

ConnectALL Deployment Program
Prequalification Application



Issued: June 6, 2024

Updated: September 20, 2024

Contact: ConnectALLDeployment@esd.ny.gov using the subject line "Prequalification"

This Prequalification Application is posted on the Empire State Development website:

<https://broadband.ny.gov/connectall-deployment-program>

**Applications must be submitted through the New York State Consolidated Funding
Application (CFA) Portal:**

<https://apps.cio.ny.gov/apps/cfa/index.cfm>

APPLICATION DUE DATE:
September 30, 2024, 11:59pm ET

Table of Contents

Overview	3
Objective	3
Background	3
Program Background	3
Funding Sources	3
Eligible Applicants	4
Eligible Uses of Funds.....	4
Application Content and Scope of Services	4
Application Process and Timeline	8
Information Session	8
Q&A Process.....	9
Deadline and Procedures for Submitting Applications.....	9
Application Review	9
Selection Criteria.....	9
Agreement Terms	9
Document Change Log	10

Overview

Objective

The mission of the New York State Urban Development Corporation d/b/a Empire State Development (ESD) is to promote a vigorous and growing state economy, encourage business investment and job creation, and support diverse, prosperous local economies across New York State through the efficient use of loans, grants, tax credits, real estate development, marketing, and other forms of assistance. ConnectALL is Governor Kathy Hochul's initiative to address New York State's digital divide, transform the state's digital infrastructure, and ensure that all New Yorkers have access to reliable and affordable high-speed broadband internet service. ESD's ConnectALL Office, as the entity responsible for implementing the ConnectALL initiative, offers grants through multiple programs to close the digital divide, promote a robust broadband marketplace, and ensure all homes and businesses have access to reliable, affordable, high-speed internet.

The ConnectALL Deployment Program (the "Program") will provide grants to Eligible Applicants (defined below) for broadband deployment to locations that do not currently have access to reliable, affordable, high-speed internet service. The objective of this Prequalification Application process ("Prequalification") is to establish the threshold qualifications of prospective Eligible Applicants ahead of the release of the Request for Applications (RFA) in Fall 2024. This Prequalification will assess prospective grantees' financial, managerial, and technical qualifications, as well as past experience and capacity to deploy last-mile broadband.

The ConnectALL Office will be the administrator of the Program. As such, the ConnectALL Office, or its duly authorized representative, will determine Program structure and requirements, implement evaluation criteria for applications, monitor grant award recipients for project completion and satisfactory performance, collect grantee data to verify compliance with all Program requirements and verify allowable uses of funds, and approve disbursement of grant funds to selected grantees.

Background

Program Background

ConnectALL is administering the Program with funding from the federal Broadband, Equity, Access, and Deployment (BEAD) Program to bring high-speed, reliable broadband service to all unserved and underserved locations in the state. ConnectALL expects to open the Program RFA in Fall 2024, pending approval by the National Telecommunications and Information Administration (NTIA) within the U.S. Department of Commerce, which administers the BEAD Program. Grants awarded through the RFA will fund the deployment of broadband to all unserved and underserved locations across New York State. Based on the BEAD Program timeline, ConnectALL expects projects under these grants to commence in 2025 and take up to four years to complete.

This Prequalification Application is based on the subgrantee selection process outlined in New York State's Broadband Deployment Initial Proposal, Volume 2.¹

Funding Sources

The Program's funding comes from the federal BEAD Program, administered by NTIA.

¹ See Broadband Deployment Initial Proposal, Volume 2, available at <https://broadband.ny.gov/broadband-deployment-initial-proposal>.

Eligible Applicants

Eligible Applicants to this Prequalification Application may be individual organizations or a consortium of multiple organizations with a single lead entity. Applications from multi-entity collaborations must be led by an entity that is authorized and capable of accepting all responsibility and risk for a Program grant if awarded. The lead Applicant may be a corporation; a local unit of government, including counties, cities, towns, and villages; a regional planning board formed under the provisions of New York State General Municipal Law; a local development corporation or a 501(c)(3) not-for-profit corporation; or a new entity created by the collaborators. The lead entity must be authorized to bind and act on behalf of the other entities in executing grant agreements and satisfying all of the requirements described in this Prequalification Application.

All entities (or the lead entity, for any partnership or consortium) who plan to respond to the Program RFA are encouraged to complete this Prequalification process prior to submitting an RFA response.

Eligible Uses of Funds

No funding is being provided through this Prequalification process. Successful Applicants who are prequalified through this process will be eligible to apply for grant funding via the Program RFA to be issued in Fall 2024.

Application Content and Scope of Services

Note: Applicants are encouraged to submit prequalification materials appropriate to the scale of projects that they plan to seek funding for via the RFA (e.g., provide details on past experience deploying projects of a similar size to those that they plan to propose to deploy under the Program).

Applicants shall deliver a unique application containing all the required information detailed in the sections below.

1. Applicant Profile

- a. Applicant Entity legal name and contact information
- b. Applicant address, EIN, and entity type
- c. Details on of the Applicant's ownership and organizational structure
- d. Summary of the Applicant's experience and qualifications to participate in the ConnectALL Deployment Program

2. Operational Capability

- a. Certification that the Applicant:
 - i. Possesses the operational expertise, capabilities, and resources to successfully complete and operate a funded project
 - ii. Has provided a voice, broadband, and/or electric transmission or distribution service for at least two consecutive years (or is a wholly-owned subsidiary of such an entity); if not, the Applicant must provide documentation demonstrating its operational capabilities
 - iii. Complies with applicable federal laws and regulations implemented by the FCC, including required Form 477 reporting and compliance with the Broadband DATA Act
 - iv. Complies with applicable provisions of State telecommunications and broadband laws and regulations, including regulations regarding the New York State Public Service Commission (PSC)'s Broadband Assessment Program

- b. Details on the Applicant's operational history and accomplishments in New York and other states

3. Managerial Capability

- a. Current resumes and descriptions of proposed responsibilities for all key personnel who would participate in a funded project
- b. Organizational chart outlining the Applicant's organizational structure and the relationships between key management personnel and relevant operational teams
- c. Description of any recent or planned changes to the Applicant's organizational structure that might impact its project efforts (e.g., planned mergers or acquisitions)
- d. Details on relevant experience managing broadband infrastructure projects of similar size and scope
- e. Description of how the Applicant will ensure a sufficient level of resources to support successful project delivery
- f. Description of the Applicant's history of deploying, maintaining, and supporting broadband networks
- g. Description of any experience the Applicant has developing relationships and partnerships within the communities where the Applicant provides service
- h. Description of any experience the Applicant has promoting broadband adoption and digital equity
- i. If the Applicant plans to use independent contractors, consultants, and/or subcontractors for the Applicant's funded project(s), details on the anticipated scope of such third parties' work and the expected terms of such engagement(s)

4. Technical Capability

- a. Certification that the Applicant:
 - i. is fully licensed in New York to conduct funded activities and comply with all post-award obligations
 - ii. Will use an appropriately skilled and credentialed workforce for all funded work
 - iii. Will ensure that key team members remain current on all required credentials and licenses for the duration of the project period
- b. Details on relevant certifications and licenses that the Applicant holds nationally and in New York

5. Financial Capability

- a. Certification that the Applicant:
 - i. Has necessary financial qualifications, capabilities, and resources to successfully participate in the Program
 - ii. Has read and will comply with the BEAD letter of credit and performance bond obligations and processes
 - iii. Has read and will comply with the BEAD cost-sharing/matching requirements
- b. Indication of whether the Applicant intends to use one of the alternative letter of credit or performance bond options made available under NTIA's programmatic waiver
- c. Audited financial statements and tax returns for the past three fiscal years (if unable to provide audited statements, Applicant will be required to provide equivalent documentation, an explanation for the lack of audited statements, and confirmation that the Applicant will be able to provide audited statements within six months of conditional award)

6. Other Public Funding

- a. Details on the Applicant's participation and commitments through other publicly-funded broadband programs, if applicable (including projects where the Applicant is planning to apply for funding, has an application pending, has been awarded public funding, or has committed to completing a project)

- b. Indication of whether the Applicant has defaulted on an enforceable commitment to deploy broadband with any unit of government (in or outside of New York State) within the past five years and details, if applicable

7. Labor Standards and Protection

- a. Certification that the Applicant:
 - i. Has a history of compliance with federal labor and employment laws for the past three years, including the Occupational Safety and Health Act, the Fair Labor Standards Act, and Title VII of the Civil Rights Act of 1964;
 - ii. Has a history of compliance with State labor and employment laws for the past three years, including relevant policies on paid sick and family leave, workplace health and safety (including the NY HERO Act and Emergency Preparedness Law), workplace discrimination and harassment (including the New York State Human Rights Law), wages and hours, retaliation protections, and employment of minors;
 - iii. Is compliant with relevant safety standards, including the National Electrical Safety Code;
 - iv. Commits to pay all staff employed on funded projects prevailing wages and benefits, pursuant to Chapter 31, Article 8, Section 224-E of New York State's Labor Law, as amended by the New York State WIRED Broadband Act (2022); and
 - v. Will recertify compliance annually for the duration of its project period
- b. Description of the Applicant's history and experience with ensuring continuous compliance with federal and State labor and employment laws, as well as maintaining high standards of workplace safety and training
- c. Details on the Applicant's wage and overtime payment practices for each class of employees expected to be involved directly in the physical construction of broadband networks, as well as the anticipated size of the workforce (part- and full-time) that will be utilized to complete funded projects

8. Workforce Readiness

- a. Description of how the Applicant will ensure that its workforce is appropriately skilled and credentialed to carry out funded projects
- b. Description of the Applicant's practices related to recruiting, hiring, and retaining talent
- c. Description of the Applicant's labor practices with respect to each of the following: use of a directly employed or subcontracted workforce; use of project labor agreements; use of local hire provisions; commitments to union neutrality; use of labor peace agreements; and taking steps to prevent the misclassification of workers
- d. Indication of whether the Applicant's workforce, and that of its contractors/subcontractors, is unionized
- e. Description of any training, apprenticeship, or other initiatives the Applicant maintains to support workforce and talent pipeline development
- f. Description of the Applicant's efforts to engage employees around labor and workforce issues

9. MWBE and Labor Surplus Area Firm Participation

- a. Certification that the Applicant has read and will comply with the Minority- and Women-owned Business Enterprise (MWBE) and Labor Surplus Area² (LSA) Firm participation requirements and will take all required affirmative steps to promote MWBE and LSA firm participation in funded projects

² Defined by the Department of Labor as a civil jurisdiction with an average annual unemployment rate during the previous two years of 20% or more above the national average during the previous two calendar years; see <https://dol.ny.gov/labor-surplus-areas>.

- b. Details on the Applicant's operations, or that of its contractors/subcontractors, in Labor Surplus Areas, if applicable

10. Natural Hazard Risk Mitigation

- a. Description of the Applicant's approach to resilience, environmental protection, and natural hazard risk mitigation in its broadband deployments, including any relevant experience implementing natural hazard risk mitigation measures

11. Low-Cost Service Option

- a. Certification that the Applicant has read and will comply with ConnectALL's Low-Cost Service Option requirements³; or completed waiver request
- b. Certification that the Applicant will participate in the federal Affordable Connectivity Program (ACP) or any successor program

12. Cybersecurity

- a. Certification that the Applicant has a cybersecurity risk management plan in place that:
 - i. Is either: (a) operational, if the Applicant is already providing service; or (b) ready to be operationalized upon providing service, if the Applicant is not yet providing service prior to the grant award
 - ii. Reflects the latest version of the National Institute of Standards and Technology (NIST) Framework for Improving Critical Infrastructure Cybersecurity (currently Version 1.1) and the standards and controls set forth in Executive Order 14028 and specifies the security and privacy controls being implemented
 - iii. Will be reevaluated and updated on a periodic basis and as events warrant
 - iv. Will be submitted to the ConnectALL Office prior to the allocation of funds

13. Supply Chain Risk Management

- a. Certification that the Applicant has a supply chain risk management plan in place that:
 - i. Is either: (a) operational, if the Applicant is already providing service; or (b) ready to be operationalized, if the Applicant is not yet providing service at the time of grant award
 - ii. Is based upon the key practices discussed in the NIST publication NISTIR 8276, Key Practices in Cyber Supply Chain Risk Management: Observations from Industry and related SCRM guidance from NIST, including NIST 800-161, Cybersecurity Supply Chain Risk Management Practices for Systems and Organizations and specifies the supply chain risk management controls being implemented
 - iii. Will be reevaluated and updated on a periodic basis and as events warrant
 - iv. Will be submitted to the ConnectALL Office prior to the allocation of funds

14. Legal Compliance

- a. Certification that the Applicant:
 - i. Is currently compliant with all federal and State laws relevant to the Program⁴
 - ii. Possesses the resources and qualifications to maintain compliance throughout the project period
 - iii. Does not have any current or pending litigation that would compromise its ability to meet Program requirements
 - iv. Will permit workers to create worker-led health and safety committees that management will meet with upon reasonable request

³ See Broadband Deployment Initial Proposal, Volume 2, Section 12.1.

⁴ The federal and State laws applicable to this Program are enumerated in Appendix E to the Prequalification Application, available at <https://broadband.ny.gov/connectall-deployment-program>.

- v. Has read and will comply with the Build America, Buy America Act requirements that apply to the BEAD program⁵

15. Nondiscrimination and Civil Rights

- a. Certifications that the Applicant is fully compliant with the following laws: Title VI of the Civil Rights Act; Title IX of the Education Amendments of 1972; the Americans with Disabilities Act of 1990; Section 504 of the Rehabilitation Act of 1973; and the Age Discrimination Act of 1975

16. Disclosures

- a. Confirmation on whether the Applicant:
 - i. Is presently the subject of any litigation, or if any litigation is threatened, which would have a material adverse effect on the Applicant’s financial condition
 - ii. Has ever been involved in bankruptcy, a creditor/s rights or receivership proceeding, or sought protection from creditors
 - iii. Has ever settled a debt with a lending institution for less than the full amount outstanding
 - iv. Has ever had a senior manager or principal convicted of any felony or misdemeanor, other than a minor traffic violation, or whether there are any such charges pending
 - v. Has been cited for a violation of federal, State, or local laws or regulations with respect to labor practices, hazardous wastes, environmental pollution, or operating practices
 - vi. Has any outstanding judgments or liens pending against them other than liens in the normal course of business
 - vii. Is delinquent on any New York State, federal, or local tax obligations

Explanations will need to be provided for any “yes” answers above.

Application Process and Timeline

Table 1: ConnectALL Deployment Program Prequalification Timeline

Milestone	Date
Prequalification Application issued	June 6, 2024
Opening of Consolidated Funding Application (CFA) Portal	June 25, 2024
Information Session 1	June 26, 2024
Information Session 2	September 10, 2024
Prequalification Application submission deadline	September 30, 2024
Anticipated announcement of prequalified applicants	October 30, 2024
<i>All schedule descriptions and dates are tentative and subject to change.</i>	

Information Session

ConnectALL held two Information Sessions via Webinar on June 26 and September 10, 2024. ConnectALL reviewed the Prequalification process and expounded on the terms of the Prequalification Application. Information stated at these Information Sessions was not intended to change the solicitation document.

⁵ See BEAD Notice of Funding Opportunity, Section VII.D.6, available at <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>.

Any changes will be in writing in the form of an addendum issued by ConnectALL posted on the website: <http://broadband.ny.gov>. Slides and the recording of the Information Sessions are available at <http://broadband.ny.gov>.

Q&A Process

Applicants may communicate with the ConnectALL Office. All questions or requests for clarification must be in writing, sent by email to ConnectALLDeployment@esd.ny.gov. Include "Prequalification" in the subject line of the email.

Deadline and Procedures for Submitting Applications

Applications will be reviewed on a rolling basis, in the order in which they are received. Respondents are encouraged to submit applications as soon as they are able. Applications must be submitted via New York State's Consolidated Funding Application (CFA) at <https://apps.cio.ny.gov/apps/cfa>. Applications will be accepted through the CFA beginning on June 25, 2024. The application package can be found at <https://broadband.ny.gov/connectall-deployment-program-prequalification-application>. Applications are due by 11:59 PM Eastern Time on September 30, 2024.

ConnectALL reserves the right to modify the schedule to meet the goals of the Program.

Application Review

Upon receipt of applications, ConnectALL will review applications for eligibility, completeness, quality, readiness, and conformance with this Prequalification Application. Applications shall be processed in full compliance with the applicable provisions of federal and state law, including 16-GG*2 of the New York State Urban Development Corporation Act.⁶

Applicants who submit incomplete or erroneous materials will be notified of the deficiencies in their application and will be able to revise their applications up until the final application deadline. As such curing opportunity is dependent on the ConnectALL Office's initial review of application materials, ConnectALL will only be able to offer such notification to Applicants who submit materials a minimum of seven (7) calendar days prior to the final application deadline.

Selection Criteria

All submitted materials will be evaluated for eligibility and alignment with Program requirements. Submissions related to Fair Labor Standards and Workforce Readiness will be incorporated by reference into the prequalified Applicant's RFA submission and assigned a score during the RFA evaluation.

Agreement Terms

ConnectALL will not enter into contracts through this Prequalification. All successfully prequalified applicants will be notified of their status within thirty (30) calendar days of the final application deadline. Successful applicants who are prequalified through this process will be eligible to apply for grant funding via the Program RFA to be issued in Fall 2024; prequalified status does not guarantee that applicants will be selected for a grant award, nor does it obligate an entity to respond to the RFA.

⁶ See https://www.nysenate.gov/legislation/laws/UDA/16-GG*2.

Document Change Log

Version	Date Published	Summary of Changes
1.0	June 6, 2024	Initial publication
1.1	August 13, 2024	<ul style="list-style-type: none"> Updated document cover page, table of contents, and footers Removed reference to pending approval of ConnectALL's Initial Proposal, Vol. II Updated with final application deadline of September 18 Updated financial capability requirements to include three years of tax returns Removed reference to requirements and penalties associated with enforceable commitment defaults Updated reference to Appendix E, "Applicable Laws" Updated Table 1 to reflect actual opening date of Consolidated Funding Application portal and final application deadline Added document change log
1.2	September 6, 2024	<ul style="list-style-type: none"> Updated document cover page to include 5:00pm ET submission deadline time Updated references to New York State's Broadband Deployment Initial Proposal Updated Application Process and Timeline section to reference second Information Session on September 10 Updated Low-Cost Service option requirements to reference waiver request
1.3	September 16, 2024	<ul style="list-style-type: none"> Updated with application deadline of September 28 Updated references to completed Information Sessions
1.4	September 20, 2024	<ul style="list-style-type: none"> Updated with application deadline of September 30