

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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Order Instituting Rulemaking Proceeding to
Consider Rules to Implement the
Broadband Equity, Access, and
Deployment Program

R.23-02-016

**COMMENTS OF COMMUNICATIONS WORKERS OF AMERICA DISTRICT 9,
JOBS WITH JUSTICE SAN FRANCISCO, LABOR NETWORK FOR
SUSTAINABILITY, UNITED STEELWORKERS DISTRICT 12, AND UNITED
STEELWORKERS LOCAL 675
REGARDING BROADBAND EQUITY, ACCESS, AND DEPLOYMENT PROGRAM**

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Introduction

Pursuant to the Order Instituting Rulemaking regarding Rules to Implement the Broadband Equity, Access, and Deployment Program, Rulemaking 23-02-016, Communications Workers of America District 9 (“CWA”), Jobs with Justice San Francisco, Labor Network for Sustainability, United Steelworkers District 12, and United Steelworkers Local 675 (collectively “Respondents”)¹ submit these joint comments.

In Section I, Respondents provide an overview of relevant issues facing the telecommunications workforce, particularly low road subcontracting, which the Commission

¹ Communications Workers of America (CWA) District 9 is a labor organization representing workers in telecommunications and other industries in California, Nevada, and Hawaii. CWA advocates for good jobs, safety, and high-speed broadband for all. Jobs with Justice San Francisco is a long-term alliance of more than 30 labor unions, worker centers, and community groups working together to protect workers’ rights and build a strong working-class movement. Labor Network for Sustainability (LNS) is an organization that works at the national, statewide, and local levels to ensure climate policies are shaped by workers’ voices. Ensuring “green jobs” are quality careers, and that financial and other support is in place for workers who will lose their jobs in the transition are at the core of LNS’s organizing in California and across the country. United Steelworkers (USW) District 12 is the western district of the USW, North America’s largest industrial union. USW District 12 represents 53,000 workers in multiple industries throughout California and ten other western states. United Steelworkers Local 675 is an amalgamated local in Southern California and Southern Nevada representing primarily oil, paper, and bedding industry workers.

should note in its implementation of the BEAD program. In Section II, Respondents argue that the Commission should include additional prioritization factors related to labor and workforce, and require transparency and information disclosure regarding subgrantees' workforce plans. In Section III, Respondents outline additional labor and workforce policies which the Commission should consider in situations where a project is owned or managed by a locality. In Section IV, Respondents state support for robust fiber prioritization and a high-cost threshold which reflects the long-term value of fiber. In Section V, Respondents state support for prioritizing disadvantaged communities, crowdsourced data in the challenge process, and broad sources for matching funds.

This comment responds to Issues #4 and #5 regarding additional prioritization factors, Issue #10 regarding grant conditions, Issue #1 regarding extremely high-cost threshold, Issue #6 regarding challenge process, Issue #7 regarding match requirement, and Issue #14 regarding additional discretionary issues.

I. The telecommunications sector faces job quality, safety, and service quality challenges related to increased low road subcontracting and these industrial realities should inform the Commission's policy choices as it implements the BEAD program.

A. The telecommunications sector faces serious wage stagnation and job quality challenges due in part to an increase in subcontracting in recent decades.

There has been long-term wage stagnation in the telecommunications sector, particularly for lower-wage workers. Productivity growth is a standard benchmark for wage growth, and typical wage growth in the telecommunications industry has consistently lagged behind

productivity growth in the economy as a whole.² The lowest-wage telecommunications workers (at the 10th percentile in the wage distribution) have seen inflation-adjusted wages fall 0.3% annually since the 1970s, while the median telecommunications worker wage increased just 0.4% annually, compared with 1.8% annual productivity growth in that period.³ During that time period, union density also declined steeply, from the majority (roughly 60%) of telecommunications workers represented by a union in the 1970s to about 16% today. Deregulation of telecommunications services, an increasingly hostile legal environment, and the strategic use of fissuring have been driving forces behind both these phenomena.⁴

Wage stagnation translates into difficulty hiring and retaining workers, and creates problems for the stability and health of the telecommunications labor market. For example, a 2022 survey of NTCA-member companies found that 58% of respondents are experiencing a longer average recruiting time for new hires in hourly positions compared to three years ago.⁵ In a survey of CWA technicians who left employment at AT&T between 2016 and 2021, 74% stated they would be interested in returning to the broadband workforce if a good job were available. As one technician stated, “There are no good jobs in the broadband sector. Companies want people with 10-15 years experience and want to pay them \$15/hr.” Another technician stated, “there is not the quality of jobs there should be,” and another noted, “too often

² John Schmitt and Jori Kandra, Economic Policy Institute, Decades of Slow Wage Growth for Telecommunications Workers (Oct. 2020),

<https://www.epi.org/publication/decades-of-slow-wage-growth-for-telecommunication-workers/>.

³ Id.; Telecommunications Interagency Working Group: Recommendations to Address Workforce Needs, Submitted to the United States Congress, January 13, 2023, <https://www.fcc.gov/document/telecom-interagency-working-group-report-workforce-needs>.

⁴ John Schmitt and Jori Kandra, Economic Policy Institute, Decades of Slow Wage Growth for Telecommunications Workers (Oct. 2020),

<https://www.epi.org/publication/decades-of-slow-wage-growth-for-telecommunication-workers/>.

⁵ NTCA, 2022 Compensation + Benefits Report, <https://www.ntca.org/publications/human-resources/2022-compensation-benefits-report> (last visited Jan. 5, 2023)

experienced telecom individuals are underpaid and overworked... [until companies change this] the best talent will always look elsewhere.”⁶

This workforce crisis is partly due to the rise of “fissured” contract relationships in the industry. Across industries, firms in the last fifty years have externalized costs and raised profits by outsourcing and subcontracting work. In a term coined by former United States Department of Labor Wage and Hour administrator David Weil, this phenomenon is often called the “fissured” workplace.⁷ Large firms reduce their directly hired workforce and contract out work instead. Work and workers are removed from the formal boundaries of the corporation that captures the lion’s share of revenue and profits – here, likely the primary applicant or subgrantee. The entity making these choices, often called the “lead” firm, will contract functions to a smaller firm, which then may contract to other smaller firms as well. Along the way, costs are cut, margins are squeezed, and workers are separated from the entities that hold the real power to affect their workplace. In the telecommunications industry, providers might outsource construction or maintenance to a “turf vendor,” who then further outsources different pieces of work through multiple levels of subcontracting. Work that 40 years ago would likely have been performed by direct employees of major telecom companies is now often performed by an array of smaller subcontracting firms.

Unlike in other types of construction, broadband and telecommunications are characterized by historical direct employment with only the recent proliferation of subcontracting arrangements. In traditional heavy construction, a general contractor often

⁶ Communications Workers of America, Internal Report on file with CWA.

⁷ David Weil, *The Fissured Workplace: How Work Got So Bad for So Many*, Harvard University Press, 2014. See also Brian Callaci, “The Historical and Legal Creation of a Fissured Workplace: The Case of Franchising,” dissertation, University of Massachusetts Amherst, 2019. https://scholarworks.umass.edu/dissertations_2/1696/.

manages the project and selects craft-based contractors. Given the long history of this arrangement in traditional construction, both employers and labor unions have developed specific strategies for structuring labor relations in this sector, including the use of Project Labor Agreements (PLAs). In contrast, telecommunications companies have historically employed construction technicians directly on their payroll, and still do in many cases, with increased outsourcing a phenomenon of recent decades. Therefore, unlike in traditional construction, where contracting arrangements are historically entrenched and often unionized, in telecommunications these arrangements often result in low-road practices, where workers are paid poorly and subject to dangerous work conditions. Additionally, telecom contractors frequently travel across the country for deployment jobs, creating a national labor market and enabling out-of-state contractors to undermine wages and standards long-established by telecom workers in a particular local market. In contrast, the construction sector operates within local labor markets, which has enabled labor market intermediaries, such as union-sponsored hiring halls, to maintain standards in partnership with employers.

The shift in recent decades to an increasingly outsourced labor model in the telecommunications sector has translated to wage stagnation and job quality challenges which negatively impact the health of the sector's labor market, and the Commission should consider these industry realities as it designs its BEAD program.

B. Poorly trained low road subcontractors in the telecommunications industry can endanger workers and the public.

As the Commission well knows, telecommunications work has considerable safety implications. Improper work can cause facility damage, service interruption, and dangerous conditions for workers and the public. CWA members see firsthand the way that increased

subcontracting creates safety issues. Workers in California have reported instances of ungrounded strands causing electrocution risk to workers and the public, and contractors using weak bolts to secure heavy cables, increasing the likelihood that cables could fall and injure workers or the public.⁸ In a nationwide survey of CWA technician members, respondents consistently reported problems with the quality of contractor work. Members most frequently reported that contractors cause quality problems leading to higher costs (96%), followed by service quality problems for customers (81%), and safety risks for workers or the public (57%).⁹

In multiple states, low road contractors have failed to properly conduct utility locates and caused gas explosions. In 2018, a Verizon subcontractor in Wisconsin hit a gas line and caused an explosion that killed a volunteer firefighter and critically injured another.¹⁰ In 2019, a Verizon subcontractor in San Francisco hit a gas line and caused an explosion and a three-alarm blaze that burned for hours.¹¹ Also in 2019, a Crown Castle subcontractor in North Carolina hit a gas line and caused an explosion that killed two people, injured another twenty-five, and destroyed a building including two businesses.¹² In 2021, a Crown Castle subcontractor in Santa Monica hit a

⁸ Joint Comments of Communications Workers of America District 9 and the Coalition of California Utility Employees on “One-Touch Make-Ready” Proposal, April 12, 2021, Order Instituting Investigation into the Creation of a Shared Database or Statewide Census of Utility Poles and Conduit in California, I.17-06-027, And Related Matter, R.17-06-028.

⁹ Communications Workers of America, “AT&T’s Web of Subcontractors: Building Next Generation Networks with Low-Wage Labor,” October 2020, <https://cwa-union.org/sites/default/files/20201005attsubcontractorreport.pdf>.

¹⁰ Id., Communications Workers of America, “Subcontracting in Small Cell Deployment: Who’s Doing Work in Our Streets?,” https://www.fair5g.org/system/files/cwa_-_telecom_subcontractor_safety_backgrounder_1.pdf.

¹¹ Communications Workers of America, “Subcontracting in Small Cell Deployment: Who’s Doing Work in Our Streets?,” May 2020, https://www.fair5g.org/system/files/cwa_-_telecom_subcontractor_safety_backgrounder_1.pdf.

¹² Id.

gas line that required residents to evacuate and go without power for days while crews fixed the issue.¹³

In California, the state’s unique wildfire risk emphasizes the importance of safety and the risks caused by poorly trained contractors. Multiple wildfires have been caused by or linked to equipment in the communications space. For example, the October 2007 Guejito Fire in Escondido, which was linked to 40 firefighter injuries and two fatalities, was ignited when a Cox Communications lashing wire came into contact with an SDG&E 12kV overhead conductor. After the fire, SDG&E documented a 3.3-foot clearance between the SDG&E conductors and Cox lines, which violated Rule 38 of GO 95. Similarly, after the October 2020 Silverado Fire in Orange County which forced 60,000 people to evacuate their homes, SCE reported that a lashing wire that was attached to an underbuilt telecommunication line may have caused the ignition of the fire.¹⁴

While explosions and wildfires may be more newsworthy than fallen cable in the right-of-way and overloaded poles, even mundane seeming safety issues can endanger the lives of workers and members of the public, and both underline the need for the CPUC to consider the reality of depressed wages and subcontracting in the industry as it formulates BEAD policies.

C. Low road subcontracting in the telecommunications industry negatively affects service quality.

¹³ Brennon Dixon, “Broken gas main leaves residents in the dark for days,” Santa Monica Daily Press, May 1, 2021, available at <https://www.smdp.com/broken-gas-main-leaves-residents-in-the-dark-for-days/204398>.

¹⁴ Joint Reply Comments of Communications Workers of America, District 9 and the Coalition of California Utility Employees on “One-Touch Make-Ready” Proposal, April 28, 2021, Order Instituting Investigation into the Creation of a Shared Database or Statewide Census of Utility Poles and Conduit in California, I.17-06-027, And Related Matter, R.17-06-028, pp. 8-9.

In addition to safety risks, shoddy work affects service quality. When work is contracted out, the lead firm is often unable to ensure the same level of quality and the financial incentives can create circumstances for shoddy work. Contractors are often paid a piece rate for a project. In contrast to a worker paid a high quality hourly wage, this type of arrangement incentivizes speedy work and cutting corners. As one technician described in a survey of CWA technician members, “contractors rush to get the job done quicker, bypassing safety issues and damage the plant trying to get done quicker and to make more money.”¹⁵

CWA technicians have observed problems like contractors hitting lines and causing service outages; contractors installing cable but failing to bury it deep enough, making it easier for the cable to get damaged; contractors incorrectly hanging fiber making it vulnerable to squirrel chews; incorrect installation of access points, conduit and ducts for fiber installation to customer premises, delaying service activation; and incorrect installation of conduit piping for laying fiber underground so that it is crushed or otherwise unusable.¹⁶ These types of issues affect the longevity of broadband installation and the quality of service for customers.

Many of these companies are not locally based and know that when the shoddy work in the right-of-way is discovered, they will be long gone. For example, improperly handled fiber may work initially, but have a diminished service life that is only apparent years after installation. In one colorful example, over two years after fiber was installed in their neighborhood, a Texas family experienced problems with backed up sewage. They discovered that contractors had installed fiber directly *through* their sewage lines. In a statement after the problem was discovered, AT&T said they “instruct [their] contractors to follow all necessary

¹⁵ Communications Workers of America, “AT&T’s Web of Subcontractors: Building Next Generation Networks with Low-Wage Labor,” October 2020, <https://cwa-union.org/sites/default/files/20201005attsubcontractorreport.pdf>.

¹⁶ *Id.*

procedures to have utilities located.”¹⁷ As is evident, additional protections are required to ensure accountability for quality work and that public funds go towards long-lasting infrastructure.

II. The Commission should incorporate additional labor prioritization factors and disclosure requirements into its evaluation of potential applicants and grant Fair Labor Practices factors a substantial point allocation in subgrantee evaluation.

The challenges of low road subcontracting and a strained labor market in the telecommunications sector support additional labor considerations in program design. As an initial matter, the NTIA’s BEAD Notice of Funding Opportunity (NOFO) sets out requirements regarding three primary criteria which must be afforded substantial credits, one of which is Fair Labor Practices.¹⁸ The NTIA requires California to prioritize subgrantees based on subgrantees’ record of compliance with labor standards, including past labor practices of the subgrantee and subcontractors, and based on subgrantees’ plans for labor compliance, or how they will ensure that the work to be done will involve exemplary labor practices.¹⁹ The NTIA sets out baseline requirements that Fair Labor Practices criteria should include, but makes clear that states are welcome to go beyond these baseline standards and create additional factors to operationalize the Fair Labor Practices criteria, listing multiple examples of additional factors in the NOFO.²⁰ Respondents support the proposal to incorporate job quality and equitable workforce

¹⁷ CBS Dallas Forth Worth, “Telecom Fiber Lines the Source of North Texas Homeowner’s Plumbing Problems,” January 7, 2022, <https://dfw.cbslocal.com/2022/01/07/telecom-fiber-lines-texas-homeowner-plumbing-problems/>.

¹⁸ NTIA BEAD Notice of Funding Opportunity, <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>.

¹⁹ Id., pp. 56-57.

²⁰ Id., pp. 57-59. In subpart E, “Fair labor practices and highly skilled workforce,” NTIA lays out Fair Labor Practice requirements, and encourages states to include additional factors as binding commitments to strong labor standards and protections, including, among others, a directly employed workforce, prevailing wages, and a skilled workforce. In subpart F, “Advancing equitable workforce development and job quality objectives,” NTIA encourages states to consider scoring applicants on job quality and job training.

development as additional criteria, and encourage the CPUC to incorporate additional factors into its Fair Labor Practices criteria to supplement and operationalize these criteria.

Prioritizing labor factors goes towards quality build and cost-effective deployment, and is in line with California's high road vision. Accordingly, labor factors should receive a substantial point allocation. The Commission should incorporate additional factors, including prioritization of direct employment, quality training, and a locally based workforce, to ensure that Fair Labor Practices criteria are meaningful. Finally, transparency and disclosures around workforce plans would ensure that subgrantees abide by their commitments and are accountable for workplace practices.

A. Prioritizing labor factors is in line with California's high road vision and cost-effective deployment, and labor factors should receive a substantial point allocation.

Prioritizing labor factors is in line with not only the IIIA and NTIA's requirements, but also California's high road approach to workforce development and economic policy. California is a national leader in workplace policy and a model for other states. The California Workforce Development Board's High Road Training Partnerships program supports industry training partnerships with "high road employers with good jobs" and describes building equity in the state by working with high road employers as "the portal to shared prosperity."²¹

As recognized by the state, high road labor policies are "win-win" policies that support cost-effective deployment as much as they do workers and high road employers. If programs fail to prioritize labor factors, they effectively create a race to the bottom on wages and work

²¹ California Workforce Development Board, "High Road Training Partnerships," <https://cwdb.ca.gov/initiatives/high-road-training-partnerships/>; California Workforce Development Board, "High Road Overview," p. 4, https://cwdb.ca.gov/wp-content/uploads/sites/43/2019/09/High-Road-ECJ-Brief_UPDATED-BRANDING.pdf?emrc=032fa5.

conditions. When programs don't set a baseline and employers compete by lowering work standards, programs are likely to exacerbate workforce instability, workplace injury, and work stoppages, which ultimately result in decreased productivity and program effectiveness.

Studies of prevailing wage policies demonstrate the virtuous circle of high road employer approaches. Studies find that these policies boost productivity, reduce injury rates, and help address the shortage of skilled labor.²² Numerous studies find that prevailing wage laws do not increase construction costs, and instead incentivize more skilled construction labor to replace less-skilled counterparts, and capital equipment investments.²³ Prevailing wage standards are also not associated with reduced bid competition, and result in more work being done by local contractors and employees as opposed to crews from out of state.²⁴

A grantee's ability to perform the work with a stable well-trained workforce goes towards its operational capacity to perform the work in a cost-effective and expeditious manner, free from labor violations, injuries, or workplace stoppages. In the Federal Funding Account rules, the CPUC assigned points for an applicant's operational capacity to execute a project successfully and completely within the timeframe, and for an applicant's ability to demonstrate a well-planned project with a reasonable budget.²⁵ Allocating points to additional high road labor practices, beyond those required by the NTIA, overlaps with and mutually supports these considerations of operational capacity and ability to execute a well-planned project.

²² Malkie Wall, David Madland, and Karla Walter, "Prevailing Wages: Frequently Asked Questions," Center for American Progress, <https://www.americanprogress.org/article/prevailing-wages-frequently-asked-questions/>.

²³ Kevin Duncan, "What the Research Tells Us About the Costs and Benefits of Prevailing Wage Laws," Submitted to the Montana State Legislature, p. 3. https://leg.mt.gov/content/Committees/Interim/2021-2022/Local-Gov/21_Nov/DuncanReport_MontanaPrevailingWageStudy2021.pdf (reviewing the prevailing wage literature).

²⁴ Id. at pp. 3-4.

²⁵ Federal Funding Account Program Rules and Guidelines, A-6.

The NTIA requires that the three primary criteria should amount to at least seventy-five percent of the total weighting metrics for evaluating subgrantees, and requires that Fair Labor Practices criteria must receive “substantial points or credits.”²⁶ Respondents encourage the Commission to consider that labor factors are mutually reinforcing with many other program goals and therefore should receive a substantial allocation, on par with the other two primary criteria.

B. The Commission should prioritize additional labor factors including direct employment, a well-trained workforce, and a locally based workforce.

Respondents support the proposal to incorporate criteria around equitable workforce development and job quality, and encourage the Commission to consider additional factors including directly employed workforce, in-house training, and locally based workforce.

Directly employed workforce. As described above, the telecommunications sector is increasingly “fissured” or subcontracted, creating real challenges for reliability and quality of service. The CPUC can counter these low road practices and support job quality and equitable workforce development by prioritizing subgrantees that will use a directly employed workforce for broadband deployment, installation, and maintenance. By allocating points to applicants that will perform relevant work with a directly employed workforce, the CPUC ensures that subgrantees are accountable for work conditions and training, and encourages creation of quality local jobs.

Fissuring of the workforce is among the greatest challenges to workplace standards and labor enforcement today. As Senator Sherrod Brown noted in his remarks on the Congressional intent of the IJJA, subcontracted arrangements in the broadband sector “limit enforcement of our

²⁶ NTIA BEAD Notice of Funding Opportunity, <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>, p. 43.

nation’s labor laws,” and often “employers engage in these practices strategically to evade accountability for labor law violations,” which was the reason why IJJA supports “high road employers who go above and beyond the minimum standards we set with our labor laws” including “employers who use direct employees for projects.”²⁷ Encouraging a directly employed workforce for which the subgrantee is accountable lays the groundwork for high quality jobs and pathways to a more equitable workforce.

Robust in-house training. As described above, poorly trained subcontractors can cause safety risks for workers and the public. The CPUC should include training as a factor in the Fair Labor Practices criteria. Subgrantees should have robust in-house training programs with established requirements that are tied to uniform and progressive wage scales, job titles, and certifications or skill codes recognized by the industry.

Locally based workforce. Public investment should support the creation and maintenance of good locally based jobs. The CPUC should include as a factor in its Fair Labor Practices criteria whether the applicant will perform broadband deployment, installation, and maintenance work using a locally based workforce, as defined by certain regions or zip codes, and whether the applicant has policies to promote the hiring of locally based workers.

Quality wages and benefits. Respondents support factors regarding quality wages and benefits. Congress and the NTIA have made clear that the Bipartisan Infrastructure Law is intended to create high quality jobs with family sustaining wages and benefits. We cannot expect to fix workforce shortage issues or retain a quality workforce unless we prioritize high quality jobs.

²⁷ Congressional Record Vol. 167, No. 144 (Senate, August 9, 2021), <https://www.congress.gov/congressional-record/2021/8/9/senate-section/article/s6106-5?q=%7B%22search%22%3A%5B%22%22%5D%7D&s=2&r=36>.

We applaud the fact that prevailing wage applies to CPUC administered broadband projects and emphasize the importance of enforcement. CWA has seen that some CASF projects appear to not be fully registered in the prevailing wage database. Prevailing wage policies are successful when uniformly enforced and we encourage the CPUC to evaluate how prevailing wage enforcement can be improved for the BEAD program.

The Commission should incorporate any additional labor standards criteria as binding legal commitments. The NTIA states that if eligible entities choose to include additional labor factors as binding commitments, they can modify other aspects of the baseline Fair Labor Practices criteria. In other words, if the Commission incorporates additional labor factors like those suggested above as binding commitments, it can take advantage of flexibility as to other labor requirements and tailor the criteria to better meet California's needs.²⁸

C. The Commission should collect and publish information regarding subgrantees' workforce plans and hold subgrantees accountable to those commitments.

Respondents recommend that the CPUC require applicants to disclose information on their workforce plans and practices and that this information be publicly posted. Some reporting is implied if evaluation metrics involve labor practice prioritization factors. However, there is independent value to collecting this information and having it available to the public. Enforcement is an endemic problem in labor compliance, and in publicly posting subgrantees' commitments regarding labor standards, the public and worker organizations can support accountability in labor standards. We encourage collection of information regarding workforce and work conditions early, as part of the evaluation process for bids, and that that information be

²⁸ NTIA BEAD Notice of Funding Opportunity, <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>, p. 56.

incorporated throughout the funding cycle as part of ongoing compliance and monitoring. Under P.U. Code 281(l), grantees must already report information regarding contractors and subcontractors. Incorporating reporting regarding other aspects of a subgrantee's workforce plan is compatible with this existing requirement.

Applicants should disclose data regarding their workforce plan including:

- Training and Safety – For each job title that will carry out the proposed work, a description of safety training, certification, and/or licensure requirements. Is there a robust in-house training program with requirements tied to certifications, titles, and uniform wage scales? Is there participation in a labor-management apprenticeship program? Is there a labor-management health and safety committee on the worksite?
- Job Quality – For each job title that will carry out the proposed work, a description of wages, wage scales, overtime rates, and benefits. Does the applicant pay prevailing wage to its existing workforce and does it commit to do so with the workforce under the grant? If work is being subcontracted, how will the applicant ensure prevailing wage compliance?
- Local Hire and Targeted Hire – Will the funded work be performed by a locally based workforce? Does the applicant have any policies or programs that encourage career pathways and hiring for marginalized communities or the local community, including any programs for women, people of color, immigrants, or veterans?
- Accountability and Subcontracting – Will the workforce be directly employed by the applicant? If not, will the applicant subcontract the work to another entity? If the workforce will be subcontracted, the applicant should have to disclose the Workforce

Plan for the subcontracted workforce as well and describe how the applicant will ensure accountability for work conditions and work quality.

- Ongoing Maintenance and Operations – For projects where the applicant will be operating the network after the deployment phase is completed, does the applicant have an existing workforce to perform the customer service and operations work? Will that workforce be based locally and directly hired by the employer? If certain functions will be outsourced, will any of the functions be performed overseas? Will the project support high quality jobs in ongoing maintenance and operations?

III. Broadband networks owned, operated by, or affiliated with local governments provide opportunities for robust and creative labor solutions. The Commission should ensure that localities and joint powers authorities require fair labor practices and work collaboratively with partner organizations to support a sustainable workforce.

Where broadband networks are owned, operated by, or affiliated with local governments, there are unique opportunities to promote good labor practices. As noted by the CPUC in the Federal Funding Account rules, public and tribal entities have less profit-making pressure and a uniquely holistic interest in serving their communities.²⁹ In situations where localities are BEAD recipients, the CPUC can additionally encourage high road labor practices in multiple ways.

Firstly, as a baseline, the labor practice requirements that the CPUC applies to subgrantees should “trickle down” and similarly apply to localities’ subgrantees if localities are further contracting or subgranting the funds. In other words, the CPUC’s subgranting requirements regarding labor standards should be a baseline for localities that are further

²⁹ Federal Funding Account Program Rules and Guidelines, A-6.

subgranting funds. The NTIA's NOFO requires the CPUC to evaluate applicants based on Fair Labor Practices criteria, among others. If localities are subgranted funds and will engage in further subgranting, the same policy concerns apply, and localities should demonstrate that their criteria will similarly give substantial consideration to high road labor factors, including for example, training requirements, locally based workforce, and direct employment.

Secondly, localities should be required to consult with workforce community partners, for example labor unions and workforce intermediaries. Localities are uniquely well positioned to create innovative solutions and proposals that consider workforce sustainability and labor standards along with a community's technology and workforce needs. Requiring localities to consult with workforce community partners supports the collaboration that will encourage creative solutions that build on local workforce strengths and respond to local needs. Such a practice reflects the requirements of the NOFO, which similarly requires eligible entities to consult with community partners, including labor unions.

Thirdly, the CPUC should require localities to ensure good labor practices and require localities to describe how they will do so as part of their proposals. Localities have a unique opportunity to ensure infrastructure serves working Californians and creates good jobs. For example, in a situation where a locality owns or operates a broadband network, the locality can take an active role in training requirements, apprenticeship requirements, referral systems, community benefit agreements, or partnerships with local workforce intermediaries or labor unions. In contracting situations where a locality retains a greater level of control than in traditional subgranting arrangements, a locality also has unique opportunities for high-road labor strategies.

The NTIA’s NOFO requires the CPUC to consider factors around Fair Labor Practices as one of the primary criteria upon which applicants will be evaluated. Depending on how proposals are structured, local government applicants may not fit as neatly within the labor factors applied to ISPs or private corporations. We encourage the CPUC to consider this difference as an opportunity for localities to engage in innovative practices to promote a stable workforce and good jobs, whether ensuring high road labor practices or acting as a high road employer. The CPUC may consider providing technical assistance regarding policy options and designating staff with expertise as a resource for localities on labor and workforce issues.

IV. The Commission should continue to prioritize fiber optic infrastructure.

In other programs including the Federal Funding Account, the CPUC has prioritized fiber optic infrastructure citing its scalability and its ability to enable future technologies. The BEAD NOFO similarly requires fiber prioritization in program structure.³⁰ CWA supports the prioritization of fiber and the implementation of a “high cost” definition that reflects the long-term value of fiber. An engineering analysis comparing fiber technology and fixed wireless technologies finds that while fiber generally has higher upfront capital costs than fixed wireless, the total cost of ownership over 30 years is comparable for fiber and fixed wireless, with fiber providing a much higher quality service.³¹ Fiber is also a sustainable and environmentally friendly investment. It offers greater capacity, predictable performance, lower maintenance costs,

³⁰ NTIA BEAD Notice of Funding Opportunity, <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>, p. 42 (noting that BEAD will prioritize projects with end-to-end fiber-optic architecture due to its scalability and ability to support deployment of successor technologies).

³¹ An engineering analysis of fixed wireless technologies by consulting firm CTC Technology and Energy concludes that “fiber represents the most fiscally prudent expenditure of public funds in most circumstances because of its longevity and technical advantages” and includes models of estimated costs over the lifetime of the technology. CTC Technology, “Fixed Wireless Technologies and Their Suitability for Broadband Delivery,” June 2022, p. 51. <https://www.benton.org/sites/default/files/FixedWireless.pdf>.

and a longer technological lifetime than other technologies.³² CWA supports robust fiber prioritization and a high-cost definition that reflects the long-term value of fiber.

V. The Commission should prioritize disadvantaged communities, consider crowdsourced data in the challenge process, and allow broad sources for matching funds.

Respondents, particularly CWA members in the field, see firsthand how low-income communities are left behind by the digital divide. Respondents support incorporating prioritization of disadvantaged communities, as measured by the number of low-income households impacted by a project or existing disadvantaged community metrics like Socioeconomic Vulnerability Index (“SEVI”) score or SB535 CalEnviroScreen Disadvantaged Community status.

CWA members have also been involved in various efforts to measure broadband speeds on the ground, from urban Oakland to the Central Valley. The experience of CWA members and others shows that provider advertised or reported speed data is often inaccurate and on-the-ground data collection can be invaluable. Respondents support incorporating “crowdsourced” on the ground data from individuals, institutions, or localities regarding speed, latency, and reliability as part of the challenge process.

Finally, Respondents support minimizing restrictions on what funds are eligible to be used as matching funds and exploring the use of additional funding sources to fulfill match requirements. Overly restrictive requirements could delay or prevent necessary infrastructure from reaching underserved and unserved communities.

³² Communications Workers of America, Fiber: The Greenest Technology, https://drive.google.com/file/d/1RMFoa5i_5N0d5L6gvzu6GUH9QMjIX7Mt/view?usp=sharing.

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Respectfully Submitted,

/S/ Frank Arce

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*Authorized to sign on behalf of
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9, Jobs with Justice San Francisco, Labor
Network for Sustainability, United
Steelworkers District 12, and United
Steelworkers Local 675*