



CREATING GOOD JOBS, A CLEAN ENVIRONMENT, AND A FAIR AND THRIVING ECONOMY

BlueGreen Alliance
Harley Stokes, Senior Policy Advisor
1020 19th St., NW | Suite 750
Washington, DC 20036
Hstokes@bluegreenalliance.org

Due Friday January 19, 2024

Docket: [CEQ-2023-0005](#)

BlueGreen Alliance Response to the U.S. Council on Environmental Quality's (CEQ) Request for Information – Phase One Environmental Justice Scorecard

The BlueGreen Alliance (BGA) unites the nation's labor unions and environmental organizations to solve today's environmental challenges in ways that create and maintain quality jobs and build a stronger, fairer economy. Our partnership is firm in its belief that we don't have to choose between a good job and a clean environment—we can and must have both. We appreciate the opportunity to respond to the CEQ's request for information on Phase One of the Environmental Justice (EJ) Scorecard and to provide recommendations on additional metrics to include in future versions of the EJ Scorecard.

Equity, Environmental Justice, and Job Quality

The EJ Scorecard is a signature component of the Biden administration's commitment to EJ and racial equity. It provides accountability and transparency on how 24 federal agencies are implementing Justice40 (J40), embedding EJ and equity throughout the federal government, and enforcing environmental and civil rights law.

The J40 Initiative calls for a minimum of 40% of all benefits of federal climate and clean economy investments to go to communities that are marginalized, underserved, and overburdened by pollution. These categories of investment are 1) climate change, 2) clean energy and energy efficiency, 3) clean transit, 4) affordable and sustainable housing, 5) training and workforce development, 6) remediation and reduction of legacy pollution, and 7) the development of critical clean water and wastewater infrastructure. The term "benefits" includes direct investments into infrastructure serving J40 communities as well as the creation of good jobs from these federal investments.

Through its federal programs and investments, the administration has the ability to 1) support and create good union jobs and create new economic opportunities in EJ communities; 2) increase

access to good jobs for low-income communities, communities of color, and historically underrepresented communities; 3) support workforce development and training opportunities in J40 covered programs for these individuals and communities; and 4) improve the lives and health of historically marginalized populations while improving the ability of these individuals and communities to make a fair wage, live a healthier life, and have greater opportunity for social mobility.

Therefore, it is essential that the EJ Scorecard include metrics that report not only on how funding is being directed to J40 communities, but also on agencies' efforts to deliver on these outcomes. Below, we recommend a series of metrics that would help identify how agencies are delivering on these goals.

Many of these metrics are outlined in BGA's checklist for federal funding applications.ⁱ

A Checklist for Federal Funding Applications.

Federal and state agencies are playing a crucial role in uplifting workers and EJ communities as they develop programmatic requirements and guidance to implement new federal laws. BGA supports the consistent use of the criteria and metrics described below to:

1. Support and create good-paying union jobs, increase union density, and support the build out of a more robust, union-represented, and diverse workforce; and increase access to good union jobs for low-income, communities of color, and historically underrepresented communities.
2. Ensure worker rights, benefits, and health and safety on the job.
3. Support meaningful community and labor engagement; prioritize systematically marginalized communities; and address racial, environmental, and economic injustice.
4. Reduce emissions and pollution while improving environmental and public health.

The goals outlined above are aligned with the J40 initiative to ensure that disadvantaged communities receive the benefits of new and existing federal investments. Below are corresponding metrics that can be used by federal agencies to track and report progress towards these goals in the EJ Scorecard. It is worth noting that a number of the proposed metrics, such as Davis Bacon, are in fact required by law and it is the duty of federal agencies to educate applicants on their legal obligations and to enforce these requirements through tracking and reporting. Other metrics, such as local and targeted hire, wraparound services and community benefits plans are powerful equity tools that can be tracked by federal agencies and align with Executive Order 14096 Revitalizing Our Nation's Commitment to Environmental Justice for All.ⁱⁱ

1. Support and create good-paying union jobs, increase union density, and support the build out of a more robust, union-represented, and diverse workforce; and increase access to good union jobs for low-income communities, communities of color, and historically underrepresented

communities.

- **Davis Bacon:** For infrastructure projects that include construction; alteration or repair of public buildings; and public works, contractors and subcontractors must agree that all employees shall be paid the local prevailing wages and receive accompanying benefits as identified under Davis Bacon and Related Acts. Agencies should ensure funding recipients comply with Davis Bacon.
- **Project Labor Agreements (PLA):** For larger infrastructure projects, PLAs ensure high-road labor standards, control labor costs and ensure timely project completion. A PLA establishes the terms and conditions of employment for workers on specific construction projects, including wages, hours, working conditions, and dispute resolution methods. PLAs should be encouraged in agency guidance and funding opportunity announcements.
- **Community Benefits Agreement (CBA):** Also for larger infrastructure projects, CBAs, with community input, identify additional benefits that will be attached to the project. Community benefits may include local workforce training guarantees such as targeted hire and local hire provisions. CBAs should also be encouraged in agency guidance and funding opportunity announcements.
- **Targeted hire, Local hire:** These provisions, when included in a CBA, are a powerful equity tool that can be used to benefit EJ communities. *Targeted hire* identifies a minimum percentage of workers to be hired from certain marginalized communities. This may include women; people of color; veterans; the formerly incarcerated; dislocated workers; indigenous people; low wealth communities; communities heavily impacted by climate change, pollution, energy transition, or deindustrialization; and many others. Similarly, *local hire*, identifies a minimum percentage of workers from the local community or state to be hired on the project. Agencies should encourage or otherwise prioritize funding recipients to utilize targeted hire and local hire provisions for larger projects.
- **Union-Affiliated Training, Registered Apprenticeship, and Pre-Apprenticeship Programs:** Often unions and other registered apprenticeships and pre-apprenticeships offer wrap-around services. These services can provide support towards childcare, transportation, etc. to ensure workers in EJ and other marginalized communities have access to good jobs offered by these programs. Federal agencies should encourage or—where statutory authority permits—require the use of these programs to promote workforce development and ensure that workers receive appropriate training and education that will lead to good jobs and a stable career.

2. Ensure worker rights, benefits, and health and safety on the job.

- **Free and fair choice to join a union:** By supporting workers' rights to organize and bargain collectively, agencies can promote fair and safe working conditions, protect workers' interests, and foster a more inclusive and equitable society. Encourage funding recipients to commit to protecting workers' rights to join a union.

- **Collective Bargaining Agreements:** Agencies should require applicants to demonstrate or explain whether the applicant or sub-applicants have existing collective bargaining agreements or how they will execute them.
- **Prohibition on spending:** Agencies should prohibit award recipients or any sub-recipient from using grant funds, whether directly or indirectly, to oppose union organizing.
- **Retirement contributions and fringe benefits:** Promoting retirement contributions and fringe benefits can support employer recruitment efforts, motivate existing employees to increase and maintain high performance, and reduce employee burden with certain free and money-saving accommodations like transportation assistance or meal stipends. Agencies should track if contractors or sub-contractors offer these benefits to employees.
- **Title VI of the Civil Rights Act of 1964:** Agencies should require compliance with Title VI of the Civil Rights Act in order to promote equal opportunity and prevent discrimination in all federally funded programs and activities. This can help to ensure that all individuals, regardless of their race, color, or national origin, have access to the benefits of federally funded programs and are not subjected to discrimination.
- **Preventing worker misclassification:** Worker misclassification can lead to loss of wages and denial of federal protections and is most prevalent among non-union workers. Federal agencies should require applicants to explain how projects will properly classify employees and notify all workers of their rights, including workers treated as independent contractors.
- **Commitment to workplace safety and health:** Agencies should require applicants to express commitment to the Contract Work Hours and Safety Standards Act (CWHSSA) and Occupational Safety and Health (OSH) Act at the time of the application, and during the use of program funds. Agencies should require evidence of a workplace safety and health program that is designed and implemented with workers and their representatives and in compliance with state and federal Occupational Safety and Health Administration (OSHA) regulations to ensure safe and healthy working conditions.

3. Support meaningful community and labor engagement; prioritize systematically marginalized communities; and address racial, environmental, and economic injustice.

Federal agencies should require the following in their funding applications:

- **J40 Targeting:** A description of how the project will particularly benefit Justice40 communities, low-income communities, communities of color, and communities facing deindustrialization, environmental injustice, or energy transition. Applicants should also identify whether these benefits align with local community priorities, and how they worked alongside impacted groups to identify these benefits.
- **Community engagement plan:** A plan to engage with and address the priorities of EJ communities, labor unions and other worker organizations, workforce development organizations, local government, emergency responders, Tribes, organizations representing residents and businesses, systematically marginalized communities, and community-based organizations that support or work with these communities.

- **Commitment to deliver good jobs and other community benefits:** A written commitment to deliver measurable community and job benefits through milestones and the use of tools such as good neighbor agreements, local hire agreements, PLAs, Community Workforce Agreements, CBAs, and/or collective bargaining agreements. The agreements should identify how concerns will be mitigated, and specify the distribution of community and economic benefits, including job quality, access to jobs and business opportunities for residents, and mitigating community harms, thus reducing or eliminating these types of risks.
- **Letters of support:** Applications can require letters of support from EJ community organizations, Tribes, and unions demonstrating initial consultations with key stakeholders.

4. Reduce emissions and pollution while improving environmental and public health.

Federal agencies should require the following in their funding applications:

- **Identifying existing environmental and public health burdens:** A description of the existing environmental burdens at the proposed project location(s) and surrounding areas, as well as existing public health burdens experienced by impacted communities, using the best available tools to identify these burdens.
- **Analysis of potential impacts:** For larger projects, applicants should conduct an analysis and health impact assessment of the potential impacts of the proposed project on Tribal land; frontline communities; cultural and historic resources and community institutions; animal species; land use; water and air quality; greenhouse gas emissions; transportation; and other local concerns. Applicants should describe how these potential impacts will interact with or exacerbate existing public health concerns of the affected communities.
- **Maximize health and environment benefits:** Also for larger projects, an implementation strategy with measurable steps the applicant will take to maximize benefits, including public health and environmental benefits, from reduced pollution and exposure to toxics; minimize negative impacts, including natural resource depletion and ecosystem disruption; and measure, track, and report project impacts, including any community monitoring data.
- **Letters of support from EJ orgs:** Applications can require letters of support from EJ community organizations that have reviewed the environmental burdens description, analysis and implementation strategy identified above.

There are already examples of federal agencies tracking some of these metrics. Most notably, the U.S. Department of Energy has advanced a department-wide effort to integrate many of these metrics into funding opportunities by requiring applicants to develop Community Benefits Plans (CBP).ⁱⁱⁱ The CBP details how the project will ensure diversity, equity and inclusion, and the development of quality jobs and a skilled workforce; meaningfully engage with communities; and support Justice40 goals for disadvantaged communities. For the EJ Scorecard, agencies could report on whether they are utilizing CBPs or a similar mechanism to ensure these outcomes.

Conclusion

As each federal agency scores their EJ accomplishments it will be important that quality job creation and workforce development are part of that calculation. We urge CEQ to include the community benefit, job quality, and workforce metrics enumerated above, that are also aligned with the U.S. Department of Labor's Good Jobs Principles, so that federal agencies will be accountable for, but also catalysts for, good jobs in EJ communities.^{iv}

ⁱ BlueGreen Alliance, Checklist for Federal Funding Applications.

<https://www.bluegreenalliance.org/resources/bluegreen-alliance-checklist-for-federal-funding-applications/>

ⁱⁱ The White House, Executive Order on Revitalizing Our Nation's Commitment to Environmental Justice for All. <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/04/21/executive-order-on-revitalizing-our-nations-commitment-to-environmental-justice-for-all/>

ⁱⁱⁱ Department of Energy, EJ Scorecard. <https://ejscorecard.geoplatform.gov/scorecard/department-of-energy/>

^{iv} The Department of Labor identifies 8 principles that identify what comprises a good job: 1) Recruitment and Hiring Practices; 2) Benefits; 3) Diversity, Equity, Inclusion and Accessibility; 4) Empowerment and Representation; 5) Job Security and Working Conditions; 6) Organizational Culture; 7) Pay; 8) Skills and Career Advancement. <https://www.dol.gov/general/good-jobs/principles>