

FOR CONSIDERATION

September 21, 2023

TO: The Directors

FROM: Hope Knight

SUBJECT: ConnectALL Office – Digital Equity Program

REQUEST FOR: Adoption of Digital Equity Program Guidelines; and Authorization to Take Related Actions

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I. BACKGROUND

The ConnectALL Initiative, announced by the Governor in January 2022, is an ambitious set of programs and activities aimed at addressing New York State’s digital divide, transforming the state’s digital infrastructure, and ensuring that all New Yorkers have access to reliable and affordable high-speed broadband internet service. ConnectALL programs are designed and administered by the ConnectALL Office (“CAO”), which is within the New York State Urban Development Corporation d/b/a Empire State Development (ESD).

As part of the ConnectALL Initiative, CAO, has been designated as the administering entity for the State Digital Equity (“DE”) Planning Grant and Capacity Grant. ConnectALL was established to ensure digital access and adoption for all populations within New York State.

New York State’s DE program will integrate and elevate the expertise and guidance of local, regional, and statewide stakeholders alongside rigorous data analysis. Through a robust stakeholder engagement process, CAO, in partnership with digital equity coalitions, held listening session in every region as well as the five boroughs of New York City, which included over 1,000 attendees. Through our partnership with these coalitions, over 40 stakeholder focus groups have been held to engage with Covered Populations. These coalitions have also completed needs assessments and asset inventories for every region to identify the specific barriers, assets, and needs of communities across the state. Through the Digital Equity Taskforce, hundreds of New Yorkers have participated in town halls on how digital equity can improve outcomes in education, workforce development, health care, access to government services, and civic and social engagement. Topping off these efforts, the statewide digital equity survey has received 5,500 responses.

This holistic approach will ensure that the State’s DE Program is relevant and meaningful at both the local and state levels, reflecting the diversity of New York’s communities and

illustrating the structural impediments to access such as affordability, digital literacy, device ownership, and online privacy and safety.

The Public Authorities Accountability Act, Chapter 766 of the 2005 Laws of New York was signed into law in 2006 and was amended by the Public Authorities Reform Act of 2009 (collectively, the “Act”). The Act establishes standards for the governance and operation of public authorities and public benefit corporations such as Empire State Development (The “Corporation”). Title 7 of the Act, Section 2925, requires that a public benefit corporation shall by resolution adopt comprehensive guidelines which detail the corporation’s operative policy and instructions to officers and staff regarding the investing, monitoring, and reporting funds of the corporation. Such guidelines approved by the corporation shall be annually reviewed and approved by the corporation.

## II. DIGITAL EQUITY PROGRAM GUIDELINES

Pursuant to the New York State WIRED Act and the federal Digital Equity Act of 2021, ConnectALL will establish and implement programs, including grant programs, in furtherance of improving digital equity, digital inclusion, and digital literacy.

DE Program will include activities aimed at achieving digital equity, supporting digital inclusion, and building capacity of community anchor and other institutions to reduce barriers to internet access, promote digital literacy, and enhance broadband adoption by residents across the state.

CAO will be the administrator of any program established in furtherance of these objectives. As such, it, or its duly authorized representative, will determine program structure and requirements, evaluate Applicant information, monitor Grantees for project completion and satisfactory performance, collect Grantee data to ensure compliance with all program requirements and verify allowable uses of funds, and approve disbursement of grant funds to selected Grantees.

The State’s DE plan will contain the statutory requirements set forth under grant guidelines by the National Telecommunications and Information Administration (NTIA). Upon completion of a draft plan, CAO will hold a public comment period for review and feedback. The final plan will be submitted to NTIA and distributed to the public through the coalition networks and the ConnectALL website.

The DE Program Guidelines articulate the proposed governing standards that the ConnectALL Office will implement to run the Digital Equity Program.

## III. STATUTORY AUTHORITY

Section 16-GG\*2 of the New York State Urban Development Corporation Act (“UDC Act”), Chapter 174 of the Laws of 1968, as amended, establishes the Division of Broadband Access, with

the stated goal to “assist in ending the digital divide, supporting a more robust and competitive internet marketplace, and carrying out other actions to ensure universal access to high-speed, reliable, and affordable broadband.” See UDC Act, §16-GG\*2(1).1. The statute also establishes the ConnectAll digital equity grant program “to support individuals to have the information technology capacity needed for full participation in society and the economy, including the effective implementation of a State Digital Equity Plan or any successor plan.” See UDC Act, §16-GG\*2(10).

IV. ENVIRONMENTAL REVIEW

ESD staff has determined that the requested adoption of DE Program Guidelines constitutes a Type II action as defined by the New York State Environmental Quality Review Act (“SEQRA”) and the implementing regulations of the New York State Department of Environmental Conservation. No further environmental review is required in connection with this approval.

V. NON-DISCRIMINATION AND CONTRACTOR & SUPPLIER DIVERSITY

Pursuant to New York State Executive Law Article 15-A, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority and women-owned businesses (“MWBES”) in the performance of ESD contracts. In accordance with the requirements of Article 15-A of the New York State Executive Law: Participation by Minority Group Members and Women with Respect to State Contracts, Projects awarded funding shall be reviewed by ESD’s Office of Contractor and Supplier Diversity, which may set business and participation goals for minorities and women, to the extent not preempted by federal requirements pertaining to participation by socially and economically disadvantaged individuals (“SEDI”).

VI. SERVICE-DISABLED VETERAN-OWNED BUSINESSES

Pursuant to New York State Executive Law Article 17-B, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified service-disabled veteran-owned businesses (“SDVOBs”) in the performance of ESD contracts.

VII. REQUESTED ACTION

The Directors are being asked to adopt the attached DE Guidelines, and authorize the taking of related actions.

Attachments

Resolution

Digital Equity Program Guidelines

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<sup>1</sup> [https://www.nysenate.gov/legislation/laws/UDA/16-GG\\*2](https://www.nysenate.gov/legislation/laws/UDA/16-GG*2)

September 21, 2023

NEW YORK STATE URBAN DEVELOPMENT CORPORATION d/b/a EMPIRE STATE DEVELOPMENT – ConnectALL Office – Digital Equity Program - Adoption of Digital Equity Program Guidelines; and Authorization to Take Related Actions

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BE IT RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation (the “Materials”), relating to implementation and administration by the ConnectAll Office (“CAO”) of the Digital Equity Program, the Corporation hereby determines pursuant to Section 10(g) of the UDC Act that there are no families or individuals to be displaced by the project at issue; and be it further

RESOLVED, that the President and Chief Executive Officer of the Corporation or her designee(s) be, and each of them hereby is, authorized in the name and on behalf of the Corporation to take such action and execute such agreements and instruments as he or she may consider necessary or desirable or appropriate in connection with the implementation of the Guidelines and to take related actions; and be it further

RESOLVED, that the President and Chief Executive Officer or her designee(s) be, and each of them hereby is, authorized in the name and on behalf of the Corporation to execute and deliver any and all documents and to take all actions as she or he may in her or his sole discretion consider to be necessary or proper to effectuate the foregoing resolutions, including without limitation, to make findings and hold public hearings that may be necessary pursuant to applicable law and to act on behalf of the Corporation to affirm, modify or withdraw any contemplated funding or assistance as a result of testimony given at any such hearing, if necessary.

RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation (the “Materials”), relating to the Digital Equity Program Guidelines (the “Guidelines”), the Guidelines are hereby approved and adopted.

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**SUBJECT TO BOARD APPROVAL**

**Grant Program Guidelines**  
**New York State's Digital Equity Grant Program**

**September 2023**

**State of New York**

Kathy Hochul, Governor

**Empire State Development**

ConnectALL Office



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## **SUBJECT TO BOARD APPROVAL**

### **A. Definitions**

In these guidelines, the terms below shall have the following meanings:

- “ConnectALL Office” (referred to herein as “CAO”) shall mean New York State’s division of broadband access, established through passage of the New York State WIRED Broadband Act in 2022 and with powers to: coordinate the activities of all state agencies performing functions affecting access to high-speed, reliable, and affordable broadband; conduct research and analyses of matters affecting access to high-speed, reliable, and affordable broadband; advise and make recommendations on matters affecting access to high-speed, reliable, and affordable broadband; provide advisory assistance to municipalities, state and local authorities, and other entities to expand access to high-speed, reliable, and affordable broadband; and establish and implement programs, including grant programs, to expand access to high-speed, reliable, and affordable broadband; and other powers. CAO is responsible for the implementation of the ConnectALL Initiative announced by Governor Hochul in January 2022.
- “Applicant” shall mean the entities that will apply to participate in programs established to further digital equity, inclusion, and literacy.
- “Application” shall mean the materials submitted to CAO by an Applicant seeking to receive funding, which shall be aligned with the specific requirements of a corresponding Request for Applications (RFA).
- “Broadband” shall mean high-capacity transmission technology that transmits data, voice, and video across long distances and at high speeds. As defined by the Federal Communications Commission (FCC), broadband is internet service with a minimum of 25 Mbps download and 3 Mbps upload speeds.
- “Digital Equity Planning Grant” shall mean the grant program established by the National Telecommunications and Information Agency (NTIA) through the Infrastructure, Investment, and Jobs Act (IIJA).
- “State Digital Equity Plan” (referred to herein as “SDEP”) shall mean New York State’s Digital Equity Plan funded through the federal Digital Equity Act of 2021, in which States can, among other things, identify barriers to digital equity and outline specific measures aimed at addressing those barriers. States can, among other things, identify barriers to digital equity and outline specific measures aimed at addressing those barriers.
- “Covered Populations” shall mean, as defined in the federal Digital Equity Act of 2021: individuals who live in covered households (see below); aging individuals (60 and above); incarcerated individuals, other than individuals who are incarcerated in a Federal correctional facility; veterans; individuals with disabilities; individuals with a language barrier, including individuals who are English learners, and have low levels of literacy; individuals who are members of a racial or ethnic minority group; and/or individuals who primarily reside in a rural area.
- “Covered Household”, as defined in the federal Digital Equity Act of 2021, means: a household, the income of which for the most recently completed year is not more than 150 percent of an amount equal to the poverty level, as determined by using criteria of poverty established by the Bureau of the Census.

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- “Digital Equity”, as defined in the federal Digital Equity Act of 2021, means the condition in which individuals and communities have the information technology capacity that is needed for full participation in the society and economy of the United States.
- “Digital Inclusion” means the activities necessary to ensure that all individuals and communities, including the most disadvantaged, have access to and use of information and communication technologies.
- “Fiber” refers to optical fiber, which carries information from one place to another via transmitted pulses of infrared light.
- “Grantees” shall refer to selected/awarded Applicants.

### **B. Statutory Authority**

Section 16-GG\*2 of the New York State Urban Development Corporation Act (“UDC Act”), Chapter 174 of the Laws of 1968, as amended, establishes the Division of Broadband Access, with the stated goal to “assist in ending the digital divide, supporting a more robust and competitive internet marketplace, and carrying out other actions to ensure universal access to high-speed, reliable, and affordable broadband.” See UDC Act, §16-GG\*2(1).<sup>1</sup> The statute also establishes the ConnectAll digital equity grant program “to support individuals to have the information technology capacity needed for full participation in society and the economy, including the effective implementation of a State Digital Equity Plan ....” See UDC Act, §16-GG\*2(10). CAO is responsible for establishing such State Digital Equity Plan and the procedures to solicit, receive and evaluate proposals for the program.

While the FCC has the authority to set minimum standards for internet speed, the UDC ACT authorizes CAO to establish speed standards for grants (which are higher than the federal minimum standards).

### **C. Program Background**

The ConnectALL Initiative, announced by Governor Kathy Hochul in January 2022, is an ambitious set of programs and activities aimed at addressing New York State’s digital divide, transforming the state’s digital infrastructure, and ensuring that all New Yorkers have access to reliable and affordable high-speed broadband internet service. The New York State WIRED Act, authorized CAO to establish and implement programs that expand access to high-speed, reliable, and affordable internet, including the creation of programs to improve digital equity, digital inclusion, and digital literacy. ConnectALL programs are designed and administered by CAO, which is within the New York State Urban Development Corporation d/b/a Empire State Development (ESD).

Additionally, the federal Digital Equity Act of 2021 authorized \$2.76 billion to advance federal goals relating to digital equity and inclusion. This funding, administered by the U.S. Department of Commerce’s National Telecommunications and Information Agency (NTIA), includes \$60 million for states to promote the achievement of digital equity, support digital inclusion activities, and build capacity for efforts by States relating to the adoption of broadband by residents of those states. Through the State Digital Equity Capacity Grant Program, New York State was awarded \$2.2 million to

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<sup>1</sup> [https://www.nysenate.gov/legislation/laws/UDA/16-GG\\*2](https://www.nysenate.gov/legislation/laws/UDA/16-GG*2)



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create a State Digital Equity Plan (SDEP) that can, among other things, identify barriers to digital equity and outline specific measures aimed at addressing those barriers. New York used the funds it received from the State Digital Equity Capacity Grant Program to develop its State Digital Equity Plan (SDEP). The SDEP will be released for public comment in October 2023.

Over the last 12 months, CAO has engaged in a robust stakeholder engagement process to gather input from each region of the state as well as targeted outreach to the Covered Populations identified by NTIA as having limited access to high-speed, reliable internet. By the end of August 2023, CAO in partnership with regional digital equity coalitions held listening session in every region as well as the five boroughs of New York City, which have included over 1,000 attendees. Through our partnership with these coalitions, over 40 stakeholder focus groups have been held to engage with Covered Populations. These coalitions have also completed needs assessments and asset inventories for every region to identify the specific barriers, assets, and needs of communities across the state. Through the Digital Equity Taskforce, hundreds of New Yorkers have participated in town halls on how digital equity can improve outcomes in education, workforce development, health care, access to government services, and civic and social engagement. Topping off these efforts, the statewide digital equity survey has received 5,500 responses. This engagement is the foundation of New York's first ever State Digital Equity Plan that will articulate the investments and programs needed to improve digital equity and inclusion and enhance digital literacy. Following issuance of the SDEP, CAO will embark on establishing and implementing programs and activities to build on these assets, reduce barriers to internet access, and achieve the goals set forth in the plan.

### **D. Program Administration**

Pursuant to the amendments to the UDC Act promulgated by the New York State WIRED Act, as well as the federal Digital Equity Act of 2021, CAO will establish and implement programs, including grant programs, in furtherance of improving digital equity, digital inclusion, and digital literacy. These programs may include activities aimed at achieving digital equity, supporting digital inclusion, and building capacity of community anchor and other institutions to reduce barriers to internet and device access, promote digital literacy, and enhance broadband adoption by residents across the state. CAO may utilize different types of funding opportunities to implement these programs, including, but not limited to, solicitation of applications for funding, one-time grants to specific entities, sub-grants, contracts, and sub-contracts.

CAO will be the administrator of any program established in furtherance of these objectives. As such, it, or its duly authorized representative, will determine program structure and requirements, evaluate Applicant information, monitor Grantees for project completion and satisfactory performance, collect Grantee data to ensure compliance with all program requirements and verify allowable uses of funds, and approve disbursement of grant funds to selected Grantees. CAO will establish eligibility criteria for its programs. Details will be included in Requests for Applications (RFA) for any open application funding opportunities and in Requests for Proposals (RFPs) for contract opportunities. In all cases, ConnectALL programs will adhere to ESD and Federal requirements for grants and procurements. Evaluation criteria for specific grant programs will be further defined in the corresponding Request for Applications (RFA) or other associated solicitation mechanism. CAO will provide detailed guidance on compliance,

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monitoring, and reporting requirements in subsequent Request for Applications or Request for Proposals.

### E. Application Requirements

Application requirements for specific grant programs will be defined in Request for Applications( RFA), in accordance with all applicable procurement and grant funding mandates and policies.

In accordance with the requirements of Article 15-A of the New York State Executive Law: Participation by Minority Group Members and Women with Respect to State Contracts, Projects awarded funding shall be reviewed by ESD's Office of Contractor and Supplier Diversity, which may set business and participation goals for minorities and women, to the extent not preempted by federal requirements pertaining to participation by socially and economically disadvantaged individuals ("SEDI").

Applicants must submit the EEO Policy Statement (Form OCSD-1) <https://esd.ny.gov/sites/default/files/OCSD-1-Policy-Statement.pdf> with their application confirming their understanding of the MWBE requirements and agreeing to show due-diligence and make good faith efforts to provide meaningful participation by MWBE's, whenever possible, if awarded grant funding.

ESD's agency wide MWBE utilization goal is 30%. To the extent not preempted by federal SEDI requirements, each Project may be assigned an individual contract-specific goal, which may be higher or lower than 30%. Should an Applicant receive a funding award, the Applicant shall be required to use good faith efforts to achieve the prescribed MWBE and/or SEDI goals assigned to this Project. Applicants must maintain such records and take the actions necessary to demonstrate such compliance. Failure to achieve the specified MWBE and/or SEDI goal may result in award reduction.

In 2014, the Service-Disabled Veteran-Owned Business Act was signed into law. The new law created the Division of Service-Disabled Veterans' Business Development in Office of General Services to certify, promote and encourage economic development among disabled veterans throughout the state. Project Applicants are urged to work with Service-Disabled Veteran-Owned Businesses (SDVOBs) and a directory can be found at <https://ogs.ny.gov/Veterans>.