



RESEARCH REPORT

Advancing Equity, Climate Action, and Economic Health in Communities

Challenges and Opportunities for the Justice40 Initiative

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October 2022

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Acknowledgments

This report was funded by the Kresge Foundation through the Shared Prosperity Partnership. We are grateful to them and to all our funders, who make it possible for Urban to advance its mission.

The views expressed are those of the authors and should not be attributed to the Urban Institute, its trustees, or its funders. Funders do not determine research findings or the insights and recommendations of Urban experts. Further information on the Urban Institute's funding principles is available at urban.org/fundingprinciples.

We are grateful to the many stakeholders who informed this framing paper, including representatives from the Environmental Protection Agency's Office of Community Revitalization and Office of Environmental Justice, the Pennsylvania Department of Environmental Protection, the Urban Waters Federal Partnership, and the nonprofit leaders listed below.

- Vivian Huang, Asian Pacific Environmental Network
- Zach Lou, Asian Pacific Environmental Network
- Ayanna Jolivet Mccloud, Bayou City Waterkeeper
- Ignacio Dayrit, Center for Creative Land Recycling
- Jean Hamerman, Center for Creative Land Recycling
- Claire Weston, Center for Creative Land Recycling
- Sonia Kikeri, Emerald Cities Collaborative
- Katy Hansen, Environmental Policy Innovation Center
- Jessica Mahr, Environmental Policy Innovation Center
- Aminah Luqman, The Greenlining Institute
- Emi Wang, The Greenlining Institute
- Tanner Yess, Groundwork Ohio River Valley
- Carlos Claussell, Institute for Sustainable Communities
- Tad McGalliard, International City/County Management Association
- Joel Alvarado, Justice40 Accelerator

- Kirsten Cook, Justice40 Accelerator
- Christina Cummings, Justice40 Accelerator
- Stacey Grant, Justice40 Accelerator
- Simone Heath, Justice40 Accelerator
- Jaimie Lewis, Justice40 Accelerator
- Anna O'Driscoll, Justice40 Accelerator
- Ariana Gonzalez, Natural Resources Defense Council
- Marissa Ramirez, Natural Resources Defense Council
- Mikyla Reta, Natural Resources Defense Council
- Khalil Shahyd, Natural Resources Defense Council
- Lucy Kennedy-Wong, OPAL Environmental Justice Oregon
- Andrew Kricun, US Water Alliance
- Emily Simonson, US Water Alliance

We would also like to thank colleagues who provided valuable feedback on drafts of this work, including Becca Dedert, Joseph Schilling, Victoria Van de Vate, and Alexis Weaver, as well as Lauren Lastowka for excellent editing support. We are additionally grateful to Danielle DeRuiter-Williams and Rejane Frederick for their support in designing and facilitating our stakeholder convenings.

Advancing Equity, Climate Action, and Economic Health in Communities

Introduction

The Justice40 Initiative was established in President Biden's Executive Order 14008, "Tackling the Climate Crisis at Home and Abroad," issued in January 2021. Justice40 emerged in the context of converging acute and long-term crises that continue to worsen long-standing inequities: the health crisis brought on by the COVID-19 pandemic, the resulting economic crisis from which recovery is still ongoing, and the rapidly intensifying climate crisis. The initiative also emerged in the context of the administration's efforts, through Executive Order 13985, "Advancing Racial Equity and Support for Underserved Communities," to reckon with systemic racism in government, specifically the many ways laws and public policies create systemic barriers that limit the ability of low-income communities and communities of color to thrive.¹

Justice40 establishes the policy goal of delivering 40 percent of the benefits of federal investments in climate action and other areas to communities most in need—including communities facing persistent poverty, communities overburdened by pollution and other environmental hazards, and communities disproportionately at risk of bearing the harmful impacts of climate change. It aims to take a "whole-of-government" approach by directing federal agencies to incorporate environmental justice in their missions and thus across all their policies and practices rather than only in standalone programs. The Justice40 Initiative sets goals related to equity, climate action, and the economy—aiming to "address the disproportionately high and adverse human health, environmental, climate-related, and other cumulative impacts on disadvantaged communities, as well as the accompanying economic challenges of such impacts"—with a focus on how federal investments can promote shared prosperity, address past harms, and drive progress toward national climate goals.²

The Justice40 Initiative offers a reparative and transformative policy framework that acknowledges the compounding and interdependent challenges of racial equity, climate action, and economic health, and seeks to address them holistically. As the White House notes, Justice40 "seeks to address the intersectionality of underinvestment, environmental injustice, and the climate crisis."³

Advocates see in Justice40 a historic opportunity to generate transformative change in marginalized, overburdened, and underserved communities. Should Justice40 be successful, it could offer a roadmap for embedding the intersecting values of equity, climate action, and economic health in all federal efforts. Justice40's successes could also lead to the opportunity to embed its framework in all levels of government as well as the broader economy. However, achieving success hinges on resolving key issues concerning Justice40's implementation, which, if left unaddressed or addressed poorly, could limit the initiative's success and girdle its potential, in turn risking a further entrenchment of the status quo.

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Given what's at stake, the Urban Institute's Equity in Place project seeks to support Justice40's success by highlighting the challenges and opportunities the initiative faces and by recommending ways to ensure the successful implementation of Justice40. Our work began with a scan of official guidance and supplemental reports to build an understanding of Justice40's framework, vision, and goals. We then conducted scoping interviews with representatives from the US Environmental Protection Agency (EPA), the Pennsylvania Department of Environmental Protection, the Urban Waters Federal Partnership, and nonprofit organizations across the country engaged in policy, capacity-building, and technical-assistance work with some of the communities that Justice40 intends to benefit. We also attended virtual public meetings hosted by the White House Environmental Justice Advisory Council.

BOX 1

The Many Stakeholder Groups Invested in Justice40's Success

The environmental justice movement long precedes President Biden's executive order on tackling the climate crisis, with some tracing it back to 1982 community activism that opposed a North Carolina landfill laced with toxic chemicals.⁴ Since then, the movement has grown to encompass not only members of individual communities dealing with toxic waste, but also activists, organizers, analysts, advocates, researchers, and other stakeholders, many of whom are supported by various national, regional, and local nongovernmental groups. Justice40's success hinges on the involvement of these and

other stakeholders, including policymakers and administrators at the federal, state, and local levels, and members of the private sector, who may serve as partners in managing or operating a significant portion of the resulting investments.

In this paper, we focus on lifting up the views of leaders of some of the many nonprofit organizations working closely with—and often embedded within—the “disadvantaged” communities that Justice40 intends to benefit. These organizations range in function and focus, but have in common deep expertise on what it will take to achieve the intersecting goals of Justice40. We refer to this group of leaders as “stakeholders” in the remainder of the paper, with the recognition that Justice40 encompasses and necessitates the involvement of many different groups.

Through these activities, we sought to learn about stakeholders’ understanding of Justice40 and gather insights on what conditions need to be met for the initiative to succeed in delivering benefits to underserved communities. Following the interviews, which we conducted in the first half of 2022, we held two convenings with leaders from many of the nonprofit environmental justice organizations we interviewed as well as a few others. The first convening focused on validating and refining our synthesis of insights gathered from the interviews. The second convening focused on understanding stakeholders’ visions for Justice40 and on articulating principles and specific actions needed to make that vision a reality.

This paper distills Urban’s understanding of the contemporary Justice40 landscape and presents five main themes that emerged from our synthesis of advocate and community viewpoints:

1. **Identifying, engaging, and prioritizing communities.** Improvements in how communities are identified, engaged, and prioritized would enable Justice40 to simultaneously advance equity, climate action, and economic health.
2. **Program design and funding structure.** Changes to program design and funding structure could help make Justice40 funding more accessible to the “disadvantaged” communities it is intended to benefit.
3. **Defining and measuring benefits.** A clear definition of “benefits” and how they are measured would help align Justice40’s intent with its impact and support meaningful evaluation of investment outcomes against Justice40’s goals.
4. **Oversight and accountability.** A robust, transparent, and equitable accountability structure would help ensure that Justice40 investments at all levels of government deliver the promised benefits to “disadvantaged” communities.

5. **Whole-of-government approach.** Increased coordination and collaboration, both horizontally between federal agencies and vertically between federal, state, and local governments could help expand Justice40's impact and scope.

For Justice40 to result in equitable economic, environmental, and public health outcomes for the communities the initiative is intended to benefit, it is critical to embed the cross-cutting goals of equity, climate action, and economic health across the lifecycle of Justice40 programs. Thus, we ground the above five themes within a framework that elevates equity, climate, and the economy, and provide additional contextual information based on our analysis of the Justice40 policy landscape.

Both our learnings from stakeholders and our accompanying analysis are intended to inform a forthcoming policy and practice playbook, which will provide recommendations on strategies for addressing key stakeholder concerns and ensuring the successful implementation of Justice40.

The Justice40 Landscape

Created through President Biden's Executive Order 14008, "Tackling the Climate Crisis at Home and Abroad," Justice40 is an initiative of the federal government that aims to deliver 40 percent of the benefits of certain federal investments to communities identified as "disadvantaged" based on factors such as exposure to pollution and other environmental hazards, vulnerability to the impacts of climate change, and levels of socioeconomic distress (see Box 2).⁵

BOX 2.

"Disadvantaged" Communities

We use the term "disadvantaged" to describe the communities referenced throughout this paper because it is the term used by the federal government in its initial announcement of Justice40 and all subsequent guidance and communication. However, we recognize that such deficit-based language carries negative connotations and can result in stigma of the very groups that the initiative is aiming to serve. We encourage the federal government and its partners to consider using more positive terms to identify communities to be prioritized for Justice40 investments, such as "priority" communities, and to otherwise consult members of the communities in question on their preferred language, with the recognition that there may not be a single term that resonates with all of the communities that Justice40 intends to serve.

Justice40 is part of the president’s strategy to address climate change while ensuring progress on the concurrent goals of equity and economic health. It does this in part by channeling select federal investments to communities hardest hit by the adverse environmental, economic, and health impacts of climate change, pollution, and disinvestment in critical infrastructure, among other chronic harms. Justice40 is part of a broader investment approach under the Biden administration to address long-standing racial injustice, including by advancing environmental justice and creating economic opportunity for underserved communities.⁶

The initiative builds on the success of environmental justice advocates at the local and state levels who have long fought for the adoption and enforcement of legally binding mandates that direct investments to communities overburdened by pollution and other environmental harms. Although Justice40 does not yet carry the force of law, it provides a policy framework that establishes standards that federal agencies must follow to advance environmental justice. This framework is a continuation of efforts that formally began with the creation of the EPA’s Office of Environmental Justice in 1992, followed by President Clinton’s 1994 Executive Order 12898 on federal actions to address environmental justice. By some accounts, Justice40 is modelled after New York’s landmark Climate Leadership and Community Protection Act of 2019, which included a provision that 40 percent of the state’s climate spending flow to “disadvantaged” communities (Daly 2022).⁷

According to interim guidance from the Office of Management and Budget (OMB), the Justice40 initiative applies to federal programs that make investments in seven areas: climate change, clean energy and energy efficiency, clean transportation, affordable and sustainable housing, the remediation and reduction of legacy pollution, critical clean water and waste infrastructure, and training and workforce development related to any of the preceding areas (OMB 2021).⁸

The “benefits” promised through Justice40 encompass federal investments in these seven areas, plus the positive changes these investments yield in “disadvantaged” communities (OMB 2021). If implemented well, Justice40 investments have great potential to advance positive economic, social, environmental, and climate outcomes, including by directing resources to communities with low incomes and communities of color; creating family-supporting jobs; improving air, water, and soil quality; and building infrastructure that helps communities mitigate and adapt to the impacts of climate change.

The Focus on “Disadvantaged” Communities

Justice40 aims to direct investments and their benefits to “disadvantaged communities that have been historically marginalized and overburdened by pollution and underinvestment in housing, transportation, water and wastewater infrastructure, and health care.” In doing so, it aims to “address the disproportionate health, environmental, economic, and climate impacts” on these communities.⁹

The executive order on tackling the climate crisis recognizes that environmental policy decisions have historically failed to account for “the disproportionate, disparate and cumulative impacts pollution and climate change have on low-income communities and communities of color.”¹⁰ And although the administration’s Climate and Economic Justice Screening Tool, created to help federal agencies identify these “disadvantaged” communities, does not use race as a criterion or account for the cumulative harms that communities face, early analyses show that communities of color and low-income communities are more likely to fall within the initiative’s defined bounds of disadvantage.¹¹

Many low-income communities and communities of color continue to experience underinvestment in housing, transportation, and water and sanitation infrastructure. These and other challenges are compounded by policies and processes that do not give these communities a voice in how federal investment decisions are made.¹² The economic, health, and environmental conditions in today’s “disadvantaged” communities are consequences of historic—and ongoing—racist policies and entrenched power disparities. For instance, the historical practice of redlining neighborhoods of color, combined with ongoing disinvestment in these same neighborhoods, not only resulted in limited economic opportunities for residents, but also led to increased exposure to extreme heat, stemming in some cases from the siting of industrial facilities in these neighborhoods (Hoffman, Shandas, and Pendleton 2020). Against this backdrop, Justice40 can be seen as an attempt to address these interlinked consequences and challenge the systems that have produced them through justice-driven and equity-focused changes in federal policies, programs, and practices (Daly 2022).

Transforming Federal Policy and Practice and Elevating Equity, Climate Action, and Economic Health

Justice40 indicates a major departure from how past federal investments were designed and implemented. Unlike legacy policies and programs that constrained environmental justice work to specific agencies or discrete projects (GAO 2019), Justice40 aims to take a “whole-of-government” approach to infuse environmental justice into all climate-related policies and programs. It does this in

part by directing all federal agencies to incorporate environmental justice into their missions and subsequently their programs, policies, and activities.

Justice40 also represents an unprecedented acknowledgement by the federal government of the increasingly evident interdependence of economic, public, and environmental health. As the White House notes, Justice40 “seeks to address the intersectionality of underinvestment, environmental injustice, and the climate crisis.”¹³ These efforts to concurrently elevate racial equity, climate action, and economic health as core principles mark a fundamental change in the federal government’s approach to addressing ongoing and historical injustices, since these topics have historically been addressed in silos, if at all.¹⁴

As the executive order on tackling the climate crisis states, it is “the policy of [the Biden] Administration to organize and deploy the full capacity of its agencies to...implement a Government-wide approach that reduces climate pollution in every sector of the economy; increases resilience to the impacts of climate change; protects public health; conserves our land, waters, and biodiversity; delivers environmental justice; and spurs well-paying union jobs and economic growth.”¹⁵ However, few of the stakeholders we spoke with acknowledged these intersecting goals on equity, climate, and the economy, and instead viewed Justice40 as primarily an effort to advance environmental justice.

Justice40 has huge potential to advance not just equity and environmental justice, but also climate action and economic health. However, this potential may be hampered if state, regional, and local stakeholders are unaware of its cross-cutting goals. This points to the need for the federal government to more clearly elevate the policy connections between all of Justice40’s key focal points and provide clear direction on how agencies and other implementation partners can holistically address Justice40’s intersecting goals on equity, climate, and the economy.

Sources of Funding for Justice40

OMB’s interim implementation guidance, published in July of 2021, notes that funding sources for programs covered under one of Justice40’s seven areas include: “FY 2021 enacted appropriations, supplemental appropriations, prior year carryover from unobligated balances, and (when they become available) future fiscal year appropriations” (OMB 2021). Until the passage of the Inflation Reduction Act in August 2022, the Infrastructure Investment and Jobs Act (IIJA), also known as the Bipartisan Infrastructure Law, was widely seen as the primary source of funding for Justice40 programs, given the historic scale of its investments and the nature of the programs it funded.

Over the next decade, IIJA will deliver roughly \$1.2 trillion in infrastructure spending, with almost \$550 billion in new investments. IIJA includes many programs that can help drive progress toward Justice40's goals. For example, it invests \$21 billion in the EPA's efforts to clean up Superfund and brownfield sites and provides an additional \$23 billion for states' clean water revolving loan programs, \$4.5 billion for investments in disaster resilience, and \$1 billion for a Department of Transportation (DOT) program that seeks to address the legacy of racism in highway construction, including by reconnecting families separated by highways (Daly 2022).¹⁶ It also includes \$50 billion in investments to build resilience to climate change-induced impacts like drought and heat, in addition to supporting the integration of climate considerations into existing program goals and strategies (White House 2022).

According to the administration, many IIJA programs are subject to the president's Justice40 Initiative, in line with the administration's commitment to ensure that "disadvantaged communities receive benefits from all available resources in relevant Bipartisan Infrastructure Law programs" (White House 2022). By some estimates, approximately \$400 billion of IIJA spending falls under the purview of Justice40-covered programs.¹⁷ With the recent passage of the Inflation Reduction Act (IRA) on August 7, 2022, the administration has issued additional guidance that Justice40 "is not a one-time investment, nor a single pot of money," and that existing and new programs that meet the eligibility requirements, including those created by the IRA, the IIJA, and the American Rescue Plan Act, will be covered by Justice40.¹⁸

The IRA builds on IIJA's investments by authorizing approximately \$370 billion for federal climate and clean energy programs, and includes funds for various grant programs designed to help "disadvantaged" communities adapt to climate change, reduce historic sources of pollution, and catalyze clean energy initiatives in low-income communities.¹⁹ The continuing appropriation of federal funds for Justice40-covered programs demonstrates the administration's commitment to elevating Justice40 as a guide for federal investments. But although the Justice40 Initiative directs benefits from a substantial portion of federal spending to "disadvantaged" communities, the federal government has yet to earmark specific funding for the implementation of Justice40, meaning that there are no dedicated funds available for agencies to use to identify and engage these communities, to establish new programs to benefit them, or to track whether these programs actually deliver the promised benefits.

Implementing Justice40

OMB's interim implementation guidance for Justice40 tasks federal agencies with four main activities: identifying applicable funding mechanisms; consulting stakeholders to define investment benefits; establishing an approach for calculating benefits; and calculating those benefits and reporting the results (OMB 2021).

Federal agencies administering programs in any of Justice40's seven areas are to work with OMB to identify "covered" programs under their purview that can, with program-specific guidance, be leveraged to maximize benefits to communities identified as "disadvantaged." The White House published a preliminary list of covered programs across more than a dozen federal agencies in July 2022. The investments covered by these programs include discretionary spending by the federal government, such as through direct payments to individuals; the acquisition of goods and services for the federal government's use; the provision of technical assistance by federal staff; and financial assistance (including formula grants, competitive grants, and loans) to state and local governments and other entities.

Because "benefits" will likely vary from program to program, the OMB further directs each agency to describe the types of benefits expected to result from covered programs, propose metrics that the agency intends to use to measure those benefits, and create a methodology for calculating the benefits. As part of this process, agencies are required to engage key stakeholders, such as state, local, and tribal governments and community leaders, to give them a meaningful say in what benefits they would like to see and how those benefits will be defined and measured. Agencies are required to consult all communities who may see benefits from investments, including communities who are located outside the geographic bounds of where an investment is made.

Tracking Progress

Once investments have been made, agencies are required to report annually on their progress. OMB's interim guidance directs agencies to report on the percent of benefits directed to "disadvantaged" communities, the percent of benefits not directed to "disadvantaged" communities, the total amount of program funding received in "disadvantaged" communities, and the geographic distribution of benefits and program funding.

The executive order on tackling the climate crisis also directed the OMB, in coordination with the chair of the Council on Environmental Quality (CEQ), the administrator of the United States Digital

Service, and other relevant agency heads, to publish an Environmental Justice Scorecard to report on environmental justice performance measures for all relevant agencies. As of this writing, the scorecard has yet to be published, though the CEQ issued a request for information in August 2022 to solicit feedback on the vision, framework, and outcomes of the planned Environmental Justice Scorecard, with responses due by October 2022.²⁰

Positioning Justice40 for Success: Challenges and Opportunities

Our analysis of the Justice40 policy landscape yielded five main themes that span both the opportunities that the initiative presents and the challenges that may stymie its success. These themes are grounded in the knowledge and aspirations of the more than 30 national, regional, and local nongovernmental stakeholders with whom we spoke. They are also grounded in a cross-cutting framework that includes equity, climate action, and economic health—the three focal points around which the Justice40 Initiative is framed.

While few of the stakeholders we spoke with discussed Justice40's intersecting goals, they all consistently indicated their belief that Justice40 is a powerful opportunity to pursue new and different federal investments that better meet community needs, reduce and repair harms, and otherwise address the legacy of investments that have perpetuated—and continue to perpetuate—racial and environmental injustice. They expressed optimism in the paradigm shift undergirding the Justice40 mandate, and noted that it was essential to both ensure that Justice40 projects advance positive economic, environmental, and health outcomes for low-income communities and communities of color *and* to discontinue investments that are harmful to people and the planet. Stakeholders shared their continued commitment to supporting these outcomes, including through the Justice40 Initiative.

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Paired with their optimism in and commitments to realizing the possibilities of Justice40 for the communities they serve, stakeholders also expressed substantive concerns, chiefly oriented around three barriers that may impede Justice40's success: (1) how the federal government is identifying, engaging, and prioritizing "disadvantaged" communities; (2) how the design of Justice40 funding programs might disadvantage the very communities the initiative is meant to serve; and (3) how benefits to these communities will be defined and measured. Stakeholders' visions for Justice40 and its potential are captured in two additional themes, which are opportunities for the federal government to maximize the impact of Justice40 investments: (4) implementing mechanisms of oversight and accountability and (5) enhancing coordination and cooperation that will realize the "whole-of-government" approach. Below, we explore each of these themes and discuss the implications of the three challenges on climate, equity, and the economy.

1. Identifying, Engaging, and Prioritizing Communities

As noted above, the Justice40 Initiative commits to delivering 40 percent of the overall benefits of federal investments in climate action and related areas to "disadvantaged" communities that have been historically marginalized, overburdened, and underserved. This includes communities facing persistent poverty, communities burdened by environmental stressors, and communities with high rates of racial and ethnic residential segregation (OMB 2021).

The executive order that created Justice40 also charged the Council on Environmental Quality with creating a geospatial Climate and Economic Justice Screening Tool (the Tool) to help federal agencies identify these communities. While the Tool is still in beta, there are several improvements that could be made to maximize its effectiveness in identifying and subsequently prioritizing communities most in need of Justice40 investments. We explore these improvements, and their implications for climate action, equity, and economic health, in detail below.

Limitations aside, federal agencies are not currently required to use the Tool. In fact, OMB's interim guidance encourages agencies to use any tools they see fit (OMB 2021). This could create inconsistencies across agencies and confusion on the part of communities and other applicants for funding.

Stakeholders were clear that Justice40's success is contingent not only on identifying the communities most at need and prioritizing them for funding and investments, but also engaging these communities in decisions and empowering them to articulate and work toward the outcomes they want to see. They stressed the importance of embedding both procedural and distributive equity throughout

the Justice40 Initiative, including by giving communities the opportunity to meaningfully inform projects intended to benefit them.

Stakeholders stressed the importance of embedding both procedural and distributive equity throughout the Justice40 Initiative, including by giving communities the opportunity to meaningfully inform projects intended to benefit them.

Stakeholders expressed an urgent need to combine the use of the Tool with intentional community engagement to align Justice40 resources with the communities that need them the most. This need to prioritize the voices and experiences of low-income communities and communities of color is not limited to identifying communities to invest in. Rather, as discussed in later sections, it applies to all elements of Justice40's implementation, including designing programs and funding, defining and measuring benefits, and developing measures of oversight and accountability. Incorporating the input of members of communities who have traditionally been underserved can help ground projects in the needs of a given community and serve as a means of empowering residents, remedying past harms, and ultimately advancing Justice40's intersecting goals.

CLIMATE

Identifying and prioritizing frontline communities is key to achieving Justice40's environmental justice and climate action goals, since these communities are disproportionately vulnerable to the harmful impacts of climate change and are often least-equipped to prepare for and subsequently recover from climate change-related disasters. However, the Tool leaves out a number of climate change-related hazards, such as flood risk and extreme heat days, in the indicators it uses to identify "disadvantaged" communities.

Further, the Tool omits climate forecasts from its metrics. While it is important to understand a community's current circumstances, it is also critical to understand what future risk might be. Given the rapid pace of climate change, communities that seem protected now may not be in ten or even five years. Incorporating both current hazards and future forecasts would help agencies and applicants prioritize climate-forward projects in frontline communities most at risk of bearing the burdens of climate change, thus advancing both equity and climate-action goals.

EQUITY

As noted earlier, the current version of the Tool does not incorporate race as an indicator, despite race being the strongest predictor of exposure to environmental hazards and other harms (McTarnaghan et al. 2022). Stakeholders expressed the need for race to be included as a factor in identifying “disadvantaged” communities to ensure that limited federal resources are channeled to communities of color, who continue to be disproportionately overburdened and underserved across multiple dimensions of well-being.

Another limitation of the current version of the Tool is that it does not measure cumulative impacts. Instead, it uses a binary determination for identifying the communities to prioritize for investments, which means communities that exceed the threshold in one or more of its eight categories are classified as “disadvantaged,” and the remainder are not. This limits the Tool’s ability to identify communities dealing with cumulative burdens, including exposure to environmental hazards, public health burdens, and economic hardships.

In part because of this shortcoming and the resulting inability to effectively prioritize, the current version of the Tool identifies nearly one third of the nation’s census tracts as “disadvantaged.” Stakeholders found it hard to imagine how Justice40’s limited scope would be able to equitably meet the needs of all of these communities. They worried that the inability to prioritize communities with the greatest burdens could mean that communities with comparatively fewer burdens may receive funding ahead of communities who need the funding most. Justice40’s success in delivering investments and benefits to the communities most in need thus hinges on the ability to effectively prioritize among communities facing varying levels of interlinked disadvantage. Directing resources toward the communities and people carrying the greatest environmental, public health, and economic burdens will be critical to advancing equity, climate action, and a healthy and inclusive economy.

ECONOMY

The IIJA and IRA together are expected to inject over \$1.5 trillion dollars into the economy over the next decade. Spending of this scale represents a unique opportunity to advance economic health for communities with low incomes and communities challenged by persistent poverty.

The Tool includes several economic indicators for this purpose, including median household income, unemployment, poverty rates, and household energy and housing cost burdens. However, advancing economic health requires going beyond identifying and prioritizing low-income and economically vulnerable communities for investment; it calls for ensuring that investments ultimately result in positive short- and long-term economic outcomes for those communities.

Meaningfully engaging members of the communities in question, as noted earlier, is one way to help economic benefits materialize for the “disadvantaged” communities that Justice40 seeks to prioritize. Community members, particularly those with lived experience of economic and environmental injustices, have access to information and context that is often not available to those outside of the community. Incorporating their expertise throughout the lifecycle of proposed projects can lead to more effective and sustainable solutions to local needs, and ultimately help ensure that projects produce the outcomes—both economic and otherwise—that community members want to see.

2. Program Design and Funding Structure

Even if federal agencies are able to equitably direct investments to areas most in need, stakeholders pointed out that other factors may affect whether and how much residents of those areas will benefit. For instance, building a solar farm on vacant land in a “disadvantaged” community may result in positive outcomes such as reduced greenhouse gas emissions and the creation of new jobs. But if the location of the solar farm is chosen without input from community members, it could bisect the community in a way that further reinforces segregation, as has happened with urban renewal and highway construction. And if the jobs created are not accessible to members of the community, or if the energy produced is sold elsewhere, then residents may not benefit at all from the funding.

To ensure that the projects funded by Justice40 result in equitable economic, environmental, and public health outcomes for the communities the initiative is intended to benefit, it is critical to embed the intersecting goals of climate action, equity, and economic health in the design and implementation of Justice40-eligible programs. This can be done through the application requirements that influence which communities are able to apply for funding, the selection criteria that ultimately determines what projects are funded and where they are located, and the funding structures that affect how projects are designed, built, and maintained. We expand on each of these points below.

Application requirements. Nearly a quarter of Justice-40 eligible IIJA funds are competitive, meaning that localities must submit applications and compete against other localities who are seeking the same resources. But stakeholders noted that the structure of many competitive funding programs tends to disadvantage lesser-resourced communities, as the application processes are often onerous and require communities to have the capacity and experience to identify relevant funding opportunities and successfully meet rigorous application requirements in a short period of time. Short turnaround times between the announcement of available funding opportunities and application due dates also

tend to favor “shovel-ready” projects, and thus effectively discourage meaningful engagement with community members during the planning process (Axelrod et al. 2022).

Selection criteria. Selection criteria are another important lever through which agencies can maximize the benefits of federal investments for Justice40’s priority communities. Accordingly, stakeholders expressed a need for clear criteria to guide federal agencies and state and local governments in making decisions about which projects to fund through Justice40. Clear selection criteria can equip agencies to select projects that not only invest in the most “disadvantaged” communities but also propose actionable plans to deliver specific benefits to those communities, provide evidence for how they will do so, and demonstrate plans to mitigate or reduce harms. Without clearly articulated—and, importantly, enforceable—selection criteria, projects that do not advance Justice40 goals on climate, equity, and the economy may be approved and implemented, which risks exacerbating the harms that Justice40 aims to correct.

Funding structure. The structure of funding programs can also have large impacts on the degree to which a project is able to successfully advance Justice40’s goals. Stakeholders noted that long-term funding—especially that which builds capacity and supports comprehensive planning and implementation—can allow communities to pursue durable solutions that advance climate action, equity, and a healthy and inclusive local economy. Conversely, short-term funding, as in the case of IJJA, which provides for spending over only five years, risks short-term, stop-gap solutions. Funding must also be structured to support chronically underfunded but critically important ongoing operations and maintenance costs, which in turn supports the longer-term availability of jobs and other benefits.

We explore the implications of the above components of program design and funding structure on climate, equity, and the economy below.

CLIMATE

As noted above, short application timelines tend to favor shovel-ready projects. In many cases, especially in communities that have yet to create comprehensive climate-action plans, these projects are likely to be less climate-forward than projects conceived with a specific Justice40 funding opportunity in mind. Revising application timelines could allow communities the necessary time to create thoughtful plans that address climate, equity, and economic concerns.

The selection criteria for a program can also have a large impact on whether resulting projects will advance climate action. Justice40 projects must mitigate future climate change, help communities adapt to present-day impacts, and build community resilience to future climate change–induced harms.

In order to support adaptation and resilience, projects need to be sited, designed, and built to withstand forecasted climate impacts and reduce climate risk by, for instance, avoiding building in vulnerable areas or with environmentally harmful materials. Creating defensible space around homes to deter damage from wildfires, for instance, is important and necessary, but falls short of protecting residents if homes continue to be built in areas with a high risk of fire hazards. Selection criteria should thus incentivize applicants to plan for the range of expected climate outcomes.

The design of funding programs can either encourage or inhibit the advancement of necessary climate action. Research has found that the lag time between a carbon dioxide emission and the corresponding temperature warming can be a decade, on average, and that the length of time increases with the size of emissions (Zickfeld and Herrington 2015). This underscores the importance of both immediate efforts to mitigate the harmful impacts of climate change by drastically reducing greenhouse gas emissions and the creation of longer-term tracking mechanisms to measure the impact of these efforts. Justice40 programs could be designed with a longer timeframe in mind to enable projects, especially those with potential climate impacts, to take a long view as necessary.

EQUITY

As noted earlier in this section, the structure of many competitive grant programs is unfavorable to the low-income communities and communities of color that Justice40 aims to benefit. Many of these communities are chronically under-resourced and have limited, if any, capacity to identify and meet the application requirements of federal funding opportunities, or to absorb federal funds should they be received. In addition, the short turnaround times of many programs do not support the kind of authentic community engagement that stakeholders see as necessary for projects purporting to advance environmental justice. Stakeholders stressed the importance of seeking community input at all stages of a project's lifecycle, including input on which projects are funded, where they are sited, and how they are designed, constructed, and maintained. This requires time to build trust with community members as well as sufficient funding to enable meaningful engagement.

Many stakeholders recognized that providing technical assistance and capacity-building support to priority communities could be one solution to the misalignment of federal requirements and local capacity. However, they also cautioned that this support should not be standalone and should be accompanied by the revision of application structures to reduce or eliminate barriers for Justice40-eligible communities.

Equity considerations could also be embedded in Justice40 projects through the criteria used to award competitive grants. Clear selection criteria could help ensure that chosen projects have

actionable plans to deliver the promised benefits and mitigate any potential harms, thus equitably advancing Justice40's goals.

ECONOMY

Covered programs should also be designed to deliver economic benefits to "disadvantaged" communities. Clear selection criteria are a key lever for ensuring positive economic outcomes, as they enable agencies to prioritize projects for funding that include actionable plans to improve the economic health of communities. These may include, for example, commitments to direct contracts toward local businesses, especially businesses owned by people of color; pairing accessible contract opportunities with business-development efforts and other capacity-building supports; creating high-quality local jobs; and increasing access to those jobs and career pathways for the unemployed and under-employed, including by training and developing the local workforce.

Thoughtful funding design can also help ensure the long-term economic health of projects and communities and avoid short-term, destabilizing funding. For example, a community struggling with polluting stormwater runoff and flooding may wish to leverage IIJA funding to invest in green stormwater infrastructure. This project can improve water quality and public health and provide quality long-term jobs if the community is provided with meaningful capacity-building supports that help it build a qualified workforce and sustainable sources of revenue to support ongoing operations and maintenance costs. Without those supports, however, the infrastructure may instead become a liability to the community it was intended to help. Designing funding programs that allow communities to create long-term plans and providing ongoing support where necessary can help ensure that Justice40 investments support longer-term economic health and well-being in the communities it intends to benefit.

3. Defining and Measuring Benefits

The stakeholders we spoke with shared their uncertainty about how Justice40's promised benefits will be defined and measured, and, importantly, by whom. Their confusion and concerns persisted despite OMB's interim implementation guidance, which defined benefits of Justice40-covered programs as "direct and indirect investments (and program outcomes) that positively impact disadvantaged communities" (OMB 2021).

The lack of clarity on what qualifies as a benefit to communities is a major impediment of Justice40's success. Without a clear understanding of what "counts," it is difficult if not impossible to

track progress. The lack of guidance also opens the door to projects that allow outside investors to profit off communities while providing minimal benefits to those communities. To reiterate an earlier example, a project proposing to build a solar farm in a “disadvantaged” community may claim to provide benefits such as job creation and affordable green energy, but if the jobs generated go primarily to people outside of the community, or if the energy produced is not accessible to residents, the project is not fully benefitting the community it was intended to serve.

Clearly defining desired benefits and providing guidance on how to measure those benefits in Justice40 programs is key to ensuring that benefits eventually materialize, particularly given that such guidance drives the behavior of funding recipients. Below, we explore the potential implications of clearly defined benefits on climate, equity, and the economy.

CLIMATE

OMB’s interim implementation guidance suggests that federal agencies consider climate impacts (such as reductions in greenhouse gas emissions and increased flood mitigation benefits) only for investments that fall under the “climate change” category, even though investments in clean energy, clean transit, and other Justice40-covered areas are likely to have climate implications as well. For instance, siting new housing developments near transit options can reduce greenhouse gas emissions, and building outside of known hazard areas and including resiliency features such as water-resistant and fire-resistant materials can help residents adapt to the impacts of climate change. Providing guidance that encourages agencies and applicants to consider climate impacts—in terms of both advancing climate action and not contributing further to climate change—when defining and measuring benefits to communities would help enhance the impact of Justice40 investments on climate outcomes as well as economic health, public health, and racial equity, all of which are interlinked.

Successfully realizing Justice40’s climate goals will require focusing on adaptation and resilience in addition to mitigation. Irreversible ecosystem changes have already occurred, and no matter how quickly the world decarbonizes, the planet is likely to continue to warm in the next two decades as a result of emissions that have already transpired (IPCC 2021). Scientists project that the current level of expected warming will cause nearly a billion people worldwide to experience more frequent and extreme heat waves. Hundreds of millions more will suffer from the effects of severe drought, while others still will suffer from extreme flooding.²¹ Given these and other projections, failing to prioritize climate adaptation and resilience efforts in Justice40-eligible programs could consign millions of Americans to dangerous and potentially life-threatening situations, particularly in low-income communities and communities of color, as people in these communities are more likely than their white

and higher-income counterparts to live in areas vulnerable to flood, extreme heat, and other climate change-induced hazards.²²

To ensure that Justice40 can successfully advance mitigation efforts, adaptation, resilience, restoration and regeneration, preservation and protection, and other climate actions, clear guidance must be provided on what qualifies as benefits and how they will be defined.

EQUITY

Without clear definitions of benefits, projects that purport to provide benefits to communities may fail to do so, or, in some cases, actively harm communities instead. For example, a project that proposes to build a new light rail station in an under-connected community may provide better connections to economic opportunity, better air quality through reductions in private vehicle usage, greater access to services including healthcare, and more. But without appropriate harm-mitigation efforts, this increased connectivity may also attract wealthier residents to the neighborhood—as some transit projects have been shown to do (Dawkins and Moeckel 2016)—which could raise housing costs and displace lower-income residents from the community.

Other types of infrastructure projects and capital investments risk the same misalignment of intent and impact. Stakeholders stressed that identifying potential harms and creating plans to mitigate them is just as important as identifying desired benefits and creating plans to deliver them to communities. However, they saw no requirements in the interim guidance for federal agencies or funding recipients to assess the potential harms that could flow from their investments.

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Stakeholders also highlighted the need to consider both benefits to a community at large and to specific groups within that community. For instance, stakeholders pointed out that Justice40-eligible programs incentivizing energy efficiency fail to consider that tenants are generally responsible for water and utility bills, and thus bear the cost of energy inefficiencies. Programs that provide incentives only to property owners are unlikely to reach renters—who comprised 36 percent of US households in

2019 and are more likely to be lower-income households and households of color—because landlords have little to no incentive to participate in these programs.²³ Advancing equity through Justice40 requires considering not only the benefits of a program, but also who is likely to benefit and what the potential harms are.

Finally, stakeholders wondered what voice, if any, communities would have in establishing the benefits they would like to see, noting that despite the OMB's directive to engage communities in defining benefits, they were not aware of any attempts to do so. As the White House Environmental Justice Advisory Council notes in its final recommendations report, “community accountability in development and implementation is an important ‘justice’ making element that must be included” (WHEJAC 2021). For Justice40 to achieve its stated equity and environmental justice goals, federal agencies and funding recipients must make time and space for authentic and robust community engagement at all stages of a project's lifecycle, including in defining and measuring the benefits of Justice40 programs.

ECONOMY

OMB's interim guidance suggests that federal agencies consider economic impacts only for investments that fall under the “training and workforce development” category, even though investments in all other areas will affect economic outcomes in communities. The interim guidance further limits suggested benefits in this category to participation in job training programs, which fail to account for the range of direct, indirect, and induced economic impacts that Justice40 investments may have. Given the scale of federal spending involved, Justice40 has huge potential to provide economic benefits including contracting opportunities for local businesses; jobs related to the community engagement, planning, design, construction, material supply, operations, and maintenance of Justice40 projects; local economic multiplier effects resulting from spending with local businesses and employing local workers; and higher tax revenues resulting from increased local economic activity.

Providing clearer guidance on benefits can encourage Justice40 applicants to target these economic benefits to prioritized groups. For instance, guidance that requires or incentivizes awarding contracts to local businesses owned by people of color, women, or LGBTQ+ people can simultaneously advance equity and economic health. Evidence suggests that small local businesses return more than three times as much money to the local economy per dollar they receive than their regional or national competitors (American Independent Business Alliance 2021). Incentives to support local businesses are thus likely to help maximize the local economic benefits resulting from Justice40 investments.

While the transition to clean energy and infrastructure is likely to provide positive economic benefits for many, it may also have negative impacts on some communities, particularly those whose local economies rely heavily on coal, oil, natural gas, or power plants. As noted earlier, creating plans to mitigate these potential harms is just as important as creating plans to maximize benefits. Federal agencies could provide clear guidance on how to measure both benefits and harms in order to support a meaningful and holistic evaluation of Justice40 outcomes.

4. Oversight and Accountability

Stakeholders expressed concern that Justice40 “lacks teeth,” as there are no statutory rules or requirements to ensure that federal spending is accountable to Justice40’s goals and principles. They further noted that it is essential to clarify who is accountable to whom, and who faces what consequences—at the federal, state, local, and even grantee levels—if Justice40’s processes are not followed and its goals unmet. Without a robust, transparent, and equitable accountability structure, the promised benefits from Justice40 investments may not materialize for communities. Instead, Justice40 investments may exacerbate environmental, economic, and health burdens in “disadvantaged” communities.

At least four factors pose challenges to implementing an accountability structure for Justice40. First, the responsibility for implementing Justice40 is spread across multiple agencies, offices, and contractors at the federal, state, and local levels. This dispersed responsibility makes it difficult to detect—let alone impose consequences on—decisionmakers who fail to target funding, develop projects, or engage communities in ways that Justice40 mandates. As one stakeholder put it, “when it’s everyone’s job, it’s no one’s job.” While there is a need for shared responsibility in implementing Justice40 goals, there is also a need for a single entity to provide oversight and support and to hold the various responsible parties accountable.

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Second, the interim implementation guidance gives federal agencies significant flexibility and discretion in how they identify “disadvantaged” communities, interpret investment guidelines, and calculate investment benefits. This flexibility enables the federal government to accommodate the varied priorities of states and localities, which is an important element of place-based programming. However, without standardized parameters around desired investments and benefits to guide federal agencies, this discretion could lead to confusion, inconsistency, and a lack of meaningful accountability.

Third, 76 percent of IJIA funds are formula funds to states,²⁴ which are subject to each state’s discretion in how the funds are spent. Stakeholders expressed concern that some states will not voluntarily direct investments to communities where they are needed most or implement projects aligned with the triple-bottom-line vision of Justice40, and instead will continue to invest in the same types of status-quo projects that are causing the harms Justice40 aims to correct. Because of this, some stakeholders are focusing their efforts on state-level advocacy to influence how funds are spent. Interviewees see this state-level advocacy as crucial to ensuring that Justice40’s intent and principles are strengthened by state and local policies and strategies. Advocacy alone, however, cannot ensure that states deploy federal funds in ways that are consistent with Justice40 principles and that do not unnecessarily burden communities with the task of fighting for what they need. While the administration claims that “Bipartisan Infrastructure Law programs are subject to the President’s Justice40 Initiative,” it remains unclear how accountability mechanisms can or will be enforced, especially when it comes to formula funds, which are by definition allocated by rote (White House 2022). Stakeholders thus expressed a strong need for the federal government to provide clear guidance—and outline consequences for failing to meet that guidance—to ensure that states deploy funds in equitable and climate-forward ways.

Fourth, stakeholders observed that because Justice40 is currently driven by an executive order, it is vulnerable to leadership changes in the White House. This raises concerns about how Justice40 might be institutionalized to ensure that its principles continue to guide federal infrastructure spending decisions even after changes in the administration occur.

The OMB’s interim implementation guidance, the Climate and Economic Justice Screening Tool, and the forthcoming Environmental Justice Scorecard can all be seen as building blocks for establishing an accountability structure for Justice40. However, in order to effectively hold federal agencies and funding recipients accountable to Justice40’s goals, these building blocks must evolve into a comprehensive set of tools and practices that create strong incentives for all parties to comply with the Justice40 mandate and outline clear and specific consequences for failing to meet those goals.

Justice40's reparative and transformative aspirations also warrant new accountability approaches that forcefully "push back on existing practices, traditions, and rules that uphold inequities in government" (Callahan et al. 2021). Stakeholders suggested that community voice, which is less often engaged for accountability purposes, should be part of Justice40's accountability framework. One interviewee cited, for example, ongoing work by We Act for Environmental Justice to create screening tools to aid community-led monitoring of Justice40's implementation. The creation of such a robust, transparent, and equitable accountability structure will help realize Justice40's transformative vision and potential.

5. Whole-of-Government Approach

The intersecting and compounding environmental, economic, and climate injustices facing communities of color and low-income communities point to a need for federal leaders to work across sector and agency silos to translate Justice40's goals into a coherent and consistent suite of policies and programs, informed by affected communities and made concrete in agency policies, practices, and funding decisions. Such coordination is needed to gain a holistic understanding of the challenges in specific communities and how best to deploy federal resources to address them. It would also enable agencies to leverage multiple funding streams to increase the pool of resources that "disadvantaged" communities can benefit from and remove or reduce barriers to funding access for these communities by, for instance, consolidating applications for related funding.

There has been evidence of coordination between federal actors: the interim implementation guidance for Justice40 was jointly issued by the OMB, the CEQ, and the president's national climate advisor, in consultation with the White House Environmental Justice Advisory Council. But stakeholders were concerned about the decentralized leadership structure and the lack of a designated lead agency or office solely responsible for Justice40. Further, each federal agency is separately tasked with identifying priority communities, designing funding programs, creating application and reporting requirements, and defining and measuring benefits for programs under their purview, which risks inconsistencies in program design, implementation, and outcomes, and creates challenges and unnecessary burdens for communities looking for funding opportunities, combining funding sources, and tracking requirements for each program.

Coordination between federal agencies, while critical, is not sufficient to achieve Justice40's goals. Justice40 cannot succeed without the support—and, importantly, leadership—of state, local, tribal, and territorial governments. As noted earlier, IJJA's reliance on formula grants means that states will get to

decide how more than 76 percent of IIJA funds will be spent.²⁵ If Justice40 is to succeed in this context, it is imperative for federal agencies to coordinate with, collaborate with, and support the efforts of state, local, tribal, and territorial governments who are likely to receive a majority of pass-through funding.

Looking beyond the need for both horizontal and vertical coordination and collaboration, some stakeholders questioned when Justice40—if it is truly intended to be a whole-of-government initiative—will encompass all federal programs across all federal agencies rather than be limited to a specific set of programs within specific agencies. They further emphasized the need to reframe the 40-percent goal as a floor rather than a ceiling, as well as the need to move beyond reducing burdens to true healing and reparations. Stakeholders suggested that this would not be possible without government-wide divestments in programs that cause the very harms that Justice40 is intended to address, including those that contribute to climate change, exacerbate economic inequality, and damage the environment.

Some stakeholders went further and challenged the notion that “whole-of-government” would be enough, even if it were implemented comprehensively and included state and local actors. They indicated that “whole-of-market” would be more appropriate, suggesting that the federal government must not only model the behavior needed to advance economic health and resilience, equity and justice, and climate action, but also create the conditions for the private, non-profit, and philanthropic sectors to engage in these solutions and disengage from perpetuating harms.

Looking ahead, intentional coordination and collaboration between federal agencies and across federal, state, local, tribal, and territorial governments could help ensure that the Justice40 policy framework takes root across all levels of government. It could also create an opening for the federal government to learn and apply insights from the experiences of states and localities that have made significant strides in delivering equitable and climate-forward infrastructure investments, ultimately supporting an expansion of Justice40 beyond its current scope to encompass federal, state, local, and non-governmental investments across all sectors.

Conclusion

The Urban Institute and the stakeholders we engaged agreed that Justice40 has the potential to simultaneously advance thriving local economies, a more equitable society, and climate action. Urban’s engagement with more than 30 leaders across 18 organizations with deep environmental-justice

expertise—including some with direct lines of communication to communities intended to benefit from Justice40—surfaced barriers to Justice40’s success and opportunities to maximize its impact, which we distilled into five themes: (1) identifying, engaging, and prioritizing communities; (2) program design and funding structure; (3) defining and measuring benefits; (4) oversight and accountability; and (5) whole-of-government approach.

If the challenges that emerged from this analysis are left unaddressed by the federal government, Justice40 risks amounting to no more than a bold declaration of good intentions and falling short of its goals to deliver environmental, economic, and health benefits in marginalized, overburdened, and underserved communities. Conversely, if federal leadership could capitalize on the opportunities highlighted in this framing paper, Justice40’s impact on people, the planet, and the economy could meet or exceed its intentions. Justice40’s successes may also offer a proof of concept of a policy framework that can be replicated and scaled throughout all levels of government and beyond.

It is with this optimism, and a spirit of collaboration, that Urban embarked on this project, and with which we will offer evidence-based recommendations as a follow up to this paper for how the federal government could align Justice40’s impact with its intent and deliver positive economic, environmental, public health, and climate outcomes to communities most in need across the country.

Notes

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