

New NY Broadband Program Phase 2 Request For Proposal FAQs

1. Page 20 (Section V) of the New NY Broadband Program Phase 2 Request for Proposal Guidelines (the Phase 2 Guidelines) relates to the Verizon Connect America Fund (CAF) II areas. Are all of the Verizon CAF II Census Blocks included in the list of Eligible Census Blocks on the Broadband Program Office's (BPO's) website?

The New NY Broadband Program's Phase 2 launch consisted of two components: (1) a Phase 2 bidding round and (2) a dedicated CAF Re-Auction component. Applications for the Phase 2 bidding round are due on November 30th, and must conform to the requirements set forth in the Phase 2 Guidelines. In connection with the CAF Re-Auction component, preliminary, non-binding, Statements-of-Interest were due at Noon, on October 14th. Instructions for the submission of these Statements-of-Interest were available on the BPO's website.

The BPO has published final Phase 2 Lists of Eligible Census Blocks, and a separate list of CAF-Eligible Census Blocks, on its website. The BPO's List of CAF-Eligible Census Blocks does not include all Verizon CAF II Census Blocks. The reason for this is that a) some Verizon CAF II Census Blocks are no longer eligible for funding from the Federal Communications Commission (FCC), b) additional Census Blocks have been designated as CAF-Eligible by the FCC, and c) certain Census Blocks are not eligible for New NY Broadband Program funding under the Phase 2 Guidelines. These modifications are all reflected in aggregate on the lists published on the BPO's website.

2. If only certain Verizon CAF II Census Blocks are included on the Eligible Census Block list on the BPO website, then which Census Blocks are they (*e.g.*, only those Census Blocks with better than 10/1 speed)?

See Response to Question 1, above.

3. Are the Verizon CAF II Census Blocks with speed less than 10/1 included in the Eligible Census Block list on the BPO website?

See Response to Question 1, above.

4. If Verizon CAF II Census Blocks are included on the Eligible Census Block lists, does that mean that there are really two different sets of rules for pursuit of the Verizon CAF II eligible Census Blocks - the first set of rules being the rules in the Phase 2 RFP, and the second set of rules being the terms of a "preliminary proposal" submitted with a "statement of interest"?

See Response to Question 1, above, and Section V of the Phase 2 Guidelines. Parties seeking to address CAF-eligible Census Blocks with support from the New NY Broadband Program were

encouraged to submit a non-binding, preliminary Statement-of-Interest, conforming to the instructions available on the BPO's website.

5. Page 20 of the Phase 2 Guidelines also states that ESD (jointly with the NYS Public Service Commission) filed a submission with the FCC in connection with the Verizon CAF II situation. Can you share that submission so I can better educate myself on how the federal program might connect with the BPO program?

The submission is available on the FCC's website, at the following link: <https://ecfsapi.fcc.gov/file/60001569543.pdf>.

6. As we are looking through the listing of the eligible unserved and eligible underserved Census Blocks, we are finding some areas where a Census Block is identified as being eligible on one side of a road and the area directly on the other side of the road is not being identified as eligible. The areas we have identified thus far are areas where our clients are very familiar with the level of service that is available today. Based on this, the Census Blocks on both sides of the road should be deemed eligible. As we read the Phase 2 Guidelines, there is not an opportunity to submit a challenge on any Census Block other than those on the List C – Additional Service Areas. What we are trying to determine is in the development of an application, how can applicants address these areas that are currently not getting adequate broadband service but the Blocks are not listed as being eligible?

The BPO has removed Census Blocks from the Phase 2 Lists of Eligible Census Blocks where it has determined that either service meeting the Governor's broadband speed goals, or a commitment to provide such service, is currently in place. To the extent applicants wish to offer service to any Census Blocks outside those designated as eligible for Phase 2, such Census Blocks may not be included in a Phase 2 application and will be considered outside the scope of the New NY Broadband Program. The BPO cannot comment or advise Phase 2 applicants on the delivery of service to Census Blocks outside of those designated as eligible for Phase 2.

7. Question #51 in the Round 2 question list mentions a "Project Master Financial Spreadsheet" that will be in the online/portal application. We are wondering if we could get a copy of that spreadsheet now, so our preliminary financial work can line up with what is needed on that as part of the application. Is that possible?

The BPO will not be releasing the Project Master Financial Spreadsheet ahead of opening the Consolidated Funding Application Portal for New NY Broadband Program Phase 2 applications, on October 17, 2016. The Spreadsheet will be integrated into the Portal.

8. Of the Time Warner Cable-Charter Communication Franchise areas, is there way to determine what areas Charter has committed to address with broadband coverage and which areas are not being addressed?

As stated in the Phase 2 Guidelines, and reflected in the final Phase 2 Lists of Eligible Census Blocks, Unserved and Underserved areas within the Time Warner Cable-Charter Franchise Areas are eligible for Phase 2 applications, except where Charter has committed to address such areas pursuant to its agreement with the NYS Public Service Commission (PSC). Mapping files, including Shapefiles (.shp), for the Phase 2 Lists of Eligible Census Blocks are available at the following link: <http://nysbroadband.ny.gov/new-ny-broadband-program/phase-2>.

9. Will the non-binding [CAF] submissions be published and made public?

It is not currently the intention of the BPO to publish these submissions; however, the BPO reserves the right to do so. Further, as stated in the Instructions for the Submission of Preliminary, Non-Binding Statements-of-Interest to address Connect America Fund-Eligible Territories, such submissions may be the subject of a Freedom of Information Law (FOIL) request. Any content that is proprietary and/or confidential must be clearly marked as such in the submission. Empire State Development will determine, in its sole discretion, appropriate disclosure in response to any FOIL request, or in such other forum as it may deem appropriate.

10. Regarding the Google Earth app and the KMZ files, I believe the Phase 1 KMZ files displayed the Census Tract IDs in the "Places Panes" which allowed us to search and click on specific census track ids. The Phase 2 KMZ files display the County name for the census track ID (which is helpful) but it doesn't give us quick means to located specific census track IDs. In my case I must click on each "Onondaga" link one by one which is not productive. Can you provide assistance?

The final Phase 2 Lists of Eligible Census Blocks include "Places Panes."

11. I just saw on the NY BB website that the deadline for verifying or contesting the coverage maps is Aug 26. I'm just now in the process of putting together a team of volunteers to do so. Not sure we can pull it off in a week. Is an extension possible - say till the 30th?

The BPO is no longer accepting challenges to the Phase 2 Lists of Eligible Census Blocks. However, if you have any data on broadband coverage to Unserved and Underserved areas of the State that you feel the BPO should consider, please feel free to send us such information.

12. We at Onondaga County just discovered you just recently issued new census block files. We feel the census block files for Onondaga are flawed. For instance, the data suggests that Onondaga has only 531 housing units that are unserved. Additionally, the data indicates that Onondaga has no underserved census blocks. Based on input from our legislators and our citizens we feel we have a lot more unserved and underserved census blocks in our county. We are putting out a survey to collect citizen responses but the NYS Broadband web site states the August 26, 2016 is the deadline to challenge the Phase 2 census block data. Would it be possible to get an

extension on challenging the census data? The data originally posted for Phase 2 seems vastly different than what is currently posted on the site.

See response to Question 11, above. Please note, however, that the BPO has removed Census Blocks from the Phase 2 Lists of Eligible Census Blocks where it has determined that either service meeting the Governor's broadband speed goals, or a commitment to provide such service, is currently in place. If you believe that a Census Block has been removed in error, please feel free to submit to the BPO any information that you would like it to consider.

13. Are the available Time Warner Census Blocks contained in the files under this caption on the Phase 2 portion of the nysbroadband website - *List C: Additional Service Area Final Census Block List - 9.14.16?*

No, Census Blocks within the Time Warner Cable/Charter Franchise Areas, to the extent eligible for Phase 2 of the New NY Broadband Program, are not limited to any one of the Phase 2 Lists of Eligible Census Blocks. List C just identifies Census Blocks that are "served" according to July 2015 FCC Form 477 Data. Please note that the BPO has not released a List representing all Phase 2-eligible Time Warner Cable/Charter Franchise Areas on a stand-alone basis.

14. How do I obtain copies of the proposals to coincide with the recent [Phase 1] grants that were awarded?

The BPO intends to publish successful applications on its website in the near future.

15. Our company already provides cable TV, high-speed Internet, and Digital Telephone Service to certain Phase 2-eligible Census Blocks, and would like to include these Blocks in an application for New NY Broadband Program funding to extend our network to neighboring Unserved areas. However, the pricing requirement presents a barrier for us – our company should not be required to alter its pricing options and/or fees for existing customers in areas in which it would not use any New York State funds. Would the pricing requirement extend to Units that our company currently serves at no State cost?

To the extent your company already provides broadband service meeting the Program's speed goals to any Phase 2 - eligible Units and/or Census Blocks at no cost to New York State, and wishes to include such Units and/or Census Blocks in a Phase 2 application, the BPO would not require you to offer the Required Pricing Tier (*as discussed in Section IV F of the Phase 2 Guidelines*) to such Units/Census Blocks. Please note however, that, in such instances, the BPO would require additional information from an applicant, as deemed necessary to validate the applicant's claim and to clearly delineate such Units/Census Blocks from those to be addressed using New NY Broadband Program funding.

16. The New NY Broadband Program Phase 2 RFP Guidelines states that “an individual applicant must designate separate Service Areas through multiple applications where the applicant proposes to serve geographic areas that do not share physical continuity AND are wholly-located in different REDC Regions.” How does the Program define “physical continuity?”

Physical continuity will be determined by the BPO, and may include, but need not be limited to, areas connected by an applicant’s infrastructure and areas separated by water bodies and/or unpopulated areas. In general, if there are eligible areas between parcels that could have been addressed by your application, they would not be deemed to share physical continuity.

17. Our company submitted a Letter of Credit for our Phase 1 Application Deposit. Rather than seek its return, could we use the LoC for our Phase 2 application?

Yes, provided that your company’s Phase 1 Letter of Credit remains valid. Please advise the BPO that your company intends to use the Phase 1 Letter of Credit for your Phase 2 application.

18. We are working on a possible entry in Steuben County. Is there any chance that an extension could be given to the application deadline?

Due to the urgency of the Governor’s deployment timeframe, no extensions will be granted for Phase 2. Applicants may re-apply in Phase 3 if desired areas are still available.

19. Is the pricing requirement the same for rural areas that are looking to provide 25Mb service? In other words, if we are providing service to unserved households at 25Mb, do we still have to offer a pricing tier of 25/4 for \$60?

Yes.

20. The BPO has received a number of questions regarding the Time Warner Cable/Charter Communications merger, and Charter’s obligations under the PSC’s January 8, 2016 Order conditionally approving the merger.

Please note that all information concerning the PSC’s Order, and Charter’s implementation of the Order’s requirements, is available on the PSC’s website:

<http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=15-m-0388&submit=Search+by+Case+Number>. To the extent that you have further questions about Charter’s implementation of the merger conditions, you may contact the PSC.

21. There were isolated areas within the proposed Charter coverage areas that apparently Charter does not propose to cover. Yet these areas will be impenetrable by any other provider as they would have to run their wires for miles to access just a few households. How can we be assured that all existing households will be served?

See response to Question 20, above. Please note, additionally, that the BPO has taken Charter's buildout plans pursuant to the PSC's Order into account in identifying eligible areas of New York State for Phase 2 of the New NY Broadband Program. All Unserved and Underserved areas within the Time Warner Cable/Charter New York State Franchise Area are eligible for Phase 2, except where Charter has made a commitment to address such areas pursuant to its merger obligations, or where the BPO has determined that another commitment to provide broadband service meeting the Governor's speed goals is currently in place. The BPO is working with the broadband provider community to ensure that no areas are left behind.

22. I was looking at the unserved kmz files, and see that some Census Blocks are marked full and some are marked partial. What does partial mean and how do we tell how many eligible housing units are in the Census Block?

A partial Census Block indicates that only a portion of the Census Block is eligible for bidding in Phase 2. The Housing Unit total and Verified Unit total for the eligible part of the Census Block are included in the BPO-provided Phase 2 Lists of Eligible Census Blocks. As stated in the Phase 2 Guidelines, when bidding on a partial Census Block, applicant proposals must address all eligible Units within the partial Census Block.

23. Please confirm that a Dark Fiber lease on a 10 or 20 Year IRU basis can be listed as an eligible expense under the New NY Broadband Program? We are assuming that the Up-Front Payment according to GAAP will be listed as an asset. The monthly maintenance will be an Operational Expense and not eligible under the Program rules. Example: Up-front payment plus maintenance. Most commonly, dark fiber is leased as a 10- to 20-year Indefeasible Right of Use (IRU). The customer pays up front for the IRU and annually for maintenance. The upfront payment covers the entire term of the fiber lease. Pre-paid IRUs, according to GAAP, are accounted as an asset. Therefore, the organization purchasing the dark fiber would record the cost of the dark fiber as an asset to be amortized over the life of the contract benefit period, typically 20 years.

Yes, under the Phase 2 Guidelines (Appendix C - the List of Eligible Expenses), Program funds may be used to "fund the cost of long-term leases, defined as leases for a duration of longer than 1 year, of facilities required to provide broadband service," which would include the up-front payments associated with dark fiber leases. As you note, however, monthly maintenance costs associated with such leases will be considered ineligible operating expenses. Further, where an applicant intends to use the leased fiber to serve both their proposed service area and other areas outside of their application (dual use), only the percentage of the cost attributable to their proposed service area will be eligible, as stated in the Phase 2 Guidelines.

24. The Phase 2 Guidelines articulates three distinct categories of applications that receive secondary consideration in the reverse-auction: (1) applications offering speeds less than 100

Mbps (to a minimum of 25 Mbps); (2) applications using DSL or Fixed Wireless (in whole or in part); and (3) applications that are not fully-financed at the time of submission (but provided that applicants complete financing within 60-Days). How will the reverse-auction treat these applications relative to each other (*i.e.*, if the only applications seeking to address a service area were a non-fully-financed Fiber application and a fully-financed Fixed Wireless application, would one be considered before the other)?

In accordance with the Governor's speed goals, the Program would consider projects offering speeds of at least 100 Mbps before other applications, even where such 100 Mbps proposals are not fully-financed at the time of submission, provided that such applications conform to the other requirements of the Phase 2 Guidelines, including commercial-reasonableness and sufficient financial and management capabilities. Please note, however, that such applicants would still be required to present a credible financial plan for the completion of financing within 60 Days and to complete their financing within that timeframe. Further, where any application receives secondary consideration for more than one reason (*i.e.*, an application does not offer speeds of at least 100 Mbps and is not fully-financed at the time of submission), the BPO reserves the right to consider the proposal after all other applications.

25. If unaudited financial statements from previous years are submitted that are sufficient for the BPO, then will the audited reports be due once participation begins in the NY Broadband program. In other words, can audited reports start now rather than going back three years?

Where the BPO determines that unaudited financial statements are sufficient for a Phase 2 application and meet the requirements of the Phase 2 Guidelines, an applicant, if selected for an award under the New NY Broadband Program, will be required to submit audited financial statements for the period beginning with their participation in the Program. Please note, however, that the BPO reserves the right to request any additional documentation required to support the unaudited financial statements based on its internal review as well as the recommendations of its advisors, including audits of prior-year financial statements.