestrial Solutions:** These alternative technologies may include non-terrestrial networks, including high altitude platform stations (HAPS) and satellite networks.

- **Middle-Mile:** Technologies include fiber and/or private wireless networks. The latter includes microwave capacity, radio tower, and other services or infrastructure for a private wireless broadband network, such as towers, fiber, and microwave links.

3. Network Performance Requirements

The applicant’s network must also meet the following performance requirements.

Performance Standard	Detail
Speed	<ul style="list-style-type: none"> • The network must be designed to deliver service that reliably meets or exceeds 100 Mbps symmetrical download/upload. • For a network that cannot meet this speed standard, the Applicant must explain why it would be impracticable to design and deploy a network that meets the 100 Mbps symmetrical threshold. These challenges may be due to geography, topography, or excessive cost barriers. • At a minimum, the network must reliably meet or exceed 100/20 Mbps (download/upload) speeds. Also, the network must be eventually scalable to a minimum of 100 Mbps symmetrical as demand for greater bandwidth increases.
Latency	<ul style="list-style-type: none"> • The applicant’s network must offer a latency that is sufficiently low to support real-time, interactive applications.
Outages	<ul style="list-style-type: none"> • Network must be designed with redundancy features so that outages do not exceed 48 hours during any calendar year.
Readiness	<ul style="list-style-type: none"> • A last-mile network shall provide access to broadband service to each customer who requests service within five business days.

E. Eligible Proposed Project Areas

1. Criteria

For Last-Mile Projects

The Proposed Project Area (PPA) refers to the Applicant’s self-delineated set of geographic boundaries for which all unserved and underserved residential and business locations, and community institutions lacking 1 Gbps, within these boundaries will be served.

A PPA is not required to conform to census block, jurisdictional, or boundaries other than the Applicant’s proposed boundaries. A PPA does not need to be contiguous and may include gaps, given that adjacent households, businesses, and community institutions may already be served.

Eligible services areas include those where at least 80% of the locations within the Proposed Project Area (PPA) are unserved and/or underserved. Served locations are only incidentally included in the attempt to target 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 signal permeates to such locations).

OBAE expects the PPA to include EVERY eligible unserved or underserved residential and business location, and every community institution lacking symmetrical 1 Gbps, in the census blocks for which the Project Area intersects. Otherwise, the Applicant must explain why any unserved or underserved

location within a census block intersected by the Project Area is being left out. An explanation lacking strong merit may adversely impact the consideration received during the review process.

2. Data to Substantiate Eligible Service Locations and Eligible Community Institutions

➤ New Mexico Broadband Map

Applicants should consult the New Mexico Broadband Map to identify eligible locations and eligible community institutions. This map includes data from the FCC National Broadband Map and service providers in the state. The map depicts household and business locations deemed unserved or underserved, and community institutions lacking Gbps speeds. The Map is available at this link: <https://nmbbmapping.org/mapping/>. The OBAE GIS Team will provide further guidance regarding how the map can be used to estimate the number of eligible service locations.

➤ Including Locations Deemed Served

An applicant may determine that a location classified as “served” should be considered unserved or underserved. If the case, the applicant must substantiate this assertion with data. This may include convincing data that the incumbent provider refuses to offer, or cannot feasibly provide, broadband connectivity that would justify the “served” status. This may include the following: marketing data to suggest the incumbent provider does not offer 100/20 Mbps; documented proof regarding refusal to provide service; network level speed-test data; and evidence that the service is not available.

➤ Stakeholder Feedback

Stakeholders are encouraged to provide feedback to OBAE regarding any inaccuracies with the New Mexico Broadband Map. This may include locations incorrectly deemed unserved or underserved because they have other enforceable commitments to deploy broadband with government-issued funding. Or, it may consist of locations incorrectly deemed as “served” when, in fact, the evidence suggests the contrary. Stakeholders should participate in the BEAD challenge process starting in February 2024.

3. Public Posting of Proposed Project Areas

OBAE will publicly post the Proposed Project Areas on the Connect New Mexico Fund landing page. Service providers will be invited to provide evidence indicating that a grant-funded project may duplicate an existing or planned broadband network. Specifically, OBAE will seek input from:

- Currently Served: Existing service providers that can provide evidence that the Proposed Project Area is currently served.
- Enforceable Federal or State Commitments: Awardees and beneficiaries from another federal or state funding program that plan to deploy a broadband network and make commercial services available within a reasonable period from the NOFO issuance date
- Planned Deployment: Entities that have made substantiated progress in launching a network. This includes the demonstration of: a) a comprehensive business and technical plan; b) funding secured; c) a detailed budget; and d) a detailed project plan that supports the launch of commercial services within 18 months of the NOFO issuance date.
- Tribal Coordination: For service currently offered or planned on Tribal lands, the entity must obtain an acknowledgment from the appropriate Tribal office to confirm the claim made by the service provider regarding available or planned service.

- Merits of Existing Unlicensed Wireless Networks Using Advanced Technology: Fixed wireless providers – using an advanced generation of technology over an unlicensed spectrum – may provide data to assert they can offer a reliability speed above 100/20 Mbps.

OBAE will consider such challenges to ensure funding is allocated to residential and business locations and community institutions that meet the eligibility criteria noted in this NOFO. OBAE will issue guidelines for a service provider to demonstrate that broadband services are, or will be available, in the Proposed Project Area.

4. Tribal Government Consent and Service Status Confirmation

An applicant who proposes to provide service on Tribal lands, as identified in the Proposed Project Area, must obtain a Certification of Consent from the appropriate tribal office. This Tribal office should be the assigned authority to make broadband-related decisions as designated by the Tribal Government (e.g., Tribal broadband, information technology, or regulatory office). The Tribal office must also note whether the Project Area is unserved or underserved, and how that determination was made. The statement must be provided on Tribal letterhead or by an official email. Any applicant who fails to provide a certification of consent and confirmation of unserved (or underserved status) will be deemed incomplete.

F. Eligible Entities

Eligible entities that can apply for grants from the Connect New Mexico Fund include the following.⁸

- Government entities: Tribal governments; local units of government (e.g., municipalities, counties, and other political subdivisions); State and local agencies; public educational institutions
- Private entities: Entities engaged in deploying broadband infrastructure to provide service primarily for residential purposes. These broadband service providers may include for-profit entities, non-profit entities, cooperatives, mutual organizations, and utilities***
- Joint powers agreement: Entities created by a joint powers agreement pursuant to the Joint Powers Agreements Act
- Consortium: Collaborations among two or more of the eligible entities are eligible. One partner must be identified as the Lead Applicant.

***Please note that private entities may seek funding to connect eligible community institutions without having to connect residents.

G. Financial Policies and Requirements

1. Maximum and Minimum Grant Request

The maximum grant per project is limited to \$6 million. This maximum threshold aims to foster a diversity of awardees and geographic areas. Applicants seeking greater funding may submit separate multiple applications. However, the Office of Broadband does not have to fund the other applications, even if they are contiguous. The average size of the Pilot Program grant had been \$6 million. Thus, a project with the maximum award shall be at most 8.5% of the funding pool.

⁸ Please note that OBAE is working with the Connect New Mexico Council to adopt rules that allow for the participation of local governmental units, electric cooperatives, and telephone cooperatives. These rules should be adopted by the end of January 2024.

Also, the minimum grant request is \$250,000. This amount reflects OBAE's commitment to fund impactful, scalable projects with many beneficiaries. Moreover, every grant award requires considerable OBAE resources to monitor, report upon, and provide technical support. The reporting function, for example, requires the same level of time and resources. Thus, too many small projects will inefficiently spread OBAE's limited resources.

2. Matching Share

The applicant must provide at least a 25 percent match that complements the funds received from the New Mexico Broadband Fund. This match requirement policy helps maximize the total available grant funding for the state. The merit-review scoring process will consider additional points for those projects that exceed the 25 percent threshold. The match can include monetary and in-kind contributions. The match should reflect the business case gap.

➤ Eligible Sources of In-Kind Match

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 in-kind. In-kind contributions have to reflect market value. Examples of in-kind sources include:

- Equipment: Network equipment (switching, routing, transport, access); customer premises equipment (modems, routers)
- Outside plant: Donated fibers, cables, conduit; supporting infrastructure (e.g., cabinets vaults, patch panels, mounting hardware)
- Fee waivers or discounts for access: 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
- Donated supplies: Supplies used in the construction or improvement of broadband facilities
- Donated land: Includes land with improvements, structures, buildings, and appurtenances (e.g., towers and poles)
- Donated capital leases: Includes leases of dark fiber (e.g., IRU)
- Volunteer services: Performed by professional and technical personnel, consultants, and other skilled and unskilled labor, including engineering design, project management, infrastructure deployment, and accounting and legal services that are a necessary part of the project.

Note: Payment to employees constitutes a cash match if not volunteered.

➤ Matching Share Documentation

Applicant must provide documentation to validate the availability of matching funds. Examples of appropriate documentation may include a letter of credit; a letter confirming funds from a bank; a board resolution committing funding; loan documentation; letter certifying available funds from a company executive. If the applicant has additional financial partners contributing to the matching funds, the application must also identify the financial partner(s) and document the amount and availability of each partner's financial match.

➤ Waivers for Matching Share Reduction

An applicant is allowed to file a waiver if unique circumstances prevent a matching contribution of at least 25%. These special 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 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 a proposal 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 the 25% matching share to receive an award.

➤ **IRU Sales for Middle-Mile Projects**

An IRU is a capital asset. The sale of an IRU during the performance period can be considered part of the matching share if the applicant can include a commitment letter from the purchaser in the application.

3. Eligible Expenditures

Eligible expenses are defined in the table below. These expenditures involve the necessary expenditures for the deployment of broadband infrastructure.

Category	Eligible Activities
Application Preparation	<ul style="list-style-type: none"> • Costs related to preparing an application
Market Assessment	<ul style="list-style-type: none"> • Data gathering, feasibility studies, community engagement, public feedback processes, digital equity assessments and planning, needs assessment
Permitting and Regulatory Reviews	<ul style="list-style-type: none"> • Upfront costs for rights of way, easement and condemnation; acquiring permits; costs associated with satisfying the environmental, historical and cultural assessment, reviews, and mitigation
Network Planning and Design	<ul style="list-style-type: none"> • Architectural and engineering design
Network Infrastructure Deployment	<ul style="list-style-type: none"> • Costs related to the construction, improvement, and acquisition of facilities required to deploy broadband infrastructure including all required materials and labor costs; site planning work (e.g., make ready); project management
Network Facilities	<ul style="list-style-type: none"> • Last-Mile: Electronics necessary to deliver service to an end user including, but not limited to optical line terminal (OLT), optical network terminals (ONT), routers, switches, firewalls, wireless radio equipment, antennae, access points, and any necessary equipment shelters. • Middle-Mile: Electronics necessary to deliver backhaul and middle-mile services • Alternative Technologies for Non-Terrestrial Systems: Eligible network elements include system components required to deliver broadband to unserved and underserved New Mexicans. These may include user terminals to receive a signal, ground segments designed to serve New Mexican communities, and core aerial network elements specific to serving New Mexican communities.

	<ul style="list-style-type: none"> • Customer Premise Equipment: Equipment placed within the premise to enable connectivity (e.g., routers, modems, etc.); the actual number of units should reflect adoption rates within the near-term (e.g., three years after project competition) to avoid the risk of obsolescence.
Long-Term Leases	<ul style="list-style-type: none"> • Cost of long-term leases (for terms greater than one year) of facilities required to provide qualifying broadband service, including indefeasible right-of-use (IRU) agreements and capital leases
Personnel	<ul style="list-style-type: none"> • Personnel costs, including salaries and fringe benefits for staff and consultants required for the implementation of the project (such as project managers, program directors, subject matter experts, grant administrators, financial analysts, accountants, and attorneys)
Project Management	<ul style="list-style-type: none"> • Activities related to tracking the progress of all task items during the project period
Grants Administration and Reporting	<ul style="list-style-type: none"> • Personnel and other necessary costs to administer the grant • Costs associated with the collection, monitoring, and the reporting of data regarding project execution, spending, outcomes, and performance measures to enable compliance with the State of New Mexico's reporting requirements and activities to support program evaluation

4. Ineligible Expenditures

OBAE designates the following expenditures as ineligible. Other potentially ineligible expenses will be listed on the program website.

Ineligible Expenses

- Acquisition of spectrum licenses
- Operations and maintenance costs (other than grant administration costs)
- Short-term operating leases
- Payment of interest or principal on outstanding debt instruments, or other debt service costs
- Fees or issuance costs associated with the issuance of new debt
- Satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring plan in a judicial, administrative, or regulatory proceeding
- Expenditures related to land buildings, structures, improvements, or equipment not directly used to support the deployment of a broadband network
- Pass-through 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.

5. Timing of Eligible Expenditures

The Office of Broadband will reimburse all eligible expenses incurred after the date of the signed Award Agreement. Certain expenses – incurred before the award date but after publication of this NOFO – are allowed. These include: application preparation, market feasibility assessment; and other planning expenses directly related to the project.

6. Duplication of Funding

An unserved or underserved area may be in a location with existing enforceable federal or state funding commitments for broadband deployment. In such cases, funding from the Connect New Mexico Fund cannot be applied for costs that will be reimbursed by the other federal or state funding stream(s). Funds may be used only for complementary purposes. In such cases, there must be additional public benefit and a justification for using additional public funding to deploy infrastructure in such overlapping areas. The 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.

H. Other Post-Award Requirements and Obligations

Awardees are subject to several post-award requirements. These will be included in a standard terms sheet which will be part of the Award Agreement. The OBAE will post this standards term sheet on the Connect New Mexico Fund website. Any material breach of these requirements may subject the grantee to the repayment provision.

1. Buildout Requirements

Current statutory authority limits payment for expenditures incurred by the end of fiscal year 2025 (June 30, 2025). OBAE is working with the Legislature to extend this deadline to fiscal year 2028 (June 30, 2028). OBAE will provide updates on this effort on the Connect New Mexico Fund website.

If approved, OBAE aims to offer awardees three years for project completion. Award agreements are expected to be signed by June 30, 2024. Therefore, projects are required to be completed by June 30, 2027. The project plan must demonstrate this completion target.

This date may be extended per a change in the statute that allows awardees additional time. If so, OBAE may consider granting an extension to an Award Agreement only if exceptional circumstances warrant an extension. The grantee will have to show: a) significant progress has been completed; b) extenuating circumstances require an extension of time to allow the project to be completed; c) a plan to resolve the extenuating circumstances; d) a detailed project plan that still allows the project to be completed within a reasonable period after the original build-out completion date.

2. Five-Year Service Agreement

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.

3. Low-Cost Service Option

Grantees must offer at least one low-cost option at speeds that are sufficient for a household with multiple users to simultaneously engage in telework and remote learning (e.g., 100/20 Mbps). OBAE will review the totality of services and pricing in the scoring rubric; however, a low-cost option is required per this guidance.

4. Participation in Price Subsidy Programs

An applicant must provide a signed commitment to participate in active federal programs that provide low-income consumers with subsidies for broadband service, such as the FCC’s Affordable Connectivity Program (ACP).

5. Reporting Requirements

Grantees must submit quarterly progress reports to document the project’s advancement. The Office will release specific requirements, guidance, and other supporting materials (e.g., templates). These reports will be due during the project performance period. The project performance period involves the first quarter during which the Award Agreement is established and ends when the project is closed out. The following table illustrates several of the information requirements. Further details on reporting will be provided on the program website.

Quarterly Progress Reports (illustrative)	
Category	Reported Data
Project Update Narrative	<ul style="list-style-type: none"> • Narrative regarding progress achievement • Narrative regarding projects risks and mitigation approaches
Pre-Network Deployment	<ul style="list-style-type: none"> • Key permits required and secured • Rights of way approvals required and received • Private easements required and secured • Network design competition status
Environmental, Cultural and Historical Preservation	<ul style="list-style-type: none"> • Environmental compliance requirements and status • Cultural reviews requirements and status • Historical preservation review and status
Network Installation Metrics	<ul style="list-style-type: none"> • Fiber miles deployed, upgraded, and leased • Household, business, and community institutions able to receive service • Towers deployed • Ground stations deployed • Aerial network elements launched • Interconnection points established • Colocation centers
Pre-Launch Network Testing	<ul style="list-style-type: none"> • Maximum download and upload speeds available to all units able to receive service • Latency measures
Expenditures	<ul style="list-style-type: none"> • Expenditures for the quarter by budget category • Source of the funding (government or matching contribution)
Customer and Marketing Activity	<ul style="list-style-type: none"> • Subscribers purchasing a last-mile service (e.g., households, businesses, community institutions) • Entities purchasing a middle mile service (e.g., ISP’s, data centers, etc.) • Services launched and pricing
Adoption Programs	<ul style="list-style-type: none"> • Digital literacy training program activity (e.g., sessions held, attendees, etc.)

-
- Price subsidy program activity (specific programs, customers receiving price subsidy, etc.)
-

6. Worker and Contractor Employment Guidelines

OBAE offers several guidelines regarding employment practices for workers and contractors.

- Compliance with Federal, State, Tribal and Local Laws: Funded projects must comply with all relevant laws and regulations, and with all requirements for Federal, State, Tribal, and local laws and ordinances.
- Wage Requirements: Federal Davis-Bacon Act prevailing wage rate requirements do not apply to projects funded solely by the Connect New Mexico Fund. 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, 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. Such practices may help to ensure a reliable supply of skilled labor that would minimize disruptions, such as those associated with labor disputes or workplace injuries.
- History of Compliance: Applicants should prioritize employers (including contractors and subcontractors) without recent violations of federal and state labor and employment laws as a further measure that may minimize project disruptions and delays. Awardees should also consider this history in their choice of vendor selection.
- Procurement Practices: Applicants should prioritize in their procurement decisions employers who can demonstrate:
 - Their workforce meets high safety and training standards, including professional certification, licensure, and/or robust in-house training;
 - Prioritization in the hiring of local workers and/or workers from historically disadvantaged communities;
 - Direct employment of their workforce, or policies and practices in place to ensure contractors and subcontractors meet high labor standards; and
 - No recent violations of federal and state labor and employment laws

The Office of Broadband will request the Applicant to discuss its worker and contractor practices, the responses of which will be considered during the evaluation process and impact the overall score earned by the Applicant.

7. Competitive Procurement Requirements

Grantees must follow applicable federal and state laws and guidelines for procurement. Please consult the New Mexico Procurement Code, Sections 13-1-1 et seq. NMSA 1978.

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 process used for vendor notification and requirements documentation (e.g., Request for Proposal); evaluation criteria (e.g., price, quality, availability, special support services, etc.); the ranking of responses.

Sole source contracts are allowed for extenuating circumstances (e.g., recently completed a competitive process; vendor offers a product or service not available by others; long-standing commercial

relationship by which bringing aboard a new product may disrupt an existing network). The FAQ will provide further details on this topic. Grantees must refrain from choosing vendors debarred from conducting business with the federal government or the State of New Mexico.

8. Network Performance Testing Requirements Post-Commercial Service Launch

Grantees must also engage in network performance testing during the five-year service period. The test results are to be reported to the Office of Broadband periodically. These tests pertain to the network speed and latency. Details will be published on the Connect New Mexico Fund website.

9. Tax Obligations

Grant awards and contract payments to vendors may be subject to state or federal taxes. Applicants are encouraged to consult with a tax professional and account for potential tax obligations as part of the application submission.

10. Asset Ownership and Future Changes

The Award Agreement will contain compliance provisions for asset ownership, asset transfers, and control over assets in the case of project suspension, project defaults, and other events that impact project sustainability.

I. Application Components and Project Evaluation Process

1. Application

The application refers to the compilation of information and materials that comprise a formal request to receive an award. The Connect New Mexico Fund application is available on the program landing page. Application sections follow below.

Application Sections
<ul style="list-style-type: none"> ● Applicant Summary ● Project Dashboard ● Executive Summaries ● Map and Location Data ● Project Impact ● Community Engagement ● Matching Contribution and Demonstration of Financial Need ● Project Budget ● Project Plan ● Organizational and Personnel Background ● Contractors and Vendor Management ● Labor and Employment Practices ● Technology and Network Design ● Marketing and Services Strategy ● Affordability and Adoption Assistance ● Financial Standing ● Appendix for Attachments

2. Scoring Guide

The Scoring Guide considers eight major categories and several components noted below. The specific points and consideration factors follow below. A detailed overview is posted on the Connect New Mexico website. The authorizing legislation cites several of these factors.

Categories	Key Components
Project Impact	<ul style="list-style-type: none"> • Broadband Impact: Degree of unserved and underserved premises passed by wireline or covered by fixed wireless or alternative technology; degree of unserved premises relative to underserved premises; the magnitude of speed increase relative to existing service speeds
	<ul style="list-style-type: none"> • Residential Impact: Degree to which eligible residential locations are connected relative to total locations being targeted
	<ul style="list-style-type: none"> • Comprehensive Community Impact: Degree to which network serves the broader community, including: community institutions; government facilities; backhaul for commercial mobile and public safety networks; backhaul to data centers; etc.
	<ul style="list-style-type: none"> • Socioeconomic Development: Designing networks and providing solutions to foster social and economic development (e.g., targeting communities enraged by wildfires; supporting new housing developments; etc.)
	<ul style="list-style-type: none"> • Degree of Economic Hardship: Level of existing economic distress (e.g., unemployment rates, poverty level, median income) in proposed project area
Community Engagement	<ul style="list-style-type: none"> • Local and Regional Partnerships: Partnerships with local and regional community organizations, businesses, government entities, and other broadband service providers to help achieve the project’s mission and maximize impact
	<ul style="list-style-type: none"> • Community Support: Degree of community support from residents, businesses, institutions and other local interests (e.g., customized support letters filed)
	<ul style="list-style-type: none"> • Community Financial Contribution: Financial and/or in-kind contribution from community organizations and individuals
Economic Efficiency	<ul style="list-style-type: none"> • Matching Contribution Degree: Degree of matching contribution above the 25% minimum requirement
	<ul style="list-style-type: none"> • Financial Need: The grant is commensurate with the financial need as demonstrated by the business case gap or other evidence-based support
	<ul style="list-style-type: none"> • Project Cost Efficiency: Demonstration that the collective set of decisions across technology selection, network design, procurement processes, and strategic planning yields the most cost-effective project
	<ul style="list-style-type: none"> • Leveraging Existing Assets: Leverage of existing network assets and facilities that would otherwise require expenditure
Project Readiness	<ul style="list-style-type: none"> • Network and Technology Details: Detail of network design and technology architecture
	<ul style="list-style-type: none"> • Detailed Project Schedule: Details of project activities, milestones, target dates, dependencies, and identification of all major risks and detailed risk mitigation plan
	<ul style="list-style-type: none"> • Detailed Budget: Detailed itemized budget that lists quantities, costs, and brief narrative on purpose and reasonableness of expenditure
Organization Qualifications	<ul style="list-style-type: none"> • Organizational Experience: Demonstrated experience and capabilities in executing similar projects
	<ul style="list-style-type: none"> • Local/Regional Workforce Participation: Strategy to hire local staff and leverage local/regional firms and contractors to design, plan, deploy, and operate the project
	<ul style="list-style-type: none"> • Price Competitiveness: Prices commensurate with rates in competitive, urban markets

Marketing and Services Strategy	<ul style="list-style-type: none"> • Diverse Set of Service Offerings: Breadth of service offerings to accommodate a diverse set of customer segments and other supporting services
	<ul style="list-style-type: none"> • Customer Acquisition and Retention strategy: Details around plans to capture and retain customers
	<ul style="list-style-type: none"> • Open Access Policies: A) For last-mile networks, policies and programs to offer wholesale services to other retail last-mile service providers; b) For middle-mile, policies and programs to provide wholesale services, including dark-fiber to other network service providers.
Adoption Assistance Programs	<ul style="list-style-type: none"> • Affordability Assistance Program: Collective set of programs and policies to foster affordability for all community segments
	<ul style="list-style-type: none"> • Digital Inclusion Programs: Programs and strategies to enable adoption, including: devices, digital literacy, outreach, community networks, etc.
Project Sustainability	<ul style="list-style-type: none"> • Financial Viability: Assessment of business case (e.g., detailed showing of revenue and cost elements) and financial strength of applicant (or consortium)
	<ul style="list-style-type: none"> • Network Capacity and Scalability: Total capacity available today and capability of network to efficiently scale to accommodate future bandwidth demand

3. Project Review Process

The project review process involves a Merit Process, which is defined as the means collecting information through an application, assessing each application on the basis of evaluation factors, and determining whether the application merits funding according to the established criteria and based on available funds. The review process involves three phases.

Phases	Amount
Phase I: Application Evaluation by Review Team	<ul style="list-style-type: none"> • Applications will be reviewed by a team of subject matters experts in the broadband sector. Each application will have at least three reviewers. These reviewers may be state or non-state employees and contractors. • During the review process, the reviewers may discuss the application with each other but not their scores, which will be determined on an individual basis. • Projects will be scored based on the scoring criteria listed in the Scoring Guide. Projects that receive a higher proportion of the available points move into Phase II: Due Diligence. • Final scores may be adjusted based on the input from the Due Diligence process.
Phase II: Due Diligence	<ul style="list-style-type: none"> • This process involves a review of the following: <ul style="list-style-type: none"> – Opportunities for budgetary savings – Reasonableness of pricing – Adherence to all programmatic requirements – Grant requested commensurate with demonstrated financial need (e.g., funding gap in the business case) – Request for further information that is found to be missing, incomplete, redacted, unclear, or requiring clarification – Consideration of justification for waiver of the minimum match requirement (if applicable)

	<ul style="list-style-type: none"> • This phase considers any unresolved and open issues regarding service providers which believe the area is currently served, or will soon be served through other government and/or private funding. • This phase also considers any adverse legal or financial circumstances in the Applicant’s history or current standing.
<p>Phase III: Final Selection</p>	<ul style="list-style-type: none"> • Projects that receive favorable scores and clear the due diligence phase are then recommended for final consideration. • The Office, in its recommendations, will consider other factors that serve the public interest, including: funding a diversity of projects across organizations, geographies, technologies, and business models; socioeconomic development priorities; broadband strategic planning activities and coordination with other state and federal funding programs; alignment with policies, programs, and priorities as recognized by the Governor of New Mexico

J. Administrative Guidelines

1. Requirements to Receive Payment

OBAE staff will also validate whether the Lead Applicant has favorable standing in New Mexico and the federal government to receive state funds. Entities must be eligible to receive payment from the State of New Mexico Department of Finance and Administration (DFA). A W-9 Form must be completed if required by DFA. Entities must meet the following requirements stated in the table below.

Requirements to Receive Payment
<ul style="list-style-type: none"> • 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; and • Automated email notification to the entity provides notice of “qualified” status or informs how to remediate a negative verification (e.g., not in good standing with the Secretary of State). 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.

2. Application Submission

Applications can be submitted by uploading files into an intake system established by OBAE. This link is located on the Connect New Mexico Fund website. Directions are noted on the website. In addition to the application, please note that several supporting documents must be uploaded through the application system.

3. Award Agreement

Designated awardees must enter into an Award Agreement to receive grant funding. The Award Agreement serves to achieve the following objectives:

Award Agreement Objectives
<ul style="list-style-type: none"> ● identify the grantor (sponsoring body) and the grantee; ● identify the funding source and award amount; ● specify the award deliverables, goals, standards and benchmarks with sufficient particularity to verify performance and to eliminate or minimize subjective assessments of performance; ● identify the program administrator; ● identify the administrative, financial, oversight and verification standards and processes applicable to the award; ● specify tax reporting and payment obligations applicable to the award; ● identify the grantee's grant administrator or primary contact; ● specify record keeping and reporting requirements; ● specify the amount, form and timing of the grantee's matching contribution, if any; ● specify limitations on assignment or transfer of award rights, obligations or deliverables; ● describe ownership rights to tangible or intangible property created by the grantee pursuant to the award, including any limitations on the right to voluntarily or involuntarily transfer any property created or purchased with award funds, and reversion rights and triggers, if any; ● identify by citation or codified nomenclature any and all laws, regulations, and published guidance that govern award administration or establish program compliance obligations; ● identify by citation or codified nomenclature the procurement laws, if any, that apply to contracting with award funds; ● specify contracting documentation requirements and processes, including any approval or authorization requirements, and any non-standard contracting limitations; ● consistent with the provisions of these rules, include terms governing default; remedies; termination criteria and processes; recoupment; cure processes and standards; choice of law; remedy limitations (if any); and rehabilitation rights and processes; ● include pertinent disclaimers and notices concerning compliance obligations, including tax payments, prevailing wage laws and preferences; ● identify key deadlines; ● specify end user or customer service terms or conditions applicable to the award, including price or discount agreements, service level commitments, co-share or cooperation requirements; ● incorporate the terms and conditions of the NOFO; ● incorporate all statements and representations in the application as actionable representations and warranties; ● include any other covenants or conditions required by the funding source or pertinent to the requirements of a particular program. ● specify a process for the grantee to request modifications or accommodations responsive to unexpected or changed circumstances during project performance

K. Program Support

1. Questions

OBAE welcomes questions about the NOFO, application, scoring guide, and procedural and process issues. Please email your question to broadband@connect.nm.gov. Questions must be submitted no later than three days before the application due date. A Frequently Asked Questions (FAQ) guide will also be posted on the Connect New Mexico Fund landing page.

2. Support Services

OBAE staff will be available to answer questions regarding the NOFO, application requirements, scoring guide, and any specific policies and processes related to this NOFO. However, staff will not help an applicant prepare their application.

3. Grant Writing, Engineering, and Planning Grant (GWEP)

The GWEP program offers grant-based financial assistance to tribal governments and local governmental units to procure grant writing, engineering, and/or planning assistance to help identify community broadband needs and to support applying for other funding sources for broadband-related projects. OBAE administers this program.⁹ A rulemaking is in progress to open this opportunity to rural telephone and electric cooperatives at a future date. Other program features include.

- Maximum grant award is \$100,000
- Grant funds are limited; the application will remain open until all funds are obligated.
- Matching funds are not required.
- Eligible entities include: tribal governments and local governmental units, including federal government entities, state governments, local/municipal governments, and public or municipal organizations that are government-owned and operated, as well as units of a state university system.

Applicants can apply on the GWEP Portal: <https://obae.submittable.com/submit/276140/nm-obaoe-grant-writing-engineering-and-planning-grant-gwep/>

L. Reference Links

The following websites provide valuable resources to assist in the planning and submission of a grant application.

Topic	Link
State of New Mexico Broadband Site	https://connect.nm.gov
Connect NM Fund Page	https://connect.nm.gov/connect-nm-fund.html
OBAE Information	https://connect.nm.gov/about-obaoe.html
New Mexico Broadband Maps	https://www.doit.nm.gov/programs/broadband/mapping/

⁹ <https://connect.nm.gov/gwep-program.html>

Join Mailing List	https://connect.nm.gov/mailing-list.html
Three Year Broadband Plan	https://connect.nm.gov/uploads/1/4/1/9/141989814/state-of-new-mexico-three-year-broadband-plan-1-1-23-version-1.0-file-011723_1.pdf
Grant Writing, Engineering, and Planning Grant (GWEP)	https://connect.nm.gov/gwep-program.html
Five Year Action Plan	https://connect.nm.gov/bead-plan.html

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