



Comments of Communications Workers of America Local 13101 on Delaware’s BEAD Initial Proposal Volume II

I. DTI’s approach to Fair Labor Practices promotes high-quality safe broadband build-out in Delaware and makes Delaware a leader in the nation for labor standards in BEAD deployment.

CWA commends DTI’s thoughtful approach to ensuring good labor practices in BEAD deployment and promoting long-term workforce development. Through this initial proposal, Delaware has set itself as a leader in the nation for promoting labor standards in BEAD implementation, and embodying the “good jobs” intent of the Infrastructure Investment and Jobs Act. In particular:

- CWA commends DTI’s inclusion of Fair Labor Practices in the prequalification phase, p. 16-18. This action ensures from the start that all participating bidders have the labor practices necessary to ensure effective performance.
- CWA commends DTI’s point allocation to Fair Labor Practices, p. 20-21. Labor practices are core to an applicant’s ability to perform contracted work safely, effectively, and on time, and points allocated to labor criteria are well spent, promoting an effective program and demonstrating an applicant’s managerial and technical capability as well.
- CWA commends DTI’s focus in point allocation to forward-looking labor practices, p. 20-21. In other states, CWA has submitted comments to emphasize that allocating points towards forward-looking plans for compliance, as opposed to backwards-looking records of compliance, better promotes an effective program.
- CWA commends DTI for prioritizing a directly employed workforce. CWA has long detailed the wage stagnation and job quality issues facing the telecommunications sector and the increase in the low road subcontracting.¹ By prioritizing a directly employed workforce, DTI promotes high road labor standards and accountability in the industry.

¹ See e.g. Communications Workers of America, “Broadband Investments that Go the Distance: Incorporating High Road Labor Standards and Future-Proof Infrastructure into a State or Locality’s Broadband Plan,” <https://buildbroadbandbetter.org/system/files/2023-09/CWA-Broadband-High-Road-Labor-Report-2023.pdf>; Communications Workers of America, “AT&T’S Web of Subcontractors: Building Next Generation Networks with Low-Wage Labor,” <https://cwa-union.org/sites/default/files/20201005attsubcontractorreport.pdf>.

- CWA commends DTI for requiring ongoing workforce reports, for ensuring such representations become binding legal commitments, for ensuring such reports will be publicly available on a website, and for requiring applicants to disclose the entities they are contracting with, p. 43-44. Enforcement is an endemic problem in labor compliance. When workforce information is posted publicly, the public and worker organizations are able to be allies in enforcement and promote accountability.

CWA's comments reflect the reality that workers in today's telecommunications sector face issues of wage stagnation and degraded job quality.² In prioritizing a directly employed workforce, requiring disclosures regarding the employing entity, making such representations legally enforceable commitments, and publicly posting workforce reports, Delaware is setting an incredible example both for labor standards in the telecommunications sector, and more broadly for all states seeking to address the challenges of increased low road subcontracting in various industries (a phenomenon labor experts have termed "the fissured workplace") and the resulting wage stagnation and poor work conditions.

II. CWA encourages DTI to incorporate as part of the scoring criteria six groups of resiliency strategies.

(Responding to 4.3.2.1, Scoring Criteria for Priority Broadband Projects, P.19)

CWA recommends that DTI adopt network resiliency considerations as part of the Minimal BEAD Program Outlay scoring, including for projects that are not Priority Broadband Projects. CWA urges DTI to also incorporate as part of the scoring criteria the six groups of resiliency strategies that the California Public Utilities Commission (CPUC) adopted in its disaster resiliency docket for certain facilities-based wireless and wireline service providers, with the goal of ensuring access to 911 and 211 services, the ability to receive emergency alerts and notifications, and access to basic Internet browsing. These include:

- a. Implement 72-hour back-up power to support essential communications equipment and minimum service levels for the public
- b. Build and maintain redundant communication networks
- c. Harden communication networks to withstand damage
- d. Network operators should have available temporary facilities (e.g., mobile cell sites, mobile satellite and microwave backhaul, etc.) to restore service to their networks when facilities are damaged or destroyed;
- e. Establish communication and coordination processes with first responders, other public utilities, the Commission, and the general public
- f. Establish preparedness planning for employees and ensure sufficient staffing levels.

² Id.

California Public Utilities Commission’s resiliency decisions: D.20-07-011 (wireless), <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/communications-division/documents/network-resiliency/d2007011-july-16-2020.pdf>, D.21-02-029 (wireline), <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/communications-division/documents/network-resiliency/d2102029-february-18-2021.pdf>.

III. CWA cautions DTI to not allocate large sums of funds to subgrantees proposing Non-Priority Broadband Projects in order to reach 100 percent coverage.

(Responding to 4.10 on identifying an Extremely High Cost Per Location Threshold - EHCT, p. 26)

CWA highly supports DTI’s preference for fiber. Fiber is sustainable, scalable, and renewable. It offers greater capacity, predictable performance, lower maintenance costs, and a longer technological lifetime than coaxial cable, satellite, and fixed wireless technologies. CWA is encouraged by DTI’s intention of selecting an EHCT that lives up to the spirit of the EHCT framework as described in the BEAD NOFO by selecting a number as high as possible to help ensure that end-to-end fiber projects are deployed wherever feasible. Other state and federal universal service programs, appropriations, and broadband grant programs could help fill the remaining connectivity gaps and ensure that everyone can benefit from future-proof fiber technology.

CWA also encourages DTI to consider studies of the long-term value of fiber in determining an EHCT. 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.” CTC’s cost analysis of fiber and fixed wireless deployments finds that while fiber’s upfront capital costs are higher than those of fixed wireless in many circumstances, the total cost of ownership over 30 years is comparable for fiber and fixed wireless, and fiber provides much higher quality service. The CTC analysis further finds that while fixed wireless technologies will continue to improve, they will not match the performance of fiber optic networks. CWA recommends that DTI incorporate a minimum of a 30-year period to evaluate the total cost of ownership of non-FTTP networks as part of its EHCT analysis.

BEAD Program Notice of Funding Opportunity at 13, fn 6.
CTC Technology, “Fixed Wireless Technologies and Their Suitability for Broadband Delivery”, 49-51, June 2022, <https://www.benton.org/sites/default/files/FixedWireless.pdf>.

IV. CWA recommends DTI adopt “as-built” reporting and inspection requirements.

(Responding to 15.2.7, Robust subgrantee monitoring, P. 85)

CWA supports DTI's plans to conduct comprehensive monitoring to ensure compliance with program guidelines, including plans for site visits. CWA recommends that DTI conduct periodic and random site visits, which should include inspections of pole attachments and handholds. CWA further recommends subgrantees submit "as-built" technical documentation, certified by a licensed Professional Engineer, that verifies project completion and demonstrates that the deployed infrastructure, service area, and equipment match those in the approved final application and are capable of delivering the minimum proposed speeds consistently to all potential customers in the project area. Recipients must identify any differences between the network design in the approved final application and the "as-builts," and explain the reasons for the differences and any impacts or changes to the final application resulting from these differences. Subgrantees must also validate the performance characteristics of any deployed infrastructure and equipment that differs from the specifications in the approved final application.

Conclusion

We sincerely appreciate DTI's thoughtful work on implementing the BEAD program and closing the digital divide in Delaware. Please do not hesitate to reach out if CWA can be of further assistance.

Sincerely,

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