



**INTERNATIONAL
BROTHERHOOD
OF ELECTRICAL
WORKERS**

900 Seventh Street, NW
Washington, DC 20001
202.833.7000
www.ibew.org

LONNIE R. STEPHENSON
International President

KENNETH W. COOPER
International
Secretary-Treasurer

February 4, 2022

VIA EMAIL

Mr. Alan Davidson
Assistant Secretary of Commerce
for Communications and Information
National Telecommunications and
Information Administration
1401 Constitution Avenue NW
Washington, DC 20230

**Re: IBEW Comments on Docket No. 220105-0002, Request for
Comment on Infrastructure Investment and Jobs Act
Implementation**

Dear Assistant Secretary Davidson:

The International Brotherhood of Electrical Workers (IBEW) appreciates the opportunity to respond to the National Telecommunications and Information Administration's (NTIA's) Request for Comment: Infrastructure Investment and Jobs Act Implementation.¹ Thanks to the historic enactment of the Infrastructure Investment and Jobs Act (IIJA), Public Law 117-58, the U.S. Department of Commerce has the opportunity to be at the forefront of ushering in a new era of worker-centric prosperity in the telecommunications sector characterized by good union jobs.

The IBEW is a labor organization representing approximately 775,000 active and retired members. IBEW has historically served a significant role in the telecommunications industry, as one of the largest labor unions representing workers for incumbent local exchange carrier (ILEC) providers, the largest building trade in the telecommunications sector, and as a labor representative for workers manufacturing and assembling telecommunications equipment.

The IBEW currently represents approximately 39,000 permanent employees working for telecommunications companies as well as thousands of construction workers who perform contract work for internet service providers. Telecommunications workers have suffered from low wage growth in recent years. In fact, between 2003 and 2019, wages for the median telecommunications worker increased by only 0.3 percent per year after adjusting for inflation.² IBEW

¹ *Request for Comment: Infrastructure Investment and Jobs Act Implementation*, Docket No. NTIA-2021-0002, 87 FR 1122 (Jan. 10, 2022).

² John Schmitt and Jori Kandra, "Decades of slow wage growth for telecommunications workers," Economic Policy Institute (Oct. 2020), <https://www.epi.org/publication/decades-of-slow-wage-growth-for-telecommunication-workers>.





**INTERNATIONAL
BROTHERHOOD
OF ELECTRICAL
WORKERS®**

Mr. Davidson
February 4, 2022
Page 2

telecommunications members have reported that the lack of real wage growth is due to the vast proliferation of subcontracting in the industry.

The IBEW urges NTIA to consider the recommendations set forth below in distributing broadband funding under the IJA, which we believe will help to ensure that all Americans have access to affordable, reliable, high-speed broadband.

I. Fiber First Policies

One of the best policies NTIA can adopt to support historically marginalized and underserved communities, particularly when it comes to broadband service, is to give preference to fiber-to-the-premise (FTTP) deployments. FTTP has the highest download and upload speeds, is scalable for future technological demands, and remains the most efficient, resilient, and sustainable technology available.

Fiber is the superior technology for our broadband needs for today and tomorrow. Data is sent at the speed of light through fiber-optic lines, much faster than DSL or cable. Furthermore, fiber is more resilient, sustainable, and technologically efficient. Fiber does not require amplifiers on telephone poles to transmit a signal, reducing its energy demand and carbon footprint, and simplifying repairs during electrical outages. Bandwidth is dedicated to the home or business, so speeds are maintained when needed most.

Not all broadband technologies are created equal, and fiber technology remains far superior to fixed wireless.³ The utilization of fixed wireless should be limited under NTIA's IJA broadband programs to truly remote regions, where it is geographically impossible or extremely costly to deploy fiber. Any applicant seeking to be a subgrantee of IJA funds should be required to provide a detailed explanation and financial analysis for why fixed broadband is not a feasible approach in the geographic areas it seeks to provide fixed wireless.

II. NTIA should limit fissuring, require labor peace agreements for BEAD program

The IBEW urges the Assistant Secretary to use the broad discretion provided under the IJA to issue regulations and other guidance that will require subgrantees to demonstrate that they are compliant with applicable labor and other laws and are capable of ensuring reliable service. The statute obligates the Assistant Secretary to ***“incorporate best practices, as defined by the Assistant Secretary, for ensuring***

³ CTC Technology, “Mobile Broadband Service is Not an Adequate Substitute for Wireline,” (Oct. 2017), <https://www.ctcnet.us/wp-content/uploads/2017/10/CTC-Mobile-Broadband-White-Paper-final-20171004.pdf>.





INTERNATIONAL
BROTHERHOOD
OF ELECTRICAL
WORKERS®

Mr. Davidson
February 4, 2022
Page 3

reliability and resilience of broadband infrastructure.”⁴ In our view, this provision gives the Assistant Secretary the authority and discretion to apply high-road labor standards on subgrantee recipients, including requiring that subgrantees hire skilled workers, pay family-sustaining middle-class wages, and utilize labor peace agreements.

In the 1970s and 1980s, direct employees of telecommunications providers performed nearly all construction, maintenance, and installation work. Today, the most experienced and highest skilled workers in the telecommunications sector are those directly employed by telecommunications providers. In recent years, however, the practice of “fissuring” has become commonplace throughout the telecommunications sector, where firms shed workers and contract or subcontract out work — sometimes to multiple layers of subcontractors — allowing large telecommunications firms to squeeze out smaller firms and dramatically reduce the number of workers they actually employ.

The increase in the practice of fissuring in the telecommunications sector has resulted in a loss of skilled and experienced workers in the sector and declining quality of work in nonunion construction and maintenance of telecommunications infrastructure. Therefore, the practice of fissuring is not in the public interest and the IBEW urges NTIA to take steps to ensure that this practice is limited. The IBEW also recommends that NTIA take the additional step of requiring a subcontractor to report whether it will classify its workers as employees or independent contractors and if the latter, the basis for the classification.

Policies to prevent labor disputes, such as labor peace agreements, will limit interruptions and delays in deployment and ongoing service. The IJA makes clear that it is in the public interest that broadband infrastructure be built expeditiously, in a competent manner, and in a way that ensures reliability and resilience. Among the various pitfalls that can hamper deployment are labor disputes. In the private sector, employers frequently enter into labor peace agreements to protect themselves against labor disputes in order to ensure that their projects happen on time and on budget. NTIA should require subgrantees to utilize labor peace agreements to ensure the expeditious buildout of broadband infrastructure. These requirements should also apply to subcontractors who are contracted by subgrantees.

III. NTIA should require eligible entities to demonstrate adherence to federal labor and employment laws for the previous three years as part of the application process

⁴ Pub. L. No. 117-58, 135 Stat. 1195 (emphasis added).





**INTERNATIONAL
BROTHERHOOD
OF ELECTRICAL
WORKERS®**

Mr. Davidson
February 4, 2022
Page 4

The statutory language that authorizes the BEAD program gives “priority to projects based on [...] ***a demonstrated record of and plans to be in compliance with Federal labor and employment laws.***”⁵ In order for NTIA to have the necessary information to determine which firms have met this requirement, the IBEW urges NTIA to require that prospective subgrantees demonstrate in writing, under penalty of perjury, that they have not been found to have violated federal labor and employment laws, such as the National Labor Relations Act, the Occupational Safety and Health Act, the Fair Labor Standards Act and any other applicable labor and employment laws for the preceding three years. Any false statements by prospective subgrantees or subcontractors in connection with reporting requirements should result in civil or criminal prosecution under 18 U.S.C. 1001.

Furthermore, the IBEW urges NTIA to closely examine the standards that were promulgated under President Barack Obama’s Fair Pay and Safe Workplaces Executive Order (EO 13673) and apply them to firms receiving funding under the BEAD program, most notably requiring eligible entities to exclude the worst actors, who repeatedly violate the rights of their workers and put them in danger, from qualifying for BEAD program funding.⁶

IV. NTIA should require and facilitate state and local stakeholder engagement

Eligible entities, when developing their state action plan, should be required to set up a framework for stakeholder consultation that solicits the needs, concerns, and recommendations of municipal, county, and tribal governments and school districts and institutions of higher education. The states should also be required to coordinate and consult with public utility commissions (PUCs) or the respective telecommunications regulator in their states. The PUC and the state should be required to consult with telecommunications workers’ unions, local consumer advocacy organizations, and independent community organizations serving individuals in unserved or underserved communities. Stakeholder input should be solicited early and often — not just at the federal level, but also during the process of developing state action plans to encourage plans that are responsive to local public input.

V. Middle-Mile Broadband Infrastructure Program funding should give preference to entities that support highly skilled, family-supporting job creation

⁵ Pub. L. No. 117-58, 135 Stat. 1197 (emphasis added).

⁶ Exec. Order No. 13673, 48 CFR 22 (2017).





INTERNATIONAL
BROTHERHOOD
OF ELECTRICAL
WORKERS®

Mr. Davidson
February 4, 2022
Page 5

The IBEW is the largest utility sector labor union in the United States, representing approximately 250,000 workers directly employed by public utility districts, investor-owned and municipal utilities, or utility cooperatives. Our workers in this sector have a high level of familiarity and expertise with middle mile broadband infrastructure, which is often utilized by electrical utilities to provide mission-critical communications systems to monitor and support the reliable delivery of electricity and other critical utility services.

The IJA directs the Assistant Secretary to include in the application process a requirement that an eligible entity “provide evidence that the eligible entity is *capable of carrying out a proposed project in a competent manner*, including by *demonstrating that the eligible entity has the financial, technical, and operational capability* to carry out the proposed project *and operate* the resulting middle mile broadband network.”⁷ This should include demonstrating that the project will be done by skilled, experienced workers who are paid family sustaining middle-class wages and that work can proceed uninterrupted.

In addition, NTIA should give preference to eligible entities that can demonstrate that the workers it employs are covered by a collective bargaining agreement. Collective bargaining agreements cover nearly all aspects of the worker-employer relationship, including training, experience, wages, and mechanisms to prevent labor disputes. For entities that are not party to a collective bargaining agreement, NTIA should require signing a labor peace agreement as a condition of receiving funding. A labor peace agreement protects applicants against labor disputes and will help to ensure that projects are completed on time and on budget.

The IBEW stands with President Joe Biden and his administration’s calls to create good-paying union jobs through the once-in-a-generation investment that the bipartisan Infrastructure Act provides. Once again, we appreciate this opportunity to comment and look forward to assisting the Administration in rebuilding our nation’s infrastructure.

Sincerely yours,

A handwritten signature in black ink that reads "Lonnie R. Stephenson".

Lonnie R. Stephenson
International President

LRS:jrl

⁷ Pub. L. No. 117-58, 135 Stat. 1235 (emphasis added).

