



Implementing Biden's Justice40 Commitment To Combat Environmental Racism

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Introduction and summary

“This is a critical moment to define bold and equitable climate solutions that address the legacy of systemic racism and environmental injustice while rebuilding the U.S. economy in ways that work for everyone.”¹

– Former South Carolina State Rep. Harold Mitchell Jr., ReGenesis Community Development Corp. founder and executive director, and member of the White House Environmental Justice Advisory Council

Low-income communities and communities of color have been confronted with environmental injustice for decades, and even centuries, in the United States.² From toxic dumps to polluting power plants, oil refineries, chemical companies, and other industrial facilities concentrated in their neighborhoods, Black, Latinx, and Indigenous people have been forced to endure dangerous and life-threatening environmental and health risks. These troubling conditions are compounded by the harms of racial and economic inequality.

While action to end systemic racism is long past due, President Joe Biden’s commitment to direct 40 percent of his administration’s climate and clean energy investments to disadvantaged communities marks a turning point in the fight for justice.³ He solidified this commitment by launching the Justice40 Initiative through the landmark climate executive order he signed in 2021. This initiative aims to begin to redress the high levels of pollution, chronic disinvestment, and lack of access to capital in communities of color and low-income areas driven by discriminatory environmental, housing, infrastructure, and economic policies. Achieving the Justice40 goal would set the country on a course to correcting persistent injustice by mobilizing substantial new investments in legacy pollution cleanup, pollution-free energy and transportation, workforce development, quality and affordable housing, and critical clean water infrastructure in communities that need it the most.⁴

To accelerate the delivery of investment benefits to communities on the front lines of environmental, racial, and economic injustice, as well as communities dependent on the fossil fuel industry for their livelihoods, the White House must direct federal agencies to remove funding barriers and strengthen existing programs where needed.⁵ Specifically,

the national climate advisor, the Council on Environmental Quality (CEQ), the Office of Management and Budget (OMB), and agency leaders must take the following immediate actions to implement the Justice40 Initiative:

- Develop and use investment criteria and guidance to ensure that federally funded projects reduce harmful local pollution and carbon emissions where possible; minimize flood, heat, and other extreme weather risks; avoid displacing existing community members; and meaningfully engage community stakeholders.⁶
- Overhaul application and reporting requirements, provide technical assistance, and waive cost-sharing rules to make grants and other federal aid more accessible to disadvantaged communities. Cost-sharing requires grantees to bear a percentage of the costs of projects funded by the federal government.
- Work with Congress to increase the amount of federal funding that flows directly to communities, including by changing distribution formulas; expanding existing infrastructure, such as Community Development Financial Institutions, that communities need to access critical investments; and increasing annual appropriations to programs that funnel resources directly to disadvantaged communities.⁷

Many of these—and other actions—were recommended by the first-ever White House Environmental Justice Advisory Council (WHEJAC), one of President Biden’s signature initiatives.⁸ The WHEJAC includes 26 of the nation’s top environmental justice leaders and scholars, and its guidance is essential to achieving the president’s Justice40 goal.⁹ According to Richard Moore, co-coordinator of the Los Jardines Institute and co-chair of the WHEJAC:

*The WHEJAC’s recommendations are the product of bringing the expertise and perspectives of environmental justice communities to the table. Communities of color and low-income communities—both urban and rural—have suffered the most from our country’s intersecting health, economic, racial and climate crises. We must continue to dismantle the systemic racism that perpetuates these crises, and ensure our communities are being heard at the highest levels of government.*¹⁰

If implemented effectively and deliberately, the initiative can begin to accelerate long-overdue progress toward environmental, racial, and economic justice. In addition to achieving the Justice40 goal, the Biden administration must act immediately to integrate environmental justice into the development of all national climate policies to improve the health, safety, and well-being of all Americans.

This report details the actions needed to implement Justice40 and deliver real and measurable benefits to environmentally, and other, disadvantaged communities.

The toxic legacy of environmental injustice

“The voices of the communities that have suffered for too long from legacies of pollution and inequality are finally being heard. Through the White House Environmental Justice Advisory Council, we finally have the seat at the table that we deserve. We know how to remedy the problems that have been placed in our communities, and our recommendations should form the foundation from which the Biden-Harris administration builds its policies to correct environmental, economic, and climate injustice.”¹¹

– Michele Roberts, Environmental Justice Health Alliance for Chemical Policy Reform national co-coordinator and WHEJAC member

For many Black, Latinx, and Indigenous communities, exposure to high levels of toxic pollution is a hazard of daily life. Fossil fuel production and refinement facilities, such as oil wells, oil refineries, natural gas facilities, and power plants, are more frequently permitted in more vulnerable communities.¹² A recent study found that the fine particulate matter—the deadliest air pollutant—emitted by almost every major fossil fuel source disproportionately affects Black, Hispanic, American Indian, and Asian Americans, irrespective of ZIP code and income.¹³

And all too often, communities of color and low-income areas are assaulted by numerous sources of pollution, leaving residents to deal with the cumulative impacts of these toxins.¹⁴ For example, Newark, New Jersey, with its rich and vibrant community, is surrounded by a highly trafficked international airport, highways packed with diesel trucks, a large seaport, a waste incinerator, a Superfund site (which is a piece of land contaminated by hazardous materials), and heavy industrial facilities, all of which spew toxic pollutants into the surrounding air, water, and land.¹⁵ As a result, 1 in 4 children in Newark have asthma, and Newark’s kids “are hospitalized for asthma at 30 times the national rate.”¹⁶

Long-term exposure to high levels of pollution causes higher rates of cancer, asthma, and other serious health problems.¹⁷ Simultaneously, redlining and discriminatory housing policies that discouraged lending in communities of color have led to disinvestment, concentrated poverty, and insurmountable barriers to accumulating wealth to pass on to the next generation.¹⁸ Decades of systemic racism in housing policy and the unequal pollution burden from power plants, industrial facilities, and highways has led to a correlation between high concentrations of pollution in communities of color and low rates of business loans and mortgages.¹⁹

An environmental justice turning point

“Environmental justice will be at the center of all we do addressing the disproportionate health and environmental and economic impacts on communities of color—so-called ‘fenceline communities’—especially those communities—brown, Black, Native American, poor whites. It’s hard—the hard-hit areas like Cancer Alley . . . in Louisiana, or the Route 9 corridor in the state of Delaware.

“That’s why we’re going to work to make sure that they receive 40 percent of the benefits of key federal investments in clean energy, clean water, and wastewater infrastructure. Lifting up these communities makes us all stronger as a nation and increases the health of everybody.”

– President Joe Biden²⁰

“It’s historic that we are able to represent our communities who are on the frontlines of environmental injustices through WHEJAC. . . . We must continue to focus on environmental justice in climate policy and ensure it goes beyond WHEJAC: It must be integrated into the development of all national climate policies.”²¹

– Former State Rep. Harold Mitchell Jr., ReGenesis Community Development Corp. founder and executive director, and member of the WHEJAC

Environmental justice advocates have long called for an end to environmental racism, and for “the just treatment and meaningful involvement of all people regardless of race, color, national origin, or income, or ability, with respect to the development, implementation, enforcement, and evaluation of laws, regulations, programs, policies, practices, and activities, that affect human health and the environment.”²² President Biden is responding to these calls with a commitment to deliver 40 percent of the climate investment benefits to disadvantaged communities aims to begin redressing historic injustice and inequity by mobilizing significant new resources to the communities that sorely need them, including communities of color and environmental justice (EJ) communities.

The White House Environmental Justice Advisory Council defines EJ communities as “geographic location[s] with significant representation of persons of color, low-income persons, indigenous persons, or members of Tribal nations, where such persons experience, or are at risk of experiencing, higher or more adverse human health or environmental outcomes.”²³ To effectively implement Justice40 over the long term, federal agencies will likely need to create new programs that are intentionally designed to repair the inequities created by unfair and harmful federal housing and other policies that have entrenched disparities in Black, Latinx, and Indigenous communities. In the near term, however, the Biden administration must leverage existing federal programs to make immediate progress on implementing the Justice40 goal, including programs that support affordable housing and other community infrastructure in disadvantaged communities, as well as workforce and community development, legacy pollution cleanup, and more.²⁴

The administration should develop a definition for disadvantaged communities that includes Black, Latinx, Indigenous, Asian, and other communities of color and low-income communities in rural and urban areas; environmental justice communities; front-line or fence-line communities overburdened by pollution, climate change effects, or both; communities historically reliant on the fossil fuel industry for their livelihoods; and communities with health, wealth, income, and other disparities.

The WHEJAC’s recommended factors for defining disadvantaged communities

The WHEJAC considers a community disadvantaged if it:

1. Is majority-minority
2. Has high rates of health disparities
3. Demonstrates nonattainment of clean air and water standards
4. Was formerly redlined (meaning it was unfairly denied access to financial and other services, including home mortgages, due to the race or ethnicity of its residents)
5. Experiences food insecurity and low child nutrition levels
6. Is home to children who receive a school lunch program
7. Has a majority of low-income residents and a high percentage of households receiving supplementary income benefits
8. Has high numbers of Superfund and waste sites, landfills, and toxic facilities
9. Has low educational attainment and low high school graduation rates
10. Has high maternal and infant mortality rates
11. Has high asthma rates and deaths
12. Has a poorly maintained stock of housing
13. Has a lack of grocery stores and a proliferation of cent stores and fast-food outlets

In addition to the WHEJAC recommendations for defining disadvantaged communities, the White House may wish to consider other factors, including: low percentage of dwellings with an internet connection; high eviction rates; high percentages of households with limited English proficiency; and high unemployment rates.

In his January 27 executive order on climate change, President Biden directed the Council on Environmental Quality, the Office of Management and Budget, and the WHEJAC to publish recommendations on Justice40 implementation that “reflect existing authorities the agencies may possess for achieving the 40-percent goal as well as recommendations on any legislation needed to achieve the 40-percent goal.”²⁵ The executive order also directs federal agency heads to identify federal programs that are applicable to Justice40 implementation and to develop investment guidance for program staff by late July.²⁶

The WHEJAC submitted recommendations to President Biden and the CEQ in May to guide the implementation of the president’s environmental justice commitments, including Justice40. Among the recommendations is a call for “a transformative and accountable process developed for the fair and just distribution of 40 percent or more of the benefits to be invested in frontline communities.”²⁷ Without such a process, the WHEJAC warned that federal investments will not reach or benefit front-line communities, “given the bias and ambivalence of many state and local governments, and the systemic racial bias, inertia, and resistance to change that we must never underestimate.”

To successfully implement Justice40, the Biden administration must confront the difficult reality that the communities that are most in need of resources often have the greatest difficulty accessing federal program funding. Even when communities are eligible to receive federal funds, they face a range of challenges that can prevent the delivery of real and measurable benefits, such as sustainable, equitable, and resilient community development and pollution-free transportation and energy. These challenges include:

- Program investment criteria that are unclear or too weak in some cases, leading to projects that do not address community needs or priorities, and overly stringent in others, preventing those in need from accessing the funds
- Lack of protections against the displacement of community members, who may be priced out of their neighborhoods in the wake of new investments
- Cumbersome application and reporting requirements and limited community capacity to meet them
- Cost-sharing requirements that applicants in low-income communities cannot meet
- Capacity constraints within agencies that support applicants representing disadvantaged communities

Strengthening federal programs to maximize benefits for communities

“The Justice40 commitment has the potential to make transformative investments in environmental justice communities. To seize this critical opportunity, we must ensure Justice40 is implemented to its fullest potential and in a manner guided by environmental justice values and principles.”

– Ana Baptista, associate director, The New School’s Tishman Environment and Design Center²⁸

Existing federal programs must be updated and strengthened to increase the benefits provided to disadvantaged communities, including communities of color; low-income communities; and communities exposed to disproportionate environmental, health, and other socioeconomic burdens. The Biden administration should implement the changes described below, working with Congress when necessary.

Justice-centered program guidance and criteria

In many cases, existing federal program guidance and criteria fall short of what is needed to ensure that federal investments deliver real benefits to Black, Latinx, Indigenous, low-income, and other disadvantaged communities. In addition, federal programs miss opportunities to maximize project benefits or avoid unintentional harms to the communities that they are aiming to benefit. For example, many federal programs do not have criteria to help ensure that federal investments support pollution reductions, address climate change, or avoid the displacement of community members.

Program criteria are, in some cases, too stringent, while in others they are too loose. If program criteria are too strict, there is a risk that some communities that could benefit from the program will not be eligible for aid or that certain investments that address high-priority community needs will not qualify. For example, the Weatherization Assistance Program (WAP) supports home energy efficiency improvements to reduce energy use and utility bills. Yet homeowners or renters who cannot afford or do not have the authority to keep up with needed home or building repairs may not be eligible for the program. Currently, WAP does not cover the cost of making outstanding

home repairs, which can make the cost of energy improvements too high to meet the program's cost-benefit tests.²⁹ The program could better reach low-income families by expanding its scope to support basic home repairs that are a prerequisite to efficiency and weatherization improvements, such as replacing leaky roofs, repairing siding, and addressing plumbing issues. The U.S. Department of Energy (DOE) could also consider expanding WAP to include home improvements needed to protect against flooding and other damage from more extreme weather driven by climate change, including grading soil or lawn away from buildings, planting trees and shrubs, raising electrical outlets, installing sump pumps, or elevating homes.³⁰ Also, weatherization programs need to go further in investing in multifamily rental units where many low- and moderate-income households cannot access energy efficiency upgrades due to complicated enrollment processes, proof-of-eligibility requirements, landlord approval requirements, or lack of funding to cover these more expensive retrofits.

Conversely, if program criteria or guidance are too loose, then grantees may use federal funds to invest in projects that do not directly benefit communities. Currently, several programs offer broad guidance on how to use project funds. The benefit is that funding recipients can avoid having to adhere to strict guidelines. For example, the Community Development Block Grant (CDBG) Program allocates funds to cities, counties, and states for community development projects in low-income neighborhoods, and recipients are allowed a lot of leeway to decide how the money is spent. The downside is that instead of supporting new and innovative community development projects, CDBG funds are often used to cover existing expenses and fill budget gaps.³¹ In addition, the U.S. Department of Housing and Urban Development (HUD), the CDBG's administering agency, may overstate the proportion of CDBG funds that actually benefit low-income communities.³² Some CDBG grantees also have stated that they would prefer more guidance on how to use funds effectively.³³

To ensure the Justice40 commitment brings real benefits to disadvantaged communities, the Biden administration must gather community input to develop clear-cut guidance for how funding recipients can successfully design projects that meet community priorities and deliver direct benefits.

Expand federal agencies' field offices and staff capacity

In addition, federal agencies such as HUD should expand their field offices and staff capacity to support funding recipients in developing projects that incorporate community input and match the needs on the ground. The report from the White House Environmental Justice Advisory Council recommends “establish[ing] outreach offices to promote awareness of federal program funding opportunities among EJ organizations and communities.”³⁴

Support projects that reduce pollution and greenhouse gas emissions

Federal agencies should also develop strong investment criteria to ensure that communities benefit from federally funded projects in both the near and long terms. Federal agencies should be wary of projects that continue or increase emissions of greenhouse gases and toxic air pollutants, which contribute to climate change and public health risks and disproportionately affect people of color.³⁵ For example, the Federal Transit Administration's Low or No Emission Vehicles program supports the purchase or leasing of zero-emission and low-emission transit buses. While low-emission buses, such as those powered by natural gas, are an improvement relative to traditional diesel-fueled buses, they emit greenhouse gases and air pollutants that can harm the community. To reduce health and climate change risks, federal programs must ensure that proposed projects will reduce local air and water pollution, soil contamination, and greenhouse gas emissions to the greatest extent possible.

Require federally funded projects to be built to withstand climate change

Similarly, although President Biden reinstated the Federal Flood Risk Management Standard that was rolled back by the Trump administration, most federal programs do not require projects they support to be built to withstand more extreme heat and more powerful storms tied to climate change.³⁶ As a result, some federally funded projects may not adequately protect communities from and prepare them for extreme heat and other extreme weather—for example, by using high-efficiency air conditioning and building designs and planting shade trees. The White House should require all federally funded projects to be built to withstand climate change effects in order to ensure that communities are not left with damaged infrastructure and costly repairs.

Ensure that program funds do not lead to the displacement of community members

In addition, funds for economic and community development projects may drive up the cost of living and lead to the gentrification of predominantly Black neighborhoods and other neighborhoods of color, forcing existing community members to move to lower-rent areas that are often further away from economic opportunities and critical services. For example, funds from the U.S. Environmental Protection Agency's (EPA) Brownfields Cleanup Grants were used to partially remediate the area that is now the New York City High Line, a former abandoned railroad track turned into an urban greenspace.³⁷ The surrounding area completely transformed after it opened in 2009

and many local businesses and longtime residents were forced out.³⁸ Gentrification often follows the construction and completion of projects that were meant to benefit the existing community, such as parks, contaminated site cleanups, and new businesses.³⁹ Federal agencies must ensure that program funds do not lead to the displacement of the community members they were intended to benefit. The WHEJAC recommends that agencies develop project criteria to ensure that Justice40 investments do not price existing residents out of their communities.⁴⁰

Require meaningful community engagement on project designs

Lastly, developers of projects that are supported by federal funding must engage the community during the project design phase. Stakeholder engagement is essential to identifying and meeting community needs and priorities and allowing residents to speak for themselves. A respectful and inclusive stakeholder engagement process that starts early in the project design process will help ensure that federal dollars support projects that bring direct benefits to communities, as required by the Justice40 commitment. As the WHEJAC report on Justice40 states, “All investments should incorporate a community driven, community controlled approach so that communities most directly impacted benefit as intended.”⁴¹

Current federal program guidance and criteria to address pollution, climate change, community displacement, and stakeholder engagement ranges from nonexistent to somewhat robust and usually depends on the agency administering the program. For example, programs administered by HUD, such as the CDBG Program, have stronger anti-displacement guidelines than programs administered by the EPA, such as the Brownfields Program. The EPA’s programs tend to have stronger criteria when it comes to climate change resilience and pollution reductions. Many federal programs call for some degree of stakeholder engagement, but most do not require it during the application process, preventing residents from having a say in what projects are being funded in their communities.

Ideally, all federal programs, regardless of the administering agency, would have criteria to ensure that federally funded projects, especially in environmental justice communities, achieve the following: a reduction in local pollution and greenhouse gas emissions to the greatest extent possible; a reduction in the risks and impacts of current and future climate change effects; avoidance of community member displacement; and meaningful stakeholder engagement.

Draft criteria for federal programs

The WHEJAC report recommends that all federal programs “should have criteria to address pollution, climate change, and displacement of people and communities to help ensure that benefits are delivered to EJ communities.”⁴² Table 1 presents examples of program criteria language that agencies could build on to ensure that program investments deliver community benefits and support progress toward the Justice40 goal. These examples were included in the WHEJAC report

and the Justice40 recommendations developed through convenings with environmental justice advocates, academic experts, and national environmental group representatives co-hosted by the Equitable and Just National Climate Forum, The New School’s Tishman Environment and Design Center, and the Center for American Progress.⁴³ Agencies should tailor criteria to each program and ensure that they are achievable without overburdening applicants.

TABLE 1
Draft criteria for federal programs to help ensure benefits are delivered to environmental justice (EJ) communities and support progress toward the Justice40 goal

Criterion	Example language	Example program
Reducing pollution in EJ communities	Applicants must ensure that the proposed project will reduce local pollution to the greatest extent possible. Local pollution includes air and water pollution and soil contamination. Project should also be designed to reduce greenhouse gas emissions, where possible.	Diesel Emissions Reduction Act (DERA) recipients must prove reduction of air pollutants, including estimates of baseline emissions; reduced emissions; and cost effectiveness of reducing NOx, PM2.5, HC, CO, and CO2.*
Reducing the risk of current and future climate change effects and other hazards	Applicants must assess the impacts and potential risks of current and future climate change effects and other conditions and hazards that increase community vulnerability to climate change. Applicants must design proposed projects to minimize these risks to the greatest extent possible, including heat, flood, and other climate risks in EJ communities.	FEMA’s Building Resilient Infrastructure and Communities (BRIC) program requires applicants to take changes in climate into account. Specifically, applicants must “describe how the [proposed] project will anticipate future conditions (population/demographic/climate changes, sea level rise, etc.) and cite data sources, assumptions, and models.”
Avoiding displacement of community members	Applicants must design projects to prevent displacement of community members to the greatest extent possible and coordinate with the local government with jurisdiction over the project area to support strategies to avoid displacement. If the grantee is a local government, it must certify that it has or is implementing a residential anti-displacement and relocation assistance plan and that it will take steps to prevent displacement before the project activities begin.	Community Development Block Grant (CDBG) and HOME Investment Partnership Program recipients must have a residential anti-displacement and relocation assistance plan, which includes minimizing displacement, helping relocate low-income tenants who were displaced as a result of CDBG or HOME activities, and one-for-one replacement of lower-income dwelling units.
Conducting meaningful engagement with stakeholders	Applicants must conduct meaningful engagement with stakeholders and community members during the application process. If the community is entitled to receive funds, community members must be consulted during the project planning process—for example, through application comment periods, town hall meetings, social media, and notifying affected residents door to door.	The EPA’s Brownfield Cleanup Grants require applicants to notify the community and solicit comments and feedback during the application process. Applications are not accepted from those who do not notify the community.

*“NOx” is oxides of nitrogen; “PM2.5” is particulates of matter with diameters that are generally 2.5 micrometers or smaller; “HC” is hydrocarbons; “CO” is carbon monoxide; and “CO2” is carbon dioxide.

Sources: White House Environmental Justice Advisory Council, “Justice40 Climate and Economic Justice Screening Tool and Executive Order 12898 Interim Final Recommendations” (Washington: 2021), available at https://www.epa.gov/sites/production/files/2021-05/documents/whejac_interim_final_recommendations_0.pdf; Equitable and Just National Climate Forum, Center for American Progress, and the New School’s Tishman Environment and Design Center, “Justice40 Recommendations” (Washington and New York: 2021), available at <https://cdn.americanprogress.org/content/uploads/2021/03/16083513/Justice40-Recommendations.pdf>; U.S. Environmental Protection Agency, “Diesel Emissions Quantifier (DEQ),” available at <https://cfpub.epa.gov/quantifier/index.cfm?action=main.home> (last accessed May 2021); Federal Emergency Management Agency, “The Department of Homeland Security (DHS) Notice of Funding Opportunity (NOFO) FY 2020 Building Resilient Infrastructure and Communities” (Washington: 2020), available at https://www.fema.gov/sites/default/files/2020-08/fema_fy20-bric-notice-of-funding-opportunity_federal-register_August-2020.pdf; U.S. Department of Housing and Urban Development, “Guideform Residential Antidisplacement and Relocation Assistance Plan,” available at https://www.hud.gov/sites/documents/DOC_16273.PDF (last accessed May 2021); U.S. Environmental Protection Agency, “Fiscal Year 2021 Frequently Asked Questions for Brownfields Multipurpose, Assessment, RLF, and Cleanup (MARC) Grants (as of 9/22/20),” available at https://www.epa.gov/sites/production/files/2020-09/documents/fy21_faqs_9-22-20.pdf (last accessed May 2021).

Simplifying application and reporting requirements

To even have a shot at accessing federal funding, applicants—often city, county, or tribal governments; community groups; or other not-for-profit organizations—must follow rigorous, cumbersome, and often duplicative application processes.⁴⁴ For example, for the EPA’s Environmental Justice Small Grants Program, applicants seeking a grant of \$30,000 or less must complete multiple forms and provide extensive documentation, including a project narrative, an itemized budget, project performance metrics, resumes for key personnel, proof of nonprofit status, and a staff roster and wages.⁴⁵ Requirements to access larger funding amounts—for example, from the EPA’s Superfund and Brownfield programs—are even more onerous.

Many eligible grantees who are in desperate need of federal funds do not have the bandwidth or expertise to meet the application requirements. Completing and submitting federal funding applications alone can take several days, or even weeks, of staff time with no guarantee that funds will be granted. In contrast, community organizations or local governments with more resources often have the staff capacity or hire consultants to prepare federal applications and access project funds. The effect is clear: FEMA records show low-income communities made up only 10 percent of the applications submitted for the Building Resilient Infrastructure and Communities program for the fiscal year 2021 grant cycle, which is intended to help communities prepare for natural disasters and specifically encouraged low-income communities to apply.⁴⁶

Even if applicants are successful in securing federal grants, program reporting requirements can be heavy and burdensome.⁴⁷ Most federal programs mandate quarterly and final reports and post-project information on implementation details, environmental results, job creation, and more. Many agencies require grantees to use complicated portals, technical tools, and spreadsheets for reporting, which community groups and other grantees in disadvantaged communities may not have the training to use. If grantees fail to meet reporting and other program requirements, it can count against them in future applications.⁴⁸

Simplify program requirements, build community capacity to access federal funding, and eliminate cost-sharing obligations for disadvantaged communities

The White House should require federal agencies to review and overhaul existing application and reporting requirements to ensure that they are straightforward, reasonable, and easy to follow. Agencies should also provide a user-friendly, multilingual process to request application materials and portals for reporting, and allow applications to be submitted in languages other than English. In addition, agencies should simplify application instructions, including by removing complex government jargon

and consolidating required forms. Agencies also should increase the size and number of capacity-building grants for nonprofits and community organizations that serve disadvantaged communities. For community development and environmental justice grants, agencies should extend grant periods to allow organizations time to build capacity and adapt, as recommended in the “Greenlined Economy Guidebook.”⁴⁹ As the WHEJAC rightly points out, “transformative investments must be made in capacity building, technical assistance, and consultation, and creating a user-friendly federal process for the administration of funding and other support.”⁵⁰

In addition, agencies should dedicate more, and multilingual, staff to help applicants complete required forms and comply with reporting requirements. Agency staff should be required to undergo rigorous anti-racist and anti-bias training, one of many steps needed to “reverse racial inequities and strive to repair the environmental injustice of more than 500 years of institutional policies and practices,” a key Justice40 objective identified by the WHEJAC.⁵¹

Lastly, a number of programs aimed at helping disadvantaged communities have cost-sharing requirements, which place a substantial financial burden on city governments or other applicants representing low-income communities. The Biden administration and Congress should remove cost-sharing requirements for local governments and entities in disadvantaged communities seeking funding for projects that advance progress toward the Justice40 goal.

Maximizing federal funds that directly reach disadvantaged communities

To make immediate progress toward the Justice40 commitment, Congress and the administration must ensure that their proposals to support economic recovery and upgrade the nation's infrastructure direct 40 percent or more of the investment benefits to disadvantaged communities. This can be achieved in a number of ways.

Funding formulas

Several federal programs that benefit disadvantaged communities allocate funds based on a formula. For example, for Community Development Block Grant funds, 70 percent goes to larger cities and urban counties (known as entitlement communities) and 30 percent goes to states. The state funds are then allotted to smaller, midsize communities that are not eligible to be entitlement communities. Overall, 70 percent of CDBG funds must be used for activities that benefit low- and moderate-income (LMI) people. However, the criteria for entitlement communities is based on population instead of need, so funds often go to wealthier communities with less pressing needs than Black, Latinx, and Indigenous communities harmed by systemic racism and discriminatory housing, infrastructure, and other policies.⁵² Also, rural communities can face elevated environmental and public health risks, such as from concentrated animal feeding operations, but may have difficulty accessing CDBG funds due to their smaller populations.⁵³ As the White House Environmental Justice Advisory Council rightly notes in its report to the president, “currently some communities are severely underserved due to archaic formulas that have not been updated.”⁵⁴

FIGURE 1
Community Development Block Grant (CDBG) allocations

CDBG formula for smaller communities



CDBG formula for low- and moderate-income (LMI) communities



Note: For CDBG funds, 70 percent goes to larger cities and urban counties ("entitlement communities"), and 30 percent goes to states. The state funds are then allotted to smaller, midsize communities that are not eligible to be entitlement communities. Overall, 70 percent of CDBG funds must be used for activities that benefit low- and moderate-income people.

Source: U.S. Department of Housing and Urban Development, "Community Development Block Grant (CDBG) (Entitlement)," available at <https://www.hud.gov/hudprograms/entitlement> (last accessed June 2021).

Modify grant formulas to maximize benefits for disadvantaged communities

Congress and the administration should improve the grant formulas to ensure that funds are directed to communities with high concentrations of poverty regardless of size and to strictly limit the amount of funding distributed to wealthy communities that is intended for low- and moderate-income neighborhoods. For CDBGs specifically, Congress should create a single formula that "provides similarly needy communities with comparable funding per capita and more needy communities with more funding per capita than less needy communities," as recommended by the Urban Institute.⁵⁵ Congress should also do away with designating entitlement communities based on population, and direct funds to jurisdictions in need of financial assistance, especially environmental justice communities and rural communities that are affected by the transition away from fossil fuels.

Ensuring every community has access to affordable financial services and housing

Some independent entities, such as Community Development Financial Institutions (CDFIs) and community development corporations (CDCs), exist to serve low-income communities by providing affordable and responsible lending and financial services to support equitable community development, job creation, affordable housing, local small businesses, and nonprofit organizations. The Community Development Financial Institutions Fund, which distributes funds to CDFIs and is

housed at the Treasury Department, helps create economic opportunity in many of the country's most distressed communities. CDCs are nonprofits that are created to spur economic development in communities in need, but they are self-identified as such, not certified by the CDFI Fund or any other government body. Both CDCs and CDFIs aim to uplift and support their communities, yet residents can only benefit from them if they are served by one.

Expand CDFIs and CDCs in disadvantaged communities

The federal government should support the creation of CDFIs and CDCs in communities that do not yet have one to further the reach of federal funds and ensure that all communities in need can access affordable lending to support sustainable economic development. Congress should follow through on President Biden's budget request for \$330 million to support expanding the role of CDFIs and to create and certify CDFIs and CDCs where they are needed, with a focus on communities of color, tribal and EJ communities, and other disadvantaged communities.⁵⁶ Furthermore, the administration should help facilitate the certification of CDCs as CDFIs where applicable so that CDCs have access to funding from the CDFI Fund. Lastly, CDFIs and CDCs should be required to apply the four investment criteria described in Table 1 to reduce local pollution and greenhouse gas emissions, support resilient community development, avoid community displacement, and engage community members.

The ReGenesis Project: A shining example of community-led development

The ReGenesis Project, a certified CDC in Spartanburg, South Carolina, has been "tackling public health and environmental health issues focused on environmental justice by addressing environmental, health, social, housing, and economic needs of the community" since 1998.⁵⁷ In 2000, ReGenesis was awarded \$20,000 by the EPA's Environmental Justice Small Grants Program. It was able to leverage that money into \$300 million in public and private funding.⁵⁸ Since then, ReGenesis has facilitated the cleanup of two Superfund sites and six brownfield sites, as well as the construction of 500 affordable housing units and nine health clinics, and has offered job training programs.⁵⁹ It has also served as a model for community, public, and private partnerships such as the EPA's Environmental Justice Collaborative Problem-Solving Model, Community Action for a Renewed Environment (CARE) program, and State EJ Collaborative Problem-Solving Cooperative Agreement Program.⁶⁰

In May 2021, ReGenesis launched the ReGenesis Institute, which is partnering with community investors to create an environmental justice accelerator to support housing, sustainable manufacturing, clean energy, and public health projects led by front-line communities in preparation for the anticipated funds from the Justice40 Initiative.⁶¹ ReGenesis is also working to ensure there is strong oversight of Justice40 investments by supporting legislation in South Carolina to create a committee to help identify disadvantaged communities and priority needs within those communities and to ensure that Justice40 funds deliver real benefits to community members.⁶² ReGenesis has delivered vital services to Spartanburg and is a prime example of how community development organizations can direct federal and other funding in ways that improve the health and well-being of communities in need.

Support community land trusts to reduce community displacement

Community land trusts (CLTs) are another example of a type of entity that provides vital community services and benefits and, ideally, would exist in every disadvantaged community. CLTs are nonprofit organizations that acquire land, taking it off the real estate market, and then lease the land to homeowners, businesses, or other entities that own the buildings developed on the land, including cooperative housing corporations, nonprofit developers of rental housing, and other nonprofit, governmental, or for-profit entities.⁶³ The goals of CLTs are to help maintain community control of land and community ownership of housing and local businesses and to provide stable, affordable housing to low-income homebuyers and renters. CLTs are an important tool for preventing displacement of longtime community residents.

The Biden administration and Congress should work together to provide \$1 billion for city and local governments and CLTs to develop and implement anti-displacement strategies. The Department of Housing and Urban Development's HOME Investment Partnerships Program supports the construction of affordable housing by providing formula grants to states and local governments to help communities build, purchase, or upgrade affordable housing for rent and ownership. The program is the single most important source of support for CLTs.⁶⁴ HUD should require non-CLT grantees (states, cities, and counties) to direct a portion of the HOME funds they receive to support CLTs.⁶⁵ HUD should also increase the length of time homes must remain affordable in programs such as HOME, which currently requires minimum affordability periods of 5 years to 15 years for homeownership projects, depending on the amount of HOME funds invested in the housing units, as recommended in a CAP report on CLTs.⁶⁶ CDBG recipients should also be encouraged to use a portion of their funds to back CLTs in the disadvantaged communities they support. The influx of funds to disadvantaged communities through the Justice40 Initiative is bound to spur gentrification and displacement unless intentional and thoughtful steps are taken to avoid it. CLTs are an important tool to provide stable and affordable housing as neighborhood improvements increase rents and home costs.

Increasing funding for federal programs that serve disadvantaged communities

While the above changes to federal programs are necessary to bring measurable benefits to disadvantaged communities, Congress must also increase overall funding for federal programs that serve communities in need. Federal funding for programs that benefit low-income communities has steadily declined, leaving cities, nonprofits, and other community organizations to compete with one another.⁶⁷ Massive new investment in these programs will help provide affordable, energy efficient, and resilient housing; remediate legacy pollution; provide clean transit; and support sustainable community development for disadvantaged communities—and can help increase capacity at agencies to facilitate these essential community improvements. A spending request letter to Congress sent by co-authors of the Equitable and Just National Climate Platform and other organizations identifies critical programs that can help achieve the Justice40 goal and how much funding they should receive.⁶⁸ Examples of these programs include the Drinking Water and Clean Water State Revolving Funds, the Community Development Financial Institution Fund, the Weatherization Assistance Program, the EPA's Diesel Emissions Reduction Act Program, the National Institute of Environmental Health Sciences Environmental Career Worker Training Program, the Environmental Justice Small Grants Program, the EPA's Superfund program, the Federal Emergency Management Agency's (FEMA) Building Resilient Infrastructure and Communities program, the Bureau of Land Management's Abandoned Mine Lands program, and HUD's HOME Investment Partnerships Program, among others.

Over the long term, the administration should also work with Congress to create new programs, including a Healthy Communities and Resilient Infrastructure Fund, as proposed by CAP; a National Environmental Justice and Climate Justice Fund, as proposed by the Equitable and Just National Climate Platform; or a Clean Energy and Sustainability Accelerator, as proposed by Rep. Debbie Dingell (D-MI).⁶⁹ Any new programs created to support Justice40 implementation must be developed with input from EJ advocates and other stakeholders and be intentionally designed to reach and deliver direct benefits to disadvantaged communities.

Conclusion

The Justice40 Initiative has created an unprecedented opportunity to repair the harm caused by systemic racism; unfair federal and state policies; and disinvestment in Black, Latinx, and Indigenous communities, as well as to help communities reliant on the fossil fuel industry as America transitions toward renewable energy sources. The Biden administration must maintain equity and environmental, racial, and economic justice as core goals of the Justice40 Initiative throughout its implementation. To ensure that the initiative effectively delivers benefits to disadvantaged communities, the Council on Environmental Quality, the Office of Management and Budget, the national climate advisor, and agency heads should take the actions recommended above to strengthen program investment criteria, improve application and reporting processes, and increase federal funding for programs that serve disadvantaged communities. In addition, the Biden administration must act immediately to integrate environmental justice into the development of all national climate policies. By making these changes, the administration can accelerate progress toward addressing the widening racial wealth and health gaps; ensuring access to affordable housing, energy, and transportation; and protecting the fundamental right of every American to breathe clean air, drink clean water, and live in a healthy, safe, and prosperous community.⁷⁰

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