

NOTICE OF FUNDING OPPORTUNITY

TRIBAL BROADBAND CONNECTIVITY PROGRAM

EXECUTIVE SUMMARY

A. Federal Agency Name

National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce

B. Funding Opportunity Title

Tribal Broadband Connectivity Program

C. Announcement Type

Amendment

D. Funding Opportunity Number

NTIA-ICG-TBCPO-2023-2008098

E. Assistance Listing (CFDA Number)

11.029, Tribal Broadband Connectivity Program

F. Key Dates

- Applications submitted online through the Grants.gov system must be received no later than 11:59 p.m. Eastern Time (ET) on **March 22, 2024**.
- Applications submitted by postal mail or by courier service must be postmarked (for postal mail) or show clear evidence of mailing (for courier submissions) no later than 11:59 p.m. Eastern Time (ET) on **March 22, 2024**.
- Applications submitted by electronic mail must be received no later than 11:59 p.m. Eastern Time (ET) on **March 22, 2024**.
- *See* Section D in the Full Announcement Text of this Notice of Funding Opportunity (NOFO) for detailed information concerning application submission requirements.

Eligible Entities that previously submitted applications may submit revised applications (entire application must be resubmitted) on or before the new submission deadline. Eligible Entities must submit a single application by the application deadline to be eligible for program funding. The Tribal Broadband Connectivity Program (TBCP) is not a formula or block grant program and a single application for funding must be timely submitted by an Eligible Entity to receive funding consideration from NTIA.

G. Application Submission Address

Complete application packages may be submitted: (i) electronically through www.grants.gov; (ii) through electronic mail; or (iii) by postal mail or courier. NTIA prefers that applicants use Grants.gov to submit their applications; however, applicants must submit complete application packages using only one of these methods and may not submit partial or duplicate applications using multiple methods of transmission. *See* Section D of this NOFO for detailed information concerning application submission requirements.

Eligible Entities may only submit a single application for funding pursuant to this program. Accordingly, an Eligible Entity's single application must include the total amount of funding being requested and must account for all projects that will utilize the requested funding. *See* Section C.3.a of this NOFO for additional information on the single application requirement.

H. Funding Opportunity Description

NTIA issues this NOFO to describe the requirements under which it will award grants for the second round of the TBCP, authorized by the Consolidated Appropriations Act, 2021, Division N, Title IX, Section 905(c), Public Law 116-260, 134 Stat. 1182 (Dec. 27, 2020) (Act), as amended by the Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Law, Division F, Title II, Section 60201, Public Law 117-58, 135 Stat. 429 (Nov. 15, 2021) (IIJA). The TBCP provides new federal funding for grants to Eligible Entities to expand access to and adoption of: (i) broadband service on Tribal Land; or (ii) programs that promote the use of broadband to access remote learning, telework, or telehealth resources. *See* Section A of this NOFO for the full description of this program.

I. Funding Instrument

Grant.

J. Eligibility

Section 905(a)(8) of the Act specifies the following entities as eligible to receive grants pursuant to the TBCP: (i) a Tribal Government; (ii) a Tribal College or University; (iii) the Department of Hawaiian Home Lands on behalf of the Native Hawaiian Community, including Native Hawaiian Education Programs; (iv) a Tribal organization; or (v) an Alaska Native Corporation. There are several instances where applicants will need to obtain a Tribal Government Resolution. Each Eligible Entity must coordinate internally (which includes all departments, subsidiaries, etc.) in submitting its single application. In an instance where one Eligible Entity is a subsidiary of another (*e.g.*, a Tribal Government and a subsidiary Tribal College or University), this shall not affect the subsidiary's eligibility to submit its own application, so long as it includes the requisite Tribal Government Resolution. Eligible Entities that previously received TBCP grant funding may apply for additional grant funding pursuant to this NOFO. *See* Section C of this NOFO for additional information concerning the eligibility requirements for this program.

K. Anticipated Amounts

NTIA will make approximately \$980,000,000 available in this NOFO for federal assistance under the TBCP.¹ Section 905(c)(3)(A) of the Act directs NTIA to make available not less than 3 percent of the amounts appropriated under subsection (b)(1) for the benefit of Native Hawaiians. Accordingly, NTIA allocated not less than \$30,000,000 to the Department of Hawaiian Home Lands (DHHL) on behalf of the Native Hawaiian Community in the June 3, 2021 TBCP NOFO (*i.e.*, the first round of funding). IHA appropriated an additional \$2 billion in new funding for grants under this program; thus, NTIA will allocate 3 percent of this amount, or \$60,000,000, to DHHL on behalf of the Native Hawaiian Community. Thus, the total TBCP allocation for DHHL – between the first and second rounds of funding – is \$90,000,000. In determining the funding amount available to DHHL in this second round of funding, NTIA has accounted for amounts awarded during the first round and subtracted those from the \$90,000,000 total.² Accordingly, this second NOFO makes \$72,715,237.15 available to DHHL for eligible activities.³

To meet the equitable distribution requirement of the Act, NTIA will allocate up to \$500,000 to each of the Federally Recognized Tribes delineated by the Department of the Interior's Bureau of Indian Affairs in accordance with Section B.3 of this NOFO. The \$500,000 allocation is not a funding cap for Federally Recognized Tribes, but rather is intended to ensure that program funding is equitably distributed by NTIA to all Eligible Entities, including Federally Recognized Tribes. Equitable distributions of up to \$500,000 will be awarded only to Tribal Governments that have not previously received a TBCP award (which includes equitable distribution awards) in the first round of funding from the TBCP. For consortium or regional applications that include Tribal Governments, equitable distribution amounts of up to \$500,000 per participating Tribal Government (that has not previously received a TBCP award) within the consortium would be awarded to the consortium's lead applicant on behalf of the eligible participating Tribal Governments.⁴ Lead consortium applicants that previously received TBCP funding may apply with a consortium, composed of new Tribes that did not receive funding in the first round of TBCP awards. Lead consortium applicants that received an award for a Planning, Engineering, Feasibility and Sustainability Studies project in the first round of TBCP funding may submit an application for a Broadband Infrastructure Deployment project in the second round of TBCP funding consisting of the same Tribes that participated in the first-round consortium. NTIA expects to allocate not more than \$100 million to standalone Broadband Use and Adoption projects.

NTIA expects to make awards under this program within the following funding ranges:

Broadband Infrastructure Deployment Projects proposed by a single applicant: \$1,000,000 to \$50,000,000.

¹ This figure reflects the amount remaining from the funding appropriated for the TBCP, including the additional funding appropriated through IHA's Tribal Connectivity Technical Amendments, minus the two percent of that sum allocated for administrative purposes pursuant to section 905(c)(3)(B) of the Act.

² On December 19, 2022, NTIA announced a TBCP award in the amount of \$17,284,762.85 to DHHL.

³ The application for these funds must meet all NOFO requirements to qualify for funding.

⁴ The lead applicant will be required to submit a Tribal Government Resolution from each participating Tribal Government as part of its application package.

Broadband Use and Adoption Projects (includes Digital Equity Planning): \$100,000 to \$2,500,000.

These funding ranges are not required minimums or maximums, but Eligible Entities requesting funding for projects outside of these ranges must provide a reasonable explanation for the variance in their project size. Consortium applications are encouraged. Additional funding level justification is not required for consortium applications for Broadband Use and Adoption projects that do not exceed \$2,500,000 per consortium member or for consortium applications for Broadband Infrastructure Deployment projects that do not exceed \$50,000,000 per consortium member.

The period of performance for Broadband Use and Adoption projects and for Broadband Infrastructure Deployment projects is up to four years; however, the Assistant Secretary may extend the period of performance beyond four years if certain conditions are met. *See* Section B of this NOFO for additional information pertaining to award amounts and to the period of performance for grants issued pursuant to this NOFO.

L. Cost Sharing/Matching

The Act does not contain a statutory cost sharing or matching funds requirement. NTIA will not require an Eligible Entity applying for a grant under the TBCP to provide a non-federal cost contribution. *See* Section C of this NOFO for more information pertaining to the cost sharing requirements for this program.

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FULL ANNOUNCEMENT TEXT

A. Program Description

NTIA issues this NOFO to describe the requirements under which it will award grants for the second round of funding for the TBCP, authorized by the Consolidated Appropriations Act, 2021, Division N, Title IX, Section 905(c), Public Law 116-260, 134 Stat. 1182 (Dec. 27, 2020) (Act), as amended by the Infrastructure Investment and Jobs Act, 2021, Division F, Title II, Section 60201, Public Law 117-58, 135 Stat. 429 (Nov. 15, 2021) (IIJA).

1. Background. The Internet plays a vital and increasingly central role in how Americans work, study, obtain health care, and take part in our democracy. The COVID-19

pandemic demonstrated the importance of ensuring that everyone in America has access to high-speed Internet service. Many Native American, Alaska Native, and Native Hawaiian communities have inadequate access to the Internet and the unique opportunities that it offers. The causes of this inadequate access can involve living in areas that lack any high-speed Internet service, unreliable service speeds or quality, and service offerings that are prohibitively expensive.

President Biden has established the goal of providing affordable, reliable, high-speed Internet service to Native communities, as well as for all Americans. It is estimated that over 30 million Americans, including many who live on Tribal Lands and in rural America, lack even minimally adequate Internet access. The Biden-Harris Administration is committed to addressing this challenge, in part through its implementation of the Infrastructure Investment and Jobs Act (IIJA), also known as the Bipartisan Infrastructure Law (NTIA will use the IIJA reference for purposes of this NOFO), and the Consolidated Appropriations Act, 2021 (CAA). The efforts of the Biden-Harris Administration to improve connections between Native communities, provide laptops and other essential computer equipment to Tribal members, and promote high-speed Internet deployment projects to serve Tribal Lands reflect its commitment to fostering the resilience and greater prosperity of Native Nations.

The Act appropriated \$1 billion for the TBCP. The IIJA, which Congress passed with bipartisan support, subsequently appropriated an additional \$2 billion in new funding for TBCP, bringing the total amount of funding for the TBCP to \$3 billion.⁵ Of this \$3 billion total, and consistent with the Act and IIJA, NTIA has already approved the use of approximately \$2 billion to award applications submitted pursuant to the first TBCP NOFO, released on June 3, 2021.

This second NOFO describes how NTIA will administer the remaining TBCP funds. Consultation and coordination with Tribal Governments will continue to play a central role in the administration of the TBCP, reflecting the unique government-to-government relationship that exists between Federally Recognized Tribes and the U.S. Department of Commerce. NTIA conducted Tribal consultations on September 12, 14, and 16, 2022, to solicit input from Tribal leaders on the development of requirements for the second NOFO, which NTIA has incorporated into this document. Grant funds will be made available under this NOFO to eligible Native American, Alaska Native, and Native Hawaiian entities for broadband deployment on Tribal Lands, digital inclusion efforts (which may include digital equity planning and workforce development), telehealth, and distance learning.

NTIA will prioritize the funding of applications based on the prioritization criteria described in Section E.3 of this NOFO. All proposed projects that are submitted should be comprehensive and completely autonomous, and therefore not reliant on future funding or a future adjacent project.

2. Overview of the Tribal Broadband Connectivity Program. The TBCP makes grants available to Eligible Entities, which include a Tribal Government, a Tribal College or

⁵ IIJA authorized the Assistant Secretary to use a portion of the \$2 billion appropriated by IIJA to fund applications received during the first round of TBCP funding. *See* Section 905(e)(6)(B)(i) of the Act, *as amended* by Section 60201 of IIJA.

University, the Department of Hawaiian Home Lands on behalf of the Native Hawaiian Community, including Native Hawaiian Education Programs, a Tribal organization, or an Alaskan Native Corporation, for the deployment and adoption of broadband service on Tribal Land and for programs that promote the use of broadband to access remote learning, telework, or telehealth resources. Grant funds available under this program may be used for the following purposes:

- (A) Broadband infrastructure deployment projects, including support for the establishment of carrier-neutral submarine cable landing stations; and
- (B) Affordable broadband programs, including—
 - (i) Providing free or reduced-cost broadband service and preventing disconnection of existing broadband service;
 - (ii) preventing disconnection of existing broadband service;
- (C) distance learning;
- (D) telehealth;
- (E) digital inclusion efforts (including digital equity planning and workforce development activities); and
- (F) broadband adoption activities.

The purpose of the TBCP is to improve the quality of life, spur economic development and commercial activity, and create opportunities for remote employment, online entrepreneurship, remote learning, and telehealth by expanding broadband access and by providing digital training and inclusion programs to Native American communities. In implementing and administering this grant program, NTIA will ensure that necessary investments are designed to provide an adequate minimum level of service and are unlikely to be made using private sources of funds.

a. Broadband Infrastructure Deployment. The TBCP invites project proposals for the deployment of broadband infrastructure on Tribal Lands, including support for the establishment of carrier-neutral submarine cable landing stations. Such infrastructure deployment projects may involve the construction of middle mile or last mile networks as well as interconnection. Applicants may propose projects that deploy new broadband infrastructure, replace antiquated infrastructure, or upgrade or extend existing infrastructure. For example, applicants may propose projects that utilize 2.5 GHz licenses or other licensed spectrum received from the Federal Communications Commission (FCC). NTIA requires construction of networks that use commercial grade equipment that will meet current needs and be scalable to meet future needs. Infrastructure may include, but is not limited to, cable, fiber, wireless, fixed wireless, and satellite (existing and operational), or a combination thereof. Applicants may propose the technology or technologies that best meets or meet Tribal needs; however, NTIA encourages the submission of project proposals that deploy future-proof infrastructure to the extent feasible, *e.g.*, fiber. NTIA reserves the right not to fund project proposals that depend on the deployment or launch of new satellites. Proposals that include satellite internet or connections as part of their technology solution must meet minimum speed and latency standards as defined in this NOFO.

Section 905(c)(8) of the Act directs Eligible Entities to prioritize the construction of new broadband infrastructure proposals that will serve currently Unserved households. NTIA will permit Tribes to provide a Tribal Government Certification attesting to the Unserved status of

proposed service areas within Tribal Lands, and lands providing services to Tribal members, with a description of how the Tribe determined that the area is Unserved. If the Tribe is aware of the presence of facilities capable of delivering Qualifying Broadband Service, *e.g.*, fiber facilities or other broadband technology, deployed on their Tribal Lands, they must disclose this information to NTIA. As part of the process described in Section E.3.c.ii, NTIA will conduct an analysis of these certifications and disclosures.

As part of its Tribal Government Certification, the Tribe must consult the FCC's National Broadband Map, using the most recently published version available at the time of application submission. If that map indicates that Qualifying Broadband Service is available at any location within the proposed service area(s), but the Tribe disagrees, then the Tribe shall submit a formal challenge to the FCC using the challenge process for its National Broadband Map, or indicate that it is participating in a state's submission for the FCC's challenge process, and provide documentation to NTIA of the challenge(s) submitted. The Tribe must also disclose to NTIA as part of its application whether it has an Enforceable Buildout Commitment as defined in Section A.3.k of the NOFO. Section D.2.c.iv. of this NOFO contains more information about the required disclosures related to the Tribal Government Certification process. Section D.8 of the NOFO discusses the consequences of providing any false, fictitious, or fraudulent statements (or concealment or omission of a material fact) with respect to the required certifications and disclosures.

NTIA encourages infrastructure projects that enhance economic development and provide a clear plan to build technological knowledge and capacity in their Tribal employee base by training existing employees and/or creating new jobs for Tribal members based on technological need and advancement to support equity in Tribal workforce development; expand education, telehealth, public safety and telework access; and support smart technologies for agriculture, manufacturing, utilities, and government operations and services on Tribal Lands. NTIA highly encourages all applicants to focus on providing a thoughtful and comprehensive model that includes the ongoing sustainability of their broadband infrastructure projects so that they can best serve Tribal communities for the long term.

It is important that necessary investments in broadband infrastructure be carried out in ways that produce high-quality infrastructure, avert disruptive and costly delays, and promote efficiency. NTIA understands the importance of promoting workforce development and encourages recipients to ensure that broadband projects use strong labor standards, consistent with Tribal law, including project labor agreements and community benefit agreements that offer wages at or above the prevailing rate and include local hire provisions, not only to promote effective and efficient delivery of high-quality infrastructure projects, but also to support economic recovery through strong employment and capacity building opportunities for workers. Using these practices in construction projects may help to ensure a steady supply of skilled labor that would minimize disruptions, such as those associated with labor disputes or workplace injuries.

Moreover, Tribal Lands that lack broadband infrastructure are also often the most vulnerable to extreme weather and climate events. At present, weather- and climate-related risks to broadband networks include wildfires, extreme heat and cold, inland and coastal flooding, and the extreme winds produced by weather events such as tornadoes and hurricanes. NTIA encourages Eligible

Entities to account for current and future weather- and climate-related risks to new broadband infrastructure projects. Because retrofitted and new infrastructure for broadband might be expected to have a lifetime of 20 years or more, NTIA encourages Eligible Entities to account not only for current risks but also for how the frequency, severity, and nature of these extreme events may plausibly evolve as our climate continues to change over the coming decades. Future projected climate change is expected to continue to result in higher seasonal temperatures and an increased likelihood of extreme heat events, higher risk of wildfires, more intense rainfall events, sea level rise and coastal flooding, permafrost thaw in Alaska, and the potential for stronger hurricanes when they do form, as well as other climate change-related impacts.

The Act requires Eligible Entities to complete their projects within four years of their receipt of grant funds. The Assistant Secretary, however, may extend the award period for broadband infrastructure construction projects if the Eligible Entity certifies that: (1) it has a plan for the use of the grant funds; (2) the construction project is underway; or (3) extenuating circumstances require an extension of time to allow the project to be completed.

Importantly, Broadband Infrastructure Deployment projects are subject to the Build America, Buy America domestic content procurement preference requirements set forth in the IIJA, which includes the Build America, Buy America Act, Pub. L. No. 117-58, §§ 70901-52 (BABA). *See* Section F.4. of this NOFO for detailed information on the BABA domestic content procurement preference requirements applicable to Broadband Infrastructure Deployment projects.

b. Broadband Use and Adoption. The TBCP invites project proposals that address the digital divide on Tribal Lands, including broadband and digital inclusion efforts (*e.g.*, digital equity planning), training staff and Tribal community members, and providing technical support and capacity building for Tribal institutions. NTIA encourages efforts to develop programs and other resources that build the capacity of Tribes to use broadband to provide ongoing and sustainable benefits to Native American/Alaska Native/Native Hawaiian communities. Additionally, NTIA encourages project proposals that include strategies to address affordability issues, including but not limited to, strategies to increase enrollment in the FCC's Affordable Connectivity Program (ACP) by eligible households.⁶ The Act, as amended, requires eligible entities to expend their grant funds and complete their Broadband Use and Adoption projects within four years of receiving grant funds from NTIA. The Assistant Secretary may, for good cause, extend the award period for Broadband Use and Adoption projects based on a detailed showing by the Eligible Entity of the need for an extension, pursuant to Section 905(c)(4)(B)(iii) of the Act, as amended by IIJA.

NTIA expects to allocate not more than \$100 million to standalone Broadband Use and Adoption projects.

Applicants may request funding for Broadband Use and Adoption projects that have at least one of the following purposes:

⁶ The ACP was established in IIJA as the successor to a previous program that has since been discontinued. The FCC issued the Affordable Connectivity Program Report and Order in 2022, which sets out details regarding the ACP's operation. *See* Affordable Connectivity Program, Report and Order and Further Notice of Proposed Rulemaking, FCC 22-2 (Jan. 21, 2022).

- i. Provides broadband education, awareness, training, access, equipment, and support to Native American/Alaska Native/Native Hawaiian-serving anchor institutions including schools, libraries, medical and healthcare providers, Tribal colleges, public housing, workforce facilities, and other community support organizations serving Native American/Alaska Native/Native Hawaiian populations;
- ii. Provides affordable broadband programs to Native American/Alaska Native/Native Hawaiian communities, including providing free or reduced-cost broadband service and preventing disconnection of existing broadband service;
- iii. Improves access to, and use of, broadband services by Native American/Alaska Native/Native Hawaiian anchor institutions to deliver telehealth, remote learning, digital inclusion, and workforce development programs;
- iv. Stimulates the adoption and use of broadband services by Native American/Alaska Native/Native Hawaiian communities for telehealth, remote learning, telework and entrepreneurship, economic growth, and job creation;
- v. Conducts digital inclusion efforts, which may include planning activities to identify barriers to achieving digital equity in Native American/Alaska Native/Native Hawaiian communities and develop strategies to overcome those barriers;
- vi. Builds digital skills and workforce capacity in Native American/Alaska Native/Native Hawaiian communities;
- vii. Assesses Native American/Alaska Native/Native Hawaiian community needs and conducts planning related to online education, telehealth, digital inclusion, workforce and digital skills development; and/or
- viii. Gathers data and conducts evaluation of the digital inclusion and broadband adoption programs funded by the grant to determine their effectiveness and develop best practices to facilitate digital inclusion and broadband adoption by Native American/Alaska Native/Native Hawaiian communities on Tribal Lands.

The definitions applicable to this NOFO are set forth below.

3. Definitions. The following definitions, including certain definitions set forth in section 905(a) of the Act, are applicable to the TBCP:

- a) Assistant Secretary— means the Assistant Secretary of Commerce for Communications and Information.
- b) Broadband or Broadband Service—has the meaning given the term “broadband Internet access service” in 47 C.F.R. § 8.1(b), or any successor regulation.
- c) Commission—means the Federal Communications Commission.

- d) Commitment of Funds—recipients have 18 months to commit the funds received through a TBCP award, which means they have set aside funds in anticipation of expending them on eligible project activities. Recipients may meet this requirement through proof of procurement or the approved project budget.
- e) Community Anchor Institutions—means schools, libraries, medical and healthcare providers, public safety entities, public housing authorities, institutes of higher education, and other community support organizations that provide outreach, access, equipment, and support services to facilitate greater use of broadband service by the entire population and local governments.
- f) Department—means the U.S. Department of Commerce.
- g) Digital Equity – means the condition in which individuals and communities have the information technology capacity that is needed for full participation in the society and economy of the United States.⁷
- h) Digital Inclusion – means the activities that are necessary to ensure that all individuals in the United States have access to, and the use of, affordable information and communications technologies, such as reliable fixed and wireless broadband Internet service, Internet-enabled devices that meet the needs of the user, and applications and online content designed to enable and encourage self-sufficiency, participation, and collaboration, and includes obtaining access to digital literacy training, the provision of quality technical support, and obtaining basic awareness of measures to ensure online privacy and cybersecurity.⁸
- i) Digital Literacy – means the skills associated with using technology to enable users to find, evaluate, organize, create, and communicate information.⁹
- j) Eligible Entity or Eligible Entities— means—
 - (i) a Tribal Government;
 - (ii) a Tribal College or University;
 - (iii) the Department of Hawaiian Home Lands on behalf of the Native Hawaiian Community, including Native Hawaiian Education Programs;
 - (iv) a Tribal organization; or
 - (v) a Native Corporation.
- k) Enforceable Buildout Commitment—means, in the context of the definition of Unserved set forth in Section A.3.t of this NOFO, a legally binding agreement in which the Tribe provides a limited waiver of sovereign immunity in a Tribal Government Resolution and

⁷ NTIA adopts the definition for “digital equity” set forth in Title III of the IJA and incorporated into the NOFO for the State Digital Equity Planning Grant Program. *See* Section 60302(10) of the IJA.

⁸ NTIA adopts the definition for “digital inclusion” set forth in Title III of the IJA and incorporated into the NOFO for the State Digital Equity Planning Grant Program. *See* Section 60302(11) of the IJA.

⁹ NTIA adopts the definition for “digital literacy” set forth in Title III of the IJA and incorporated into the NOFO for the State Digital Equity Planning Grant Program. *See* Section 60302(12) of the IJA.

in the contract vehicle, between the Tribal Government of the Tribal Lands in the proposed service area, or its authorized agent, and a service provider committing to deliver “Qualifying Broadband Service” to Unserved households on those Tribal Lands.

- l) Native Corporation—has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act 11 (43 U.S.C. 1602).
- m) Native Hawaiian—has the meaning given the term in section 801 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4221).
- n) Qualifying Broadband Service—means broadband service with— (i) a download speed of not less than 25 megabits per second; (ii) an upload speed of not less than 3 megabits per second; and (iii) a latency sufficient to support real time, interactive applications. For purposes of this program, NTIA will interpret the 25/3 standard to mean the ability to provide 25 Mbps downstream and 3 Mbps upstream simultaneously to every household in the eligible service area. NTIA will interpret eligible service area for purposes of this program to mean the Eligible Entities’ proposed service area, consistent with the definition of Tribal Land in Section A.3.r of the NOFO. NTIA will interpret latency to mean 95 percent or more of all peak period measurements of network round trip latency (*i.e.*, the total round-trip latency between the customer premises and the closest designated Internet core peering interconnection point) are at or below 100 milliseconds.¹⁰
- o) State—means any State of the United States, the District of Columbia, Puerto Rico, American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.
- p) Tribal Consortium—means a coalition of Eligible Entities, the participation of which is authorized by the governing body of each such Eligible Entity (the governing body of the Tribal Government if the entity is a subsidiary of a Tribe), as memorialized by a current resolution of consent or similar decree, authorizing the Tribal Consortium, on behalf of each Eligible Entity participant, to apply for and receive TBCP grant funding pursuant to this NOFO as a single entity (*i.e.*, the consortium) based upon a single application encompassing the shared project proposal.
- q) Tribal Government—means the governing body of any Indian or Alaska Native Tribe, band, nation, pueblo, village, community, component band, or component reservation, individually recognized (including parenthetically) in the list published most recently as

¹⁰ These standards are consistent with the manner in which other federal support programs apply these terms. See Rural Utilities Service, U.S. Department of Agriculture, *Funding Opportunity Announcement and Solicitation of Application for Second Round of the Reconnect Program*, 84 Fed. Reg. 67913, 67918 (Dec. 12, 2019); *In the Matter of Rural Digital Opportunity Fund, Connect America Fund*, 85 Fed. Reg. 13773, 13778 (Feb. 7, 2020). [See also, Connect America Fund, Order, 34 FCC Rcd 6509, 6527-28 \(July 6, 2018\) \(Performance Measures Order\); Connect America Fund, Order on Reconsideration, 34 FCC Rcd 10109 \(Oct. 31, 2019\) \(Performance Measures Reconsideration Order\).](#)

of the date of enactment of this Act pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).¹¹

- r) Tribal Land—means— (A) any land located within the boundaries of— (i) an Indian reservation, pueblo, or rancharia; or (ii) a former reservation within Oklahoma; (B) any land not located within the boundaries of an Indian reservation, pueblo, or rancharia, the title to which is held— (i) in trust by the United States for the benefit of an Indian Tribe or an individual Indian; (ii) by an Indian Tribe or an individual Indian, subject to restriction against alienation under laws of the United States; or (iii) by a dependent Indian community; (C) any land located within a region established pursuant to section 7(a) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(a)); (D) Hawaiian Home Lands, as defined in section 801 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4221); or (E) those areas or communities designated by the Assistant Secretary of Indian Affairs of the Department of the Interior that are near, adjacent, or contiguous to reservations where financial assistance and social service programs are provided to Indians because of their status as Indians.
- s) Tribal Organization—is defined in 25 U.S.C. 5304(l) and means the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: provided, that in any case where a contract is let or grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contract or grant.
- t) Unserved—with respect to a household, means— (A) the household lacks access to Qualifying Broadband Service; and (B) no broadband provider has been selected to receive, or is otherwise receiving, Federal or State funding subject to enforceable build out commitments to deploy Qualifying Broadband Service in the specific area where the household is located by dates certain, even if such service is not yet available, provided that the Federal or State agency providing the funding has not deemed the service provider to be in default of its buildout obligations under the applicable Federal or State program.

B. Federal Award Information

1. Funding Availability

NTIA will make approximately \$980,000,000 available for federal assistance under the second round of the TBCP, which will be allocated to Eligible Entities as described in Section B.3 of this NOFO.

¹¹ See U.S. Department of the Interior, Bureau of Indian Affairs, *Indian Entities Recognized by and Eligible to Receive Services From the United States Bureau of Indian Affairs*, 88 Fed. Reg. 2112 (Jan. 12, 2023), available at: <https://www.govinfo.gov/content/pkg/FR-2023-01-12/pdf/2023-00504.pdf>.

2. Project/Award Period

As established in section 905(c)(4)(B) of the Act, as amended, the award period for the TBCP is up to four years from the receipt of grant funds. Furthermore, Section 905(c)(4)(A)(i) of the Act, as amended by IIJA in section 60201(1)(B)(i)(I), requires a Commitment of Funds by an Eligible Entity, in accordance with its approved application, not later than 18 months after receiving an allocation of funds pursuant to a specific grant award. Any grant funds not committed by an Eligible Entity by this deadline will be made available to other Eligible Entities for the purposes provided in this subsection pursuant to Section 905(c)(4)(A)(ii) of the Act, as amended in IIJA section 60201(1)(B)(i)(II).

a. Extensions for Infrastructure Projects: The Assistant Secretary may extend the period required for the expenditure of funds under the TBCP for an Eligible Entity that proposes to use the grant funds for construction of broadband infrastructure if the Eligible Entity certifies that:

- (I) the Eligible Entity has a plan for use of the grant funds;
- (II) the construction project is underway; or
- (III) extenuating circumstances require an extension of time to allow the project to be completed.

b. Extensions for Broadband Use and Adoption Projects: The Assistant Secretary may, for good cause, extend the award period for broadband use and adoption projects based on a detailed showing by the Eligible Entity of the need for an extension pursuant to Section 905(c)(4)(B)(iii) of the Act, as amended by IIJA.

c. Petition for Extension: An Eligible Entity may submit a request for an extension to the four-year award period with its application or not later than ninety (90) calendar days before the end of the award period.

d. Reversion of Funds: NTIA will make any grant funds not expended by an Eligible Entity by the end of the award period (as may be extended) available to other Eligible Entities for the purposes provided in the TBCP.

e. Treatment of Unallocated Funds: In accordance with section 905(e)(2)(F) of the Act, if an Eligible Entity does not submit an application by the deadline established under this NOFO, or the Assistant Secretary does not approve an application submitted by an Eligible Entity under this NOFO, the Assistant Secretary will make the amounts allocated for the Eligible Entity available to other Eligible Entities on an equitable basis through the publication of a subsequent notice.

3. Award Amount

In accordance with section 905(c)(3)(A) of the Act, NTIA will make the amounts appropriated under the TBCP available to Eligible Entities on an equitable basis. Section 905(c)(3)(A) of the Act directs NTIA to make available not less than 3 percent of the amounts appropriated under subsection (b)(1) for the benefit of Native Hawaiians. Accordingly, NTIA allocated not less than

\$30,000,000 to DHHL on behalf of the Native Hawaiian Community, as the Eligible Entity designated in section 905(a)(8) of the Act, in the first round of TBCP funding. IIA appropriated an additional \$2 billion in new funding for TBCP grants; thus, NTIA will allocate 3 percent of this amount, or \$60,000,000, to DHHL on behalf of the Native Hawaiian Community. Thus, the total TBCP allocation for DHHL – between the first and second rounds of funding – is \$90,000,000. In determining the funding amounts available to DHHL in this second round of TBCP funding, NTIA has accounted for amounts awarded during the first round and subtracted those from the \$90,000,000 total.¹² Accordingly, this second NOFO makes \$72,715,237.15 available to DHHL for eligible activities.

To meet the equitable distribution requirement of the Act, NTIA will allocate up to \$500,000 to each of the Federally Recognized Tribes delineated by the U.S. Department of the Interior's Bureau of Indian Affairs (including those listed parenthetically). The \$500,000 allocation is not a funding cap for Federally Recognized Tribes, but rather is intended to ensure that program funding is equitably distributed by NTIA to all Eligible Entities. Equitable distributions of up to \$500,000 will be awarded only to Tribal Governments that have not previously received a TBCP award (which includes equitable distribution awards) in the first round of funding from the TBCP. For consortium or regional applications that include Tribal Governments, equitable distribution amounts of up to \$500,000 per participating Tribal Government (that have not previously received a TBCP award) within the consortium would be awarded to the consortium's lead applicant on behalf of the eligible participating Tribal Governments.¹³ Lead consortium applicants that previously received TBCP funding may apply with a consortium composed of new Tribes that did not receive funding in the first round of TBCP awards. Lead consortium applicants that received an award for a Planning, Engineering, Feasibility and Sustainability Studies project in the first round of TBCP funding may submit an application for a Broadband Infrastructure Deployment project in the second round of TBCP funding consisting of the same Tribes that participated in the first-round consortium.

Importantly, all Eligible Entities, including but not limited to, DHHL and Federally Recognized Tribes, must submit a single application by the application deadline to be eligible for program funding. The TBCP is not a formula or block grant program and an application for funding must be timely submitted by an Eligible Entity to receive funding consideration from NTIA. *See* Section C.3.a of this NOFO for more information on the single application requirement.

NTIA expects to make awards under this program within the following funding ranges:

Broadband Infrastructure Deployment Projects proposed by a single applicant: \$1,000,000 to \$50,000,000

Broadband Use and Adoption Projects: \$100,000 to \$2,500,000

These funding ranges are not required minimums and maximums, but eligible entities requesting funding for projects outside of these ranges must provide a reasonable explanation for the

¹² On December 19, 2022, NTIA announced an award in the amount of \$17,284,762.85 to DHHL.

¹³ The lead applicant will be required to submit a Tribal Government Resolution from each participating Tribal Government as part of its application package.

variance in their project size. An award recipient may use NTIA award funds for any of the eligible uses enumerated in Section D.7. of this NOFO.

Consortium applications are encouraged. Additional funding level justification is not required for consortium applications for Broadband Use and Adoption projects that do not exceed \$2,500,000 per consortium member or for consortium applications for Broadband Infrastructure Deployment projects that do not exceed \$50,000,000 per consortium member.

In addition, pursuant to section 905(c)(4)(B)(iii) of the Act, NTIA retains discretion to make supplemental awards (*i.e.*, provide additional funding beyond the initial award) to an Eligible Entity to the extent that another Eligible Entity does not expend some or all of its grant funds during the other Eligible Entity's period of performance.

NTIA will allocate not more than \$100 million to standalone Broadband Use and Adoption projects.

4. Type of Funding Instrument

The funding instrument for awards made pursuant to the NOFO will be a grant.

C. Eligibility Information

1. Eligible Applicants

Section 905(a)(8) of the Act defines the entities eligible to apply for a TBCP grant. Specifically, Eligible Entities include: (i) a Tribal Government; (ii) a Tribal College or University; (iii) the Department of Hawaiian Home Lands on behalf of the Native Hawaiian Community, including Native Hawaiian Education Programs; (iv) a Tribal organization; or (v) an Alaska Native Corporation. Eligible Entities that previously received TBCP grant funding may apply for additional grant funding pursuant to this NOFO.

There are several instances where applicants will need to obtain a Tribal Government Resolution. *See* Section C.3.c of this NOFO for more information about this requirement. Each Eligible Entity must coordinate internally (which includes all departments, subsidiaries, etc.) in submitting its single application. In an instance where one Eligible Entity is a subsidiary of another (*e.g.*, a Tribal Government and a subsidiary Tribal College or University), this shall not affect the subsidiary's eligibility to submit its own application, so long as it includes the requisite Tribal Government Resolution.

Consortium applications are encouraged. Note, the Applicant should take care to ensure they are **either** applying as a single entity, or as part of a single consortium application. Applicants may only be part of one application regardless of type. This requirement is consistent with Section 905(e)(2)(C) of the Act that limits an Eligible Entity to one single application submission for TBCP funding. If NTIA determines that an Eligible Entity is participating in multiple applications, this may significantly delay NTIA's review of such applications and may result in NTIA removing that entity from consideration for funding for both their individual application and any consortium applications they are a party to.

2. Cost Sharing or Matching

The Act does not contain a statutory cost sharing or matching funds requirement. Accordingly, NTIA will not require an Eligible Entity applying for a grant under the TBCP to provide non-federal cost share and will not give additional consideration during the evaluation process for applications containing non-federal cost share.

3. Other

a. Single Application. Section 905(e)(2)(C) of the Act provides that an Eligible Entity may submit only one application for the TBCP. Accordingly, each Eligible Entity must coordinate internally (which includes all departments, subsidiaries, etc.) in submitting its single application. An Eligible Entity's single application must include the total amount of funding being requested and must account for all Broadband Infrastructure Deployment Projects and all Broadband Use and Adoption Projects that will utilize the requested funding. Applicants that submit a single application must not also be part of a consortium application.

b. Encouragement of Consortium Applications. NTIA encourages a regional approach to Broadband Infrastructure Deployment Projects through the submission of an application on behalf of a consortium of multiple Tribal partners (each of which must be an Eligible Entity) that cover regional infrastructure gaps or other eligible projects in the most cost-effective manner, while providing access to those communities that meet the definition of "Unserved" per the statute. Similarly, NTIA encourages Eligible Entities to collaborate or participate as part of a consortium for Broadband Use and Adoption Projects. Applicants are not permitted to submit both a single application and apply as part of a consortium application. In addition, Eligible Entities may only be part of one consortium application. If NTIA determines that an Eligible Entity is participating in multiple applications, this may significantly delay NTIA's review of such applications and may result in NTIA removing that entity from consideration for funding for both their individual application and any consortium applications they are a party to.

c. Tribal Consent and Authorization.

i. Broadband Infrastructure Deployment. Each Eligible Entity applying for Broadband Infrastructure Deployment funds is required to submit a Resolution of Consent from each Tribal Government and/or from the Tribal Council of the appropriate governing body upon whose Tribal Lands the broadband infrastructure will be deployed. Consortium applications submitted without resolutions from each Tribe named in the application will be considered incomplete.

- For Tribal Organizations and Tribal Colleges, even when the Tribal Government is a founding member, a Resolution of Consent must still be obtained.
- In the case of consortiums, a Resolution of Consent is required from each Tribal Government participating in the project.
- For Broadband Infrastructure Deployment Projects on Tribal Lands in Hawaii, consent must be obtained from the Department of Hawaiian Home Lands.

- For Broadband Infrastructure Deployment Projects on Tribal Lands in Alaska, all applicants must notify all Tribal Governments within their proposed service area. Any Tribal Government located in a proposed service area may choose to define the area for which it will require a Resolution of Consent. The area defined by the Tribal Government must include their local presence and Tribal Member Households and be submitted to NTIA. The Tribal Government may use information submitted in other proceedings, such as the FCC 2.5 GHz Tribal Priority Window. If there is overlap between more than one Tribal Governments' definition of their area, the overlapping Tribal Governments will be given an opportunity to cure by working together to resolve this overlap.

NTIA will provide Eligible Entities with one opportunity to cure missing Resolutions of Consent during the Initial Administrative and Eligibility Review. NTIA may deem application(s) submitted without the appropriate resolution(s) as incomplete and may remove them from consideration if they are not cured at the Initial Administrative and Eligibility Review stage.

ii. Broadband Use and Adoption. Eligible Entities are strongly encouraged to coordinate with one another so that there are no duplicative or overlapping applications. If there are duplicative or overlapping applications, each Eligible Entity may be given an opportunity to cure by working together to resolve any potential duplications or overlaps. Deference will be given towards Tribal Governments on their own Tribal Lands. Each Eligible Entity must coordinate internally (which includes all departments, subsidiaries, etc.) in submitting its single application. In an instance where one Eligible Entity is a subsidiary of another (*e.g.*, a Tribal Government and a subsidiary Tribal College or University), this shall not affect the subsidiary's eligibility to submit its own application, so long as it includes the requisite Tribal Government Resolution of Consent.

D. Application and Submission Information

1. Address to Request Application Package

Application forms and instructions are available on the Grants.gov website (www.grants.gov). To access these materials, go to <http://www.grants.gov>, select "How to Apply for Grants," and then select "Search for Opportunity Package." Enter the CFDA number (11.029) and/or the funding opportunity number (NTIA-ICG-TBCPO-2023-2008098). Select "Grant Opportunity Package," and then follow the prompts. To download the instructions, go to "Preview Opportunity Package" and select "Download Instructions." NTIA recommends that applicants planning to file their applications through Grants.gov visit the Grants.gov website prior to filing their applications so that they fully understand the process and requirements. Failure to properly register and apply for funds under the TBCP by the deadline established in this NOFO may result in an eligible entity losing this grant opportunity. Applications will be accepted until the deadline and are processed as received.

Applicants without Internet access may request a copy of the application materials by contacting

the NTIA representative identified in Section G.1 of this NOFO.

With respect to electronic methods for providing information about funding opportunities or accepting applicants' submissions of information, NTIA is responsible for compliance with section 508 of the Rehabilitation Act of 1973, as amended by the Workforce Act of 1998.

2. Content and Form of Applications

Applications for the TBCP must follow the format described in this NOFO. Applications must be timely submitted in accordance with the application deadlines set forth in Section D.4 of this NOFO. NTIA prefers that applicants use Grants.gov to submit their application. Applications submitted by mail may be in hard copy (paper) or electronic format (*e.g.*, CD-ROM, disk, or thumb drive). NTIA will also accept applications submitted by email to broadbandusa@ntia.gov. Applications submitted by email should be machine-readable and should not be copy-protected.

A complete application packet for this round of TBCP funding consists of the following forms and required submissions, including the SF-424 Family Forms, TBCP2 Project Information Form, Project Narrative, and Budget Narrative and Detailed Budget Justification, which are all discussed in Sections D.2.a through D.2.c below.

Section D.2.a describes the forms and documentation required from all applicants for a TBCP grant. Applicants proposing a project that involves the deployment or construction of broadband infrastructure will submit the required forms and documentation enumerated in Section D.2.a and Section D.2.b of this NOFO, including the Standard Form 424C Budget Information-Construction Programs. Applicants proposing a project for broadband adoption or digital inclusion activities will submit the required forms and documentation enumerated in Section D.2.a and Section D.2.c of this NOFO, including Standard Form 424A Budget Information-Non Construction Programs. Applicants proposing a project that contains both broadband infrastructure and broadband adoption/digital inclusion activities will submit the forms and documentation enumerated in both Section D.2.b (for the construction components) and Section D.2.c (for the non-construction components) as well as the documents described in Section D.2.a.

a. Forms and Documentation Required from ALL Applicants for a Tribal Broadband Connectivity Program Grant

i. Standard Form 424: Application for Federal Assistance

This is the title page (SF-424). This form (and all additional forms requiring a signature) must be signed by the applicant's authorized organization representative (AOR). Electronic signatures submitted through www.grants.gov satisfy this requirement. Should the AOR be unable to provide an electronic signature, a letter delegating electronic signatory authority must be submitted, and the delegate's signature provided electronically through www.grants.gov.

- SF-424, Item 8.d Zip/Postal Code field, should reflect the Zip code + 4 (#####-####) format.
- SF-424, Item 12, should list the NOFO number as NTIA-ICG-TBCPO-2023-2008098.
- SF-424, Item 18, should list the total federal budget amount requested for the entire project.
- For SF-424, Item 21, the list of certifications and assurances is contained in SF-424B or SF-424D.

ii. CD-511 Certification Regarding Lobbying:

Enter “NTIA-ICG-TBCPO-2023-2008098” in the Award Number field. Enter the title of the application used in field 15 of the SF-424, or an abbreviation of that title, in the Project Name field. If this form is not applicable, make note on the form and include it in your application package as it is a required document.

iii. Standard Form LLL, Disclosure of Lobbying Activities

All applicants are required to submit a Standard Form LLL, Disclosure of Lobbying Activities, even if the applicant did not engage in any such activities. For applicants that do not have any lobbying activities to disclose, the form should be completed as “not applicable.”

iv. TBCP2 Project Information Form

All applicants are required to complete all applicable fields in the TBCP2 Project Information Form and submit with its application package.

v. Certification Regarding Compliance with Cybersecurity and Supply Chain Management Requirements

All applicants are required to submit an executed copy of the *Certification Regarding Compliance with Cybersecurity and Supply Chain Management Requirements* contained in Appendix A of this NOFO. In the case of a consortium, each Eligible Entity participating in the consortium must submit its own executed certification.

b. Required Forms and Documentation for Broadband Use and Adoption Projects

i. Standard Form 424A: Budget Information for Non-Construction Programs (SF-424A) (required if application includes non-construction activities)

Applicants must complete this form and provide a budget summary for all proposed non-construction projects and activities to be funded by the grant funds.

ii. Project Narrative for Broadband Use and Adoption Projects

The Project Narrative is a word-processed document of not more than 20 single- or 40 double-spaced pages responsive to the program description, statutory purposes, funding priorities, and the evaluation criteria set forth in this NOFO. The project narrative must identify specific tasks, measurable milestones, and performance outcomes for Native American/Alaska Native/Native Hawaiian communities resulting from the proposed project activities. The Project Narrative shall include:

- a. An executive summary of the project not to exceed two (2) pages. Please note, if an applicant's proposal is selected for funding, NTIA may use all or a portion of the Executive Summary as part of a press release issued by NTIA, or for other public information and outreach purposes. Applicants are advised not to incorporate information that concerns business trade secrets or other confidential cultural, commercial, or financial information as part of the Executive Summary. *See also* 15 C.F.R. § 4.9(c) concerning the designation of business information by the applicant;
- b. **Status as Eligible Entity.** Applicants shall provide information to demonstrate that they are in the category of Eligible Entities as defined in Section 905(a)(8) of the Act. Applicants should provide a description of the Eligible Entity applying for funds, and the qualifications and experience of key personnel responsible for implementing the proposed project;
 - **Table of Funded Project Participants and Unfunded Informal Collaborators.** (Does not count toward the page limit). Provide a table that identifies all organizations that will participate in and contribute to the proposed activities, if funded, known at the time of the application submission. The table should consist of an alphabetically ordered list, by organization, of all Funded Project Participants and all Unfunded Informal Collaborators. The table should include the organization's name, address, administrative role, scope of work (funded participants only), and proposed funding amount (funded participants only). Administrative roles are: applicant; subrecipient; contractor for funded participants; or collaborator, if they will not receive funding.
 - **Resumes of Key Personnel.** (Does not count toward page limit but are limited to one-page each). One-page resumes of no more than five key personnel from applicant (not subrecipients) may be included. Any information beyond one page for each resume and any additional resumes submitted will not be considered.
- c. A description of the Native American/Alaska Native/Native Hawaiian community needs, problems, or challenges that the proposed project will address along with a description of the project's Native American/Alaska Native/Native Hawaiian beneficiaries, including information about demographics and service areas;
- d. A description of the project objectives related to promoting broadband adoption, telehealth, remote education, workforce and economic development, digital inclusion and skills, or providing affordable broadband programs for Native American/Alaska Native/Native Hawaiian communities. Describe any existing

broadband and/or digital inclusion plans, or any planning activities to be conducted during the project;

- For projects proposing digital inclusion efforts that include digital equity planning activities, a description of digital equity planning activities that the proposed project will undertake and the proposed deliverables, including identifying barriers to achieving digital equity in Native American/Alaska Native/Native Hawaiian communities and developing measurable objectives for overcoming these barriers.
 - For projects proposing to offer affordable broadband programs for Native American/Alaska Native/Native Hawaiian communities, a clear price comparison of the proposed service solution to comparable available service. Include affordable price predictions for the proposed service offering period, for a maximum of five years of service, along with a defined plan for iterative pricing evaluation and adjustments to maintain affordability.¹⁴ Additionally, applicants should describe plans to address affordability issues on Tribal Land, including but not limited to, strategies to increase enrollment in the FCC's ACP.¹⁵
 - For projects intended to facilitate workforce development, a description of a plan to create technology-based employment for Tribal members within the proposed service area through any mix of on-the-job training, formal/academic training/certification, or other steps/processes to increase the availability of technology-related jobs and the skilled knowledge base of the community and Tribe being served. Applicants should describe plans to prioritize the hiring of local workers and recruit historically underrepresented populations facing labor market barriers, such as Tribal members, communities of color, and women, to ensure that they have reasonable access to the job opportunities created by the project consistent with Tribal Employment Rights Office (TERO) Ordinances.
- e. A description of the specific activities to be funded by the grant and the eligible uses of the funding. Federally Recognized Tribes that did not receive a TBCP award in the first round should include a description of the broadband use and adoption activities that they would perform if they were only to receive the equitable distribution allocation of up to \$500,000;

¹⁴ The Act did not define the term affordability; however, the Broadband Equity, Access, and Deployment (BEAD) NOFO addressed the concept of affordability and defined the elements of a low-cost broadband service option, which NTIA will incorporate into this second TBCP NOFO to provide useful guidance to eligible entities in defining this term. *See* Broadband Equity, Access, and Deployment, Notice of Funding Opportunity, National Telecommunications and Information Administration (May 13, 2022) (BEAD NOFO), at 66 – 68.

¹⁵ The FCC's ACP provides a \$75 monthly subsidy for qualifying households living on Tribal Lands.

- f. A project plan describing all major project activities and timelines for implementation, including key milestones and when each major project activity will start and end. Describe how progress will be tracked;
- g. A description of the project's outcomes and the performance measures that will be used to evaluate the project's success and the benefits delivered to Native American/Alaska Native/Native Hawaiian project beneficiaries. Include proposed metrics, data planned for collection and other evaluation methodologies (*e.g.*, case studies, focus groups, surveys). Describe any planned tangible products from your project (such as curricula, guides, publications, reports relating to broadband adoption and digital inclusion programs). Describe how the benefits of the project may be sustained;
- h. If the project funding request is outside of the ranges provided in this NOFO, the applicant must provide a justification for the variance in their project size.

iii. Budget Narrative and Detailed Budget Justification

Applicants must submit a Detailed Budget Justification in the form of a spreadsheet, as well as a Budget Narrative in the form of a Word document. All budget information must support the dollar amounts identified in the SF-424 and SF-424A and demonstrate that the project or activity meets the eligible use requirements in the Act and in this NOFO.

The Detailed Budget Justification spreadsheet must reflect the cost categories that appear in the SF-424A and include itemized calculations for each cost placed under those categories. The spreadsheet must be formatted to fit letter-sized paper (8.5" x 11").

The Budget Narrative must explain the necessity and basis for all costs, clearly correspond to the information included in the Detailed Budget Justification spreadsheet, and reflect only allowable costs that are consistent with the project scope. Information on cost allowability is available in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. § 200, which apply to awards in this program.

iv. Indirect Cost Rate

Section 905(c)(6)(A) of the Act, as amended, prohibits an Eligible Entity from using more than 2 percent of grants funds received under the TBCP for administrative expenses. For this purpose, the 2 percent limitation on administrative expenses includes the combined total of indirect costs and direct administrative costs charged to an award.

If indirect costs are included in the proposed budget, the applicant must ensure that the budgeted amounts for indirect costs, plus the budgeted amounts for direct administrative costs, do not exceed two percent of the requested grant amount, regardless of any previously approved indirect cost rate it may have negotiated with a cognizant federal agency. If indirect costs are included in the proposed budget, the applicant must provide a copy of the approved negotiated agreement if this rate was negotiated with a cognizant federal audit agency. If the rate was not established by a cognizant federal audit agency, provide a statement to this effect. If the successful applicant

includes indirect costs in the budget and has not established an indirect cost rate with a cognizant federal audit agency, the applicant will be required to obtain such a rate in accordance with Section B.06 of the Department of Commerce Financial Assistance Standard Terms and Conditions, dated November 12, 2020.

Alternatively, consistent with 2 C.F.R. § 200.414(f), applicants that do not have a current negotiated indirect cost rate may elect to charge indirect costs to an award pursuant to a de minimis rate of up to 2 percent of modified total direct costs (MTDC), in which case a negotiated indirect cost rate agreement is not required. Applicants proposing an up to 2 percent de minimis rate pursuant to 2 C.F.R. § 200.414(f) should note this election as part of the budget portion of the application.

As described in 2 C.F.R. § 200.403, costs must be consistently charged as either indirect or direct costs but may not be double charged or inconsistently charged as both. Applicants are reminded that the two percent limitation on administrative expenses includes the combined total of indirect costs and direct administrative costs charged to an award. The applicant must clearly describe in the budget narrative how it applied or calculated the 2 percent limitation of administrative and indirect costs.

c. Required Forms and Documentation for Broadband Infrastructure Deployment Projects

i. Standard Form 424C: Budget Information for Construction Programs (SF-424C)

Applicants must complete this form and provide a detailed budget narrative that adequately describes all costs for their proposed construction projects and associated activities that will be funded by the grant funds.

ii. Project Narrative for Broadband Infrastructure Deployment Projects

The Project Narrative is a word-processed document of not more than 20 single- or 40 double-spaced pages responsive to the program description, statutory purposes, funding priorities, and the evaluation criteria set forth in this NOFO. The project narrative must identify specific tasks, measurable milestones, and performance outcomes resulting for Native American/Alaska Native/Native Hawaiian communities from the proposed project activities. A complete project narrative must include all the components outlined below.

The Project Narrative shall include:

- a. **An executive summary of the project not to exceed two (2) pages.** Please note, if an applicant's proposal is selected for funding, NTIA may use all or a portion of the Executive Summary as part of a press release issued by NTIA, or for other public information and outreach purposes. Applicants are advised not to incorporate information that concerns business trade secrets or other confidential cultural, commercial, or financial information as part of the Executive Summary.

See also 15 C.F.R. § 4.9(c) concerning the designation of business information by the applicant.

- b. **Status as Eligible Entity.** Applicants shall provide information to demonstrate that they are in the category of Eligible Entities as defined in section 905(a)(8) of the Act. Applicants should provide a description of the Eligible Entity and the qualifications and experience of key personnel responsible for implementing the proposed project.
 - **Table of Funded Project Participants and Unfunded Informal Collaborators.** (Does not count toward the page limit). Provide a table that identifies all organizations that will participate in and contribute to the proposed activities, if funded, known at the time of the application submission. The table should consist of an alphabetically ordered list, by organization, of all Funded Project Participants and all Unfunded Informal Collaborators. The table should include the organization's name, address, administrative role, scope of work (funded participants only) and proposed funding amount (funded participants only). Administrative roles are: applicant, subrecipient, or contractor for funded participants; or collaborator if they will not receive funding.
 - **Resumes of Key Personnel.** (Does not count toward page limit but are limited to one-page each). One-page resumes of no more than five key personnel from applicant (not subrecipients) may be included. Any information beyond one page for each resume and any additional resumes submitted will not be considered.
- c. **A description of the activities to be funded by the grant,** the eligible uses of the funding, and the proposed objectives and outcomes for Native American/Alaska Native/Native Hawaiian communities from the project. Federally Recognized Tribes should include a description of the broadband infrastructure activities that they would perform if they were only to receive the equitable distribution allocation of up to \$500,000. Note that during this second round, NTIA will not fund projects proposing to conduct planning activities or prepare feasibility or sustainability studies unless they are part of a proposal to deploy broadband infrastructure or construct broadband networks.

All proposed projects submitted should be comprehensive and completely autonomous, therefore not reliant on future funding or a future adjacent project.
- d. **The number of Unserved Native American/Alaska Native/Native Hawaiian households, businesses or community anchor institutions that the project has the potential to serve and a description of the area to be served by the project:**
 - In accordance with Section 905(c)(8) of the Act, applicants proposing to use grant funds for the construction of new broadband infrastructure must prioritize projects that deploy broadband infrastructure to Unserved Native American/Alaska Native/Native Hawaiian households. The applicant

should define the proposed service area and the total number of Unserved Native American/Alaska Native/Native Hawaiian households, businesses and community anchor institutions located therein to be served by completion of the proposed project. The applicant should describe the total number of Native American/Alaska Native/Native Hawaiian households, businesses, and community anchor institutions lacking access to the Internet and to Qualifying Broadband Service (*i.e.*, those not currently receiving Internet service with speeds of 25/3 Mbps or greater with latency considerations). This description should include a list of locations lacking such access, preferably based on the FCC's Fabric from its National Broadband Map. Applicants should include a GIS shapefile/polygon that captures the locations to be served. Reference Section D.2.c.iv, Maps of Proposed Service Area, for more information on describing the area to be served by the project.

- The applicant should identify the total number of Native American/Alaska Native Hawaiian households, businesses, and community anchor institutions that it plans to connect to Qualifying Broadband Service and the number that will be connected at speeds higher than Qualifying Broadband Service, specifying the speed level.
- The applicant should describe its plans to deploy Qualifying Broadband Service to Native American/Alaska Native/Native Hawaiian households, businesses, and community anchor institutions in the proposed project area that meets quality of service performance measures such that network outages do not exceed, on average, 48 hours over any 365-day period.¹⁶
- In addition, the Applicant must:
 - identify the distance to the nearest fiber node; and
 - identify any libraries within the proposed build receiving E-Rate funding.

e. A description of the number of total Native American/Alaska Native/Native Hawaiian households in the proposed service area at or below 150% of the poverty line (provide percentage as it compares to all households on the Tribal land applicable to the average family size represented on the particular Tribal land covered by the project in the lower 48 states, Alaska, and Hawaii (utilizing HHS Poverty Guidelines). Provide an explanation detailing how the percentage was calculated, data source, and factors included.

f. An estimate of the total number of jobs, including a subset for Native American/Alaska Native/Native Hawaiian jobs, and the subset of those jobs that will comply with TERO. Describe a plan for workforce training and development, including in broadband deployment-related occupations, as well as plans to address any anticipated labor shortages in these fields.

¹⁶ See *e.g.*, Section 60102(h)(4)(A)(i)(III) of IIJA and incorporated into the BEAD NOFO at 65. [See also Performance Measures Order at 6527-28; Performance Measures Reconsideration Order.](#)

- g. A description of the pricing for the broadband services that the applicant intends to offer compared to existing broadband services in the proposed service area along with a demonstration that the pricing is competitive and affordable in the target market. Describe plans to participate in federal subsidy programs, such as the FCC's ACP, to reduce the costs of broadband service for Native American/Alaska Native/Native Hawaiian households in the proposed service area.
- h. A description of whether and, if so, how the project will incorporate strong labor standards, consistent with Tribal law, including project labor agreements and community benefit agreements that offer wages at or above the prevailing rate and include local hire provisions, and a description of the applicant's workforce plans and practices.
- i. An assessment of weather and climate hazards within the Tribal Land served by the project and a description of how the applicant intends to avoid and/or mitigate the weather and climate risks identified.¹⁷
- j. A project plan describing all major project activities and timelines for implementation, including key deployment milestones. Describe the overall project plan, including: cost effectiveness (*e.g.*, costs for single network and economies of scale for consortium); service capacity; timeframes for construction; and scalability.
- k. Details and evidence of any proactivity, initiative, and or financial investment the applicant may have made in an effort to move toward a resolution to minimize or eliminate any gaps or lack of service.
- l. A comprehensive and defined plan for long-term network sustainability that includes projected revenue, operating expenses, working capital, and equipment replacement funding, as well as workforce development and capacity building.
- m. For projects including construction and/or ground disturbing activities, a brief description of the physical project area and its surroundings (*e.g.*, disturbed or developed land vs. open space; adjacent natural resources, such as rivers, wetlands, or forestlands; and any protected lands or resources in or near the project area), including site photographs and aerial (*e.g.*, Google Maps images) photographs. This description should also discuss how the applicant intends to comply with the environmental and historic preservation and cultural requirements applicable to an

¹⁷ In making this assessment, Eligible Entities should make use of available tools and resources from the National Oceanic and Atmospheric Administration (NOAA) and other federal agencies. Such resources include the 2018 National Climate Assessment (<https://nca2018.globalchange.gov/>); NOAA's state climate summaries (<https://statesummaries.ncics.org/>); NOAA's disaster and risk mapping tool (<https://www.ncdc.noaa.gov/billions/mapping>) and NOAA's storms event database (<https://www.ncdc.noaa.gov/stormevents/>). FEMA's National Risk Index (<https://hazards.fema.gov/nri/learn-more>) provides composite risk index for all regions across the United States, incorporating a range of natural hazards, many of which are weather- and climate-related. FEMA's flood risk maps (<https://msc.fema.gov/portal/home>) provide information on current conditions for specific locations.

award received under the TBCP (including, but not limited to, the National Environmental Policy Act and the National Historic Preservation Act) and, if applicable, a copy of any environmental and historic preservation review documentation that has been prepared in connection with obtaining permits or approvals from State, Tribal, local or other federal entities. It is the applicant's responsibility to obtain all necessary federal, State, Tribal, and local governmental permits and approvals necessary for the proposed work to be conducted. Applicants are expected to design their projects so that they minimize the potential for adverse impacts on the environment. Applicants also will be required to cooperate with NTIA in identifying feasible measures to reduce or avoid any identified adverse environmental or cultural impacts of their proposed projects. The failure to do so may be grounds for not making an award. Environmental and historic preservation review documentation, if provided, is not included in the 20-page limit of the project narrative.

iii. **Maps of Proposed Service Areas.** To ensure conformity with NTIA's National Broadband Availability Map (NBAM), applicants must submit GIS shapefiles consistent with the project narrative, where applicable. This format will allow application reviewers to efficiently identify critical components of the proposed service area, proposed network, and households, businesses, and community anchor institutions to be served. This format will also facilitate the de-duplication analysis described in Section E.3.c.i of this NOFO. The GIS shapefile must include the following data elements as applicable:

- a. Proposed and existing fiber
- b. Proposed and existing infrastructure (*e.g.*, towers, power poles, buildings, or structures)
- c. Distance/location of overhead construction
- d. Distance/location of underground construction
- e. Drop points (identify if overhead or underground)
- f. Fiber counts
- g. Innerduct size and count
- h. Handholes and testing stations
- i. Power supply and backup power
- j. Backhaul connection
- k. Tribal boundary
- l. Tribal home locations (proposed connections)
- m. Tribal business locations (proposed connections)
- n. Community Anchor Institution locations (proposed connections)
- o. Proposed service area
- p. Last mile connections (proposed and existing)
- q. Points of Presence
- r. Proposed and/or existing network shelter
- s. Census blocks
- t. Network propagation maps

iv. **Tribal Resolution of Consent.** Applicants must provide Tribal Resolutions of Consent that reference this NOFO and are dated after its release. The resolution must come from the entity specified in the Federally Recognized Indian Tribe List Act of 1994.

v. **Tribal Government Certification of Unserved Areas.** A Tribal Government may certify that locations within its own Tribal Lands are Unserved. Any other Eligible Entity may also submit such a certification of Unserved locations provided to them by a Tribal Government. Any such Tribal Government certification that a location is Unserved must certify that the areas where last mile service is proposed are not served by Qualifying Broadband Service and provide a resolution on Tribal Letterhead, along with source data supporting the certification, explaining how that determination of Unserved was reached. DHHL may also certify whether Tribal Lands as described in Subsection D of this NOFO are Unserved by Qualifying Broadband Service, along with providing source data supporting the certification, explaining how the determination of Unserved was reached. A Tribal Government may not certify Tribal Lands covered under an Enforceable Buildout Commitment, as defined in Section A.3.k of this NOFO, as Unserved. If the Tribe is aware of the presence of facilities capable of delivering Qualifying Broadband Service, *e.g.*, fiber facilities or other broadband technology, deployed on their Tribal Lands, they must disclose this information to NTIA. As part of the process described in Section E.3.c.ii, NTIA will conduct an analysis of these certifications and disclosures.

As part of its Tribal Government Certification of Unserved Areas, the Tribe must consult the FCC's National Broadband Map. If that map indicates that Qualifying Broadband Service is available at any location within the proposed service area(s), but the Tribe disagrees, then the Tribe shall submit a formal challenge to the FCC using the challenge process for its National Broadband Map, or indicate that it is participating in a state's submission for the FCC's challenge process, and provide documentation to NTIA of the challenge(s) submitted.

Required Disclosures for the Tribal Government Certification of Unserved Areas.

- Disclosure of all Enforceable Buildout Commitments.
- Disclosure of a terminated Enforceable Buildout Commitment. A Tribal Government must disclose whether it has terminated an agreement qualifying as an Enforceable Buildout Commitment in anticipation of receiving funding under the TBCP. Failure to disclose such information may result in NTIA removing the application from consideration for TBCP funding.
- Disclosure of the presence of facilities capable of delivering Qualifying Broadband Service, including fiber facilities or other broadband technology, deployed on Tribal Lands if the Tribe has knowledge of their locations.
- Disclosure of the Tribe's participation in the FCC's challenge process for its National Broadband Map or its participation in a state's submission for the FCC's challenge process for the FCC National Broadband Map. Provide documentation of the challenge(s) submitted.

vi. **Community Economic Development Strategy (optional).** An eligible entity may submit a copy of its own Community Economic Development Strategy, or a regional or State Community Economic Development Strategy, if applicable to its project proposal.

vii. **Request for Extension of Award Period (optional).** Any request for an extension of the award period must be made on Tribal Letterhead and signed by the Authorized Organization Representative.

viii. **Budget Narrative and Detailed Budget Justification**

Applicants must submit a Detailed Budget Justification in the form of a spreadsheet, as well as a Budget Narrative in the form of a Word document. All budget information must support the dollar amounts identified in the SF-424 and SF-424C and demonstrate that the project or activity meets the eligible use requirements in the Act and in this NOFO.

The Detailed Budget Justification spreadsheet must reflect the cost categories that appear in the SF-424C and include itemized calculations for each cost placed under those categories. The spreadsheet must be formatted to fit letter-sized paper (8.5" x 11").

The Budget Narrative must explain the necessity and basis for all costs, clearly correspond to the information included in the Detailed Budget Justification spreadsheet, and reflect only allowable costs that are consistent with the project scope. Information on cost allowability is available in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. § 200, which apply to awards in this program.

ix. **Indirect Cost Rate**

Section 905(c)(6)(A) of the Act, as amended, prohibits an Eligible Entity from using more than 2 percent of grants funds received under the TBCP for administrative purposes. For this purpose, the 2 percent limitation on administrative expenses includes the combined total of indirect costs and direct administrative costs charged to an award.

If indirect costs are included in the proposed budget, the applicant must ensure that the budgeted amounts for indirect costs, plus the budgeted amounts for direct administrative costs, do not exceed two percent of the requested grant amount, regardless of any previously approved indirect cost rate it may have negotiated with a cognizant federal agency. If indirect costs are included in the proposed budget, the applicant must provide a copy of the approved negotiated agreement if this rate was negotiated with a cognizant federal audit agency. If the rate was not established by a cognizant federal audit agency, provide a statement to this effect. If the successful applicant includes indirect costs in the budget and has not established an indirect cost rate with a cognizant federal audit agency, the applicant will be required to obtain such a rate in accordance with Section B.06 of the Department of Commerce Financial Assistance Standard Terms and Conditions Dated November 12, 2020.

Alternatively, consistent with 2 C.F.R. § 200.414(f), applicants that do not have a current negotiated indirect cost rate may elect to charge indirect costs to an award pursuant to a de

minimis rate of up to 2 percent of modified total direct costs (MTDC), in which case a negotiated indirect cost rate agreement is not required. Applicants proposing an up to 2 percent de minimis rate pursuant to 2 C.F.R. § 200.414(f) should note this election as part of the budget portion of the application.

As described in 2 C.F.R. § 200.403, costs must be consistently charged as either indirect or direct costs but may not be double charged or inconsistently charged as both. Applicants are reminded that the 2 percent limitation on administrative expenses includes the combined total of indirect costs and direct administrative costs charged to an award. The applicant must clearly describe in the budget narrative how it applied or calculated the 2 percent limitation of administrative and indirect costs.

An eligible entity that proposes to use grant funds for the construction of broadband infrastructure may use an amount of the grant funds equal to not more than 2.5 percent of the total project cost for planning, feasibility, and sustainability studies related to the project.¹⁸ These uses of funds do not count toward the eligible entity's 2 percent limitation on administrative expenses, discussed above.¹⁹

d. Additional Application Materials

Applicants for Broadband Infrastructure Deployment projects must include the following documents in support of their application submission:

1. Using the Pro Forma Financial Projection Template form as a guide, provide pro forma financial information and analyses for the proposed project(s), such as balance sheets, income statements, and statement of cash flows; and

2. Physical network diagrams and system designs for broadband deployment and construction projects in GIS shapefile format. The GIS shapefile shall include the following data elements when and where applicable: identification of proposed fiber (aerial and/or underground); existing fiber (aerial and/or underground); drop points; fiber counts; handholes; power supply and backup power locations; backhaul connection; Tribal boundaries; Unserved Tribal homes; proposed service area; and last mile connection. Supporting GIS shapefile should be clearly labeled with the name of the network component they represent, *e.g.*, proposed fiber, handholes, etc. GIS shapefiles must conform to the description of the proposed service area provided in the project narrative. *See* Section D.2.c.ii.d of the NOFO.

e. Application Format

Applications submitted by mail may be in hard copy (paper) or electronic (*e.g.*, CD-ROM, disk, or thumb drive). Applications submitted by email must be machine-readable and must not be copy-protected.

i. Facsimile (fax) submissions

¹⁸ *See* Section 905(c)(6)(B) of the Act, *as amended* by IIJA, Title II, Section 60201, Tribal Connectivity Technical Amendments.

¹⁹ *See* Section 905(c)(6) of the Act, *as amended* by IIJA.

Facsimile submissions will not be accepted for the complete application packets.

ii. Figures, graphs, images, and pictures

Should be of a size that is easily readable or viewable and may be landscape orientation.

iii. Font

Easy to read font (10-point minimum). Smaller type may be used in figures and tables but must be clearly legible.

iv. Line spacing

Applicants may use single spacing or double spacing.

v. Margins

One inch top, bottom, left, and right.

vi. Page layout

Portrait orientation except for figures, graphs, images, and pictures. Paragraphs are to be clearly separated from each other by double spacing, paragraph formatting or equivalent.

vii. Page limit

The Project Narrative for either Broadband Infrastructure Deployment Projects or Broadband Use and Adoption Projects is limited to 20 pages single spaced (40 pages double spaced), noting the limit of two (2) pages for the Executive Summary. Resumes and environmental and historic preservation review documentation, if applicable, are not included in the page count of the Project Narrative. However, if resumes are included, resumes must be a maximum of one (1) page each.

viii. Page numbering

Number pages sequentially.

ix. Page size

8½ inches by 11 inches, excluding maps or network or system diagrams.

x. Application language

English.

xi. Typed document

All applications, including forms, must be typed.

f. Attachment of Required Documents

Items in Section D.2.a.i through D.2.a.iii, Sections D.2.b.i and Sections D.2.c.i above are part of the standard application package in Grants.gov and can be completed through the download application process. Items in Sections D.2.a.iv and v, D.2.b.ii through D.2.b.iv, and Sections D.2.c.ii through D.2.c.ix above, plus the additional application materials in Section D.2.d above, must be completed and attached using the “Attachments Form” included in the Application Package within Grants.gov. This will create a zip file that allows for transmittal of the documents electronically via Grants.gov.

Applicants should carefully follow specific Grants.gov instructions at www.grants.gov to ensure the attachments will be accepted by the Grants.gov system. A receipt from Grants.gov indicates only that an application was transferred to a system. It does not provide details concerning whether all attachments (or how many attachments) were transferred successfully. Applicants will receive a series of e-mail messages over a period of up to two business days before learning whether a federal agency’s electronic system has received its application.

g. Certifications Regarding Debarment and Suspension (applies to primary recipients and to subrecipients)

By signing and submitting an application for funding pursuant to the TBCP, the applicant is making the following certifications (*see* Line 21 on the SF-424):

1. Instructions for Primary Tier Participant Certification (eligible entities):

- a. By signing and submitting this proposal, the prospective primary tier participant is providing the certification set out below and agrees to comply with the requirements of 2 C.F.R. Parts 180, 1200, and 1326.
- b. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective primary tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency’s determination whether to enter into this transaction. However, failure of the prospective primary tier participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency may terminate this transaction for cause or default or may pursue suspension or debarment.
- d. The prospective primary tier participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the

prospective primary tier participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

- e. The terms *covered transaction*, *civil judgment*, *debarment*, *suspension*, *ineligible*, *participant*, *person*, *principal*, and *voluntarily excluded*, as used in this clause, are defined in 2 C.F.R. Parts 180, 1200, and 1326. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
- f. The prospective primary tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. Part 9, Subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
- g. The prospective primary tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 C.F.R. Parts 180, 1200 and 1326.
- h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 C.F.R. Part 9, Subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (<https://www.sam.gov>).
- i. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- j. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. Part 9, Subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency may terminate the transaction for cause or default.

2. *Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Tier Covered Transactions:*

- a. The prospective primary tier participant certifies to the best of its knowledge and belief, that it and its principals:
 - i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any federal department or agency;
 - ii. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - iv. Have not within a three-year period preceding this application/proposal had one or more public transactions (federal, state, or local) terminated for cause or default.
- b. Where the prospective primary tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

3. *Instructions for Lower Tier Participant Certification (applies to all subrecipients):*

- a. By signing and submitting this proposal and accepting federal funding, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of 2 C.F.R. Parts 180, 1200, and 1326.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- d. The terms *covered transaction*, *civil judgment*, *debarment*, *suspension*, *ineligible*, *participant*, *person*, *principal*, and *voluntarily excluded*, as used in this clause, are defined in 2 C.F.R. Parts 180, 1200 and 1326. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly

enter into any lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. Part 9, Subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

- f. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion- Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 C.F.R. Parts 180 and 1200.
 - g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 C.F.R. Part 9, Subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (<https://www.sam.gov>).
 - h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
 - i. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. Part 9, Subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.
4. *Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:*
- a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any federal department or agency.
 - b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

3. System for Award (SAM) Management

Pursuant to 2 C.F.R. Part 25, an applicant or recipient (as the case may be) is required to: (i) be registered in SAM before submitting its complete application packet; (ii) provide a valid unique entity identifier in its application; and (iii) continue to maintain an active SAM registration with current information at all times during which it has an active federal award or an application or plan under consideration by a federal awarding agency, unless otherwise excepted from these requirements pursuant to 2 C.F.R. 25.110. NTIA will not make a federal award to an applicant until the applicant has complied with all applicable unique entity identifier and SAM requirements and, if an applicant has not fully complied with the requirements by the time that NTIA is ready to make a federal award pursuant to this NOFO, NTIA may determine that the applicant is not qualified to receive a federal award.

(a) SAM Unique Entity Identifier Number

All applicants must supply a SAM Unique Entity Identifier (UEI) number. On April 4, 2022, the federal government stopped using the DUNS Number to uniquely identify entities. Now, entities doing business with the federal government must use the Unique Entity ID created in SAM.gov. Applicants who are new to SAM.gov may register their entity or receive a UEI by signing in to SAM.gov and selecting “Get Started,” then “Register Entity.” If you are a sub-awardee who just needs a UEI for subaward reporting, choose “Get Unique Entity ID.”

(b) SAM Management Registration

All applicants must register in the SAM before submitting a complete application packet. Additionally, the applicant must maintain an active SAM registration with current information at all times during which it has an active federal award or an application or plan under consideration by a federal awarding agency. Applicants can register for the SAM at <https://www.sam.gov/>.

4. Submission Dates and Times

Applications for funding pursuant to the TBCP must adhere to the following submission deadlines:

- Applications submitted online through the Grants.gov system must be received no later than 11:59 p.m. Eastern Time (ET) on **March 22, 2024**;
- Applications submitted by postal mail or by courier service must be postmarked (for postal mail) or show clear evidence of mailing (for courier submissions) no later than 11:59 p.m. Eastern Time (ET) on **March 22, 2024**; and
- Applications submitted by electronic mail must be received no later than 11:59 p.m. Eastern Time (ET) on **March 22, 2024**.

Eligible Entities that previously submitted applications may submit revised applications (entire application must be resubmitted) on or before the new submission deadline. Eligible Entities must submit a single application by the application deadline to be eligible for program funding.

The TBCP is not a formula or block grant program and a single application for funding must be timely submitted by an Eligible Entity to receive funding consideration from NTIA.

5. Application Submission Address

Complete application packages may be submitted:

- Electronically through www.grants.gov (see Section D.10 of this NOFO for additional information on registration requirements for Grants.gov);
- Through electronic mail (email) to: broadbandusa@ntia.gov. Applications submitted by email should be machine-readable and shall not be copy-protected; or by
- Postal mail or courier mail to the following address: National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Room 4878, Attn: Douglas Kinkoph, Associate Administrator, Washington, DC 20230. Applications submitted by mail may be in hard copy (paper) or electronic (e.g., CD-ROM, disk, or thumb drive).

Applicants must submit complete application packages using only one of these methods and may not submit partial or duplicate applications using multiple methods of transmission.

Applications submitted by facsimile or by any method not described in this subsection will not be accepted by NTIA.

6. Intergovernmental Review

Applications under this Program are not subject to Executive Order 12372.

7. Funding Restrictions

Grant recipients may only use federal award funds to pay for allowable costs under the TBCP. Allowable costs are determined in accordance with the cost principles identified in 2 C.F.R. Part 200, including Subpart E of such regulations²⁰ and in the grant program's authorizing legislation. In addition, costs must be reasonable, necessary, allocable, and allowable for the proposed project, and conform to generally accepted accounting principles. Grant funds may be used to cover only eligible costs incurred by the recipient during the period of performance, and for allowable costs incurred by the recipient during the grant closeout process.

a. Eligible Uses for the Tribal Broadband Connectivity Program

²⁰ The government has established a set of principles for determining eligible or allowable costs. Allowable costs are determined in accordance with the cost principles applicable to the entity incurring the costs. For example, the allowability of costs incurred by state, local or Federally Recognized Indian Tribal Governments is determined in accordance with the provisions of 2 C.F.R. Part 200, Subpart E.

Section 905(c)(5) of the Act states that an Eligible Entity may use grant funds made available under the TBCP for:

- (A) broadband infrastructure deployment, including support for the establishment of carrier-neutral submarine cable landing stations;
- (B) affordable broadband programs, including— (i) providing free or reduced-cost broadband service; and (ii) preventing disconnection of existing broadband service;
- (C) distance learning;
- (D) telehealth;
- (E) digital inclusion efforts (which may include digital equity planning and workforce development activities); and
- (F) broadband adoption activities.

Based on the broad parameters of eligible uses of the TBCP, eligible costs will generally include the following categories of expenses:

- Personnel costs, including salaries and fringe benefits for staff and consultants providing services directly connected to the implementation of the TBCP grants (such as project managers, program directors, and subject matter experts).
- Subawards and contractual costs associated with carrying out programmatic activities of the TBCP, including for program implementation and consulting services. Recipients are responsible for monitoring the activities and expenditures of subrecipients (sometimes referred to as “subawards” or as “subgrants”) and vendors, and are responsible for ensuring that all solicitation documents reflect activities within the scope of the TBCP.
- Administrative costs, including indirect costs, are limited to no more than two percent of the grant funds received by an Eligible Entity pursuant to section 905(c)(6)(A) of the Act, as amended, except that an Eligible Entity that proposes to use grant funds for the construction of broadband infrastructure may use an amount of the grant funds equal to not more than 2.5 percent of the total project cost for planning, feasibility, and sustainability studies related to the project.
- Reimbursement of reasonable costs associated with preparing the grant application not to exceed five (5) percent of the award. Allowable pre-application expenses, which include expenses related to preparing an application, may be reimbursed if they are incurred after the publication date of this NOFO and prior to the date of issuance of the grant award from NTIA, except that lobbying costs and contingency fees are not reimbursable from grant funds. Pre-application costs should be clearly identified in the proposed project budget. Additionally, pre-application costs are incurred at the sole risk of the applicant and will not be reimbursed by NTIA if the proposed project does not receive an award pursuant to this program.
- Fund other allowable costs necessary to carrying out programmatic activities of an award, not to include ineligible costs described below.

b. Eligible Costs Specific to Broadband Infrastructure Deployment Activities

This category is for projects that expand the availability of broadband services by deploying

new or upgraded broadband infrastructure on Tribal Lands. Section 905(c)(8) of the Act requires that, in using grant funds received under the TBCP for new construction of broadband infrastructure, an Eligible Entity must prioritize projects that deploy broadband infrastructure to Unserved households. Recipients may generally use grant funds to:

- i. fund the costs of construction, improvement, replacement, extension or acquisition of facilities and telecommunications equipment required to provide Qualifying Broadband Service, including infrastructure for backhaul, middle, and last mile networks, as well as for submarine cable landing stations;
- ii. fund the cost of long-term leases (for terms greater than one year) of facilities required to provide Qualifying Broadband Service, including infeasible right-of-use (IRU) agreements;
- iii. fund the costs of planning, feasibility, and sustainability studies not to exceed 2.5 percent of the total project cost;
- iv. fund the costs of engineering and network design, including route mapping for broadband infrastructure, permitting, and work related to environmental, historical and cultural reviews;
- v. fund the costs of performance bonds or irrevocable Letters of Credit or other surety;
- vi. workforce training; and
- vii. fund other allowable costs necessary to carrying out programmatic activities of an award, not to include ineligible costs described below.

c. Eligible Costs Specific to Broadband Adoption and Use Activities

This category is for projects that expand the adoption of broadband services by Native American/Alaska Native/Native Hawaiian communities; enable Tribal anchor institutions to provide affordable broadband programs, remote learning, telework, or telehealth services; and build the capacity of Native American/Alaska Native/Native Hawaiian communities to access and fully benefit from these online services. Recipients may generally use grant funds to:

- i. Acquire broadband-related equipment, instrumentation, networking capability, hardware, software, and other digital technology for broadband services, telehealth, and remote education;
- ii. Provide affordable broadband programs, including providing free or reduced-cost broadband service and preventing disconnection of existing broadband service;
- iii. Provide digital training, education, technology support, outreach, and awareness programs including curricula and web-based resources;
- iv. Facilitate access to broadband services including public computer centers; public WiFi networks; broadband in public housing; improvement of broadband services and equipment in schools, libraries, health centers, workforce development centers, and other Tribal anchor institutions;
- v. Implement affordable broadband programs that facilitate greater access to broadband services, devices, and equipment; and prevent disconnection of existing broadband services;
- vi. Conduct needs assessments and develop plans for increasing broadband adoption, digital inclusion, online education, telehealth, and digital workforce;

- vii. Gather data and conduct evaluation of the digital inclusion and broadband adoption programs funded by the grant to determine their effectiveness and develop best practices to facilitate digital inclusion and broadband adoption on Tribal Lands; and
- viii. Fund other allowable costs necessary to carrying out programmatic activities of an award, not to include ineligible costs described below.

The following non-exclusive list includes some examples of generally allowable costs for broadband use and adoption projects:

- Personnel salaries, wages, and fringe benefits for persons working directly on the grant;
- Travel expenses for key project staff and consultants;
- Equipment related directly to project activities;
- Subaward and third-party contractor costs;
- Equipment and devices to support connectivity for telehealth and remote education such as laptops, tablets, and hotspots;
- Design and printing for training and outreach materials;
- Staff and volunteer training; and
- Stipends, internships, and/or fellowships.

d. Subgrantees

Section 905(c)(7) of the Act provides that an Eligible Entity may enter into a contract with a subgrantee, including a non-Tribal entity, as part of its use of grant funds under this program. An Eligible Entity that enters into a contract (or subaward) with a subgrantee for use of grant funds received under this program shall:

- (i) before entering into the contract, after a reasonable investigation, make a determination that the subgrantee:
 - (A) is capable of carrying out the project for which grant funds will be provided in a competent manner in compliance with all applicable laws;
 - (B) has the financial capacity to meet the obligations of the project and the requirements of Section 905(c) of the Act; and
 - (C) has the technical and operational capability to carry out the project; and
- (ii) stipulate in the contract reasonable provisions for recovery of funds for nonperformance.

Additionally, Eligible Entities should ensure that they check the exclusion list available in SAM at <https://www.sam.gov> prior to awarding any TBCP funds to a subgrantee. Applicants are reminded that, pursuant to 2 C.F.R. 200.331, a federal award recipient must make case-by-case determinations whether each agreement it enters into for the disbursement of federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. The above due diligence requirements apply both to contracts and subawards issued by a recipient or by a subrecipient of federal award funds received pursuant to the TBCP.

e. Ineligible Costs for the Tribal Broadband Connectivity Program

Ineligible costs include those costs that are unallowable pursuant to 2 C.F.R. Part 200, including under Subpart E. Ineligible costs specific to funds awarded under the TBCP also

include:

- Two percent cap on administrative expenses: Section 905(c)(6)(A) of the Act, as amended, prohibits an Eligible Entity from using more than 2 percent of grant funds received under the TBCP for administrative purposes, except that an Eligible Entity that proposes to use grant funds for the construction of broadband infrastructure may use an amount of the grant funds equal to not more than 2.5 percent of the total project cost for planning, feasibility, and sustainability studies related to the project. For this purpose, the 2 percent limitation on administrative expenses includes the combined total of indirect costs and direct administrative costs charged to an award.²¹ Examples of administrative expenses include costs attributable to: accounting, auditing, contracting, budgeting, and general legal services; facility occupancy costs, *e.g.*, rent, utilities, insurance, taxes, and maintenance; general liability insurance that protects the organization (not directly related to a program); depreciation on buildings and equipment; general office supplies; and general and administrative salaries and wages.
- Funding for infrastructure that was completed prior to the grant award period. (Projects that were started but not completed or that deploy upgraded broadband infrastructure may be funded under this program, not to include costs associated with activities that occurred prior to the grant award period.).
- A profit, fee, or other incremental charge above actual cost is not an allowable cost under this program.
- Costs attributable to any other activities not authorized by the eligible use categories specified in the Act.
- Projects proposing to conduct planning activities or prepare feasibility or sustainability studies that are not part of a project proposal to deploy broadband infrastructure or construct broadband networks.
- Project costs that are duplicative of or otherwise covered by other federal or state funding. This includes, but is not limited to, deploying broadband infrastructure to locations that are already subject to an Enforceable Buildout Commitment to deploy Qualifying Broadband Service through funding from federal or state programs.

f. Prohibition on Use for Covered Communications Equipment or Services

Pursuant to Section 905(e)(4) of the Act, an Eligible Entity may not use grant funds received under the TBCP to purchase or support any covered communications equipment or service (as defined in section 9 of the Secure and Trusted Communications Networks Act of 2019 (47 U.S.C. 1608)). *See also* 2 C.F.R. 200.316, Prohibition on certain telecommunications and video surveillance services or equipment.

²¹ See Frequently Asked Questions for the Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR 200, p. 10 (last updated July 2017), available at <https://www.cfo.gov/wp-content/uploads/2017/08/July2017-UniformGuidanceFrequentlyAskedQuestions.pdf>.

g. Impact on Other Federal Broadband Programs

The use of grant funds received under the TBCP by an Eligible Entity or subgrantee shall not impact the eligibility of, or otherwise disadvantage, the Eligible Entity or subgrantee with respect to participation in any other Federal broadband program.

h. Build America, Buy America (BABA) Domestic Content Procurement Preference Requirements

Broadband Infrastructure Deployment projects are subject to the BABA domestic content procurement preference requirements set forth in IIJA, Pub. L. No. 117-58, which includes the Build America, Buy America Act, Pub. L. No. 117-58, §§ 70901-52. *See* Section F.4. of this NOFO for detailed information on the BABA domestic content procurement preference requirements applicable to Broadband Infrastructure Deployment projects.

8. Material Representations and Public Disclosure of Applications

All forms and supporting documents submitted as part of the complete application packet will be treated as a material representation of fact upon which NTIA will rely in awarding grants. Applicants acknowledge and understand that any false, fictitious, or fraudulent statements (or concealment or omission of a material fact) in the forms and supporting documents, including any required certifications or disclosures, submitted as part of the complete application packet may subject applicants to criminal prosecution (including under 18 U.S.C. § 1001 and/or 1621), and may subject applicants to civil and administrative penalties and other remedies. Applicants should be aware that NTIA may make all or portions of their applications for grants under the TBCP publicly available as required under applicable federal laws. *See* Section H.4 of this NOFO for additional information concerning the confidentiality of information contained in an application.

9. Amendments

Any amendments to this NOFO will be announced through Grants.gov. Applicants may sign up on grants.gov to receive amendments by email or may request copies by e-mail from pscr@nist.gov.

10. Other Submission Requirements

Applications for the TBCP may be submitted by any of the transmission methods described in Section D.5 of this NOFO. The below information is being provided for applicants that are submitting applications electronically through www.grants.gov.

a. How to Register to Apply through Grants.gov

Read the instructions below about registering to apply for the funds available under the TBCP. Applicants should read the registration instructions carefully and prepare the information requested before beginning the registration process. Reviewing and assembling the required

information before beginning the registration process will alleviate last-minute searches for required information.

Organizations must have an active SAM registration, which provides a UEI, and Grants.gov account to apply for grants. If individual applicants (those submitting on their own behalf) are eligible to apply for this funding opportunity, they need only refer to steps 2 and 3 below.

Creating a Grants.gov account can be completed online in minutes, but SAM registrations may take several weeks. Therefore, an organization's registration should be done in sufficient time to ensure it does not impact the entity's ability to meet required application submission deadlines.

Organization registration instructions can be found on Grants.gov here:

<https://www.grants.gov/web/grants/applicants/organization-registration.html>

1) *Register with SAM:* All organizations (entities) applying online through Grants.gov must register with SAM. Failure to register with SAM will prevent your organization from applying through Grants.gov. SAM registration must be renewed annually. For more detailed instructions for registering with SAM, refer to:

<https://www.grants.gov/web/grants/applicants/organization-registration.html>

2) *Create a Grants.gov Account:* The next step is to register an account with Grants.gov. Follow the on-screen instructions provided on the registration page or refer to the detailed instructions here: <https://www.grants.gov/web/grants/applicants/registration.html>

3) *Add a Profile to a Grants.gov Account:* A profile in Grants.gov corresponds to a single applicant organization the user represents (*i.e.*, an applicant) or an individual applicant submitting on their own behalf. If you work for or consult with multiple organizations, you can have a profile for each organization under one Grants.gov account. In such cases, you may log in to one Grants.gov account to access all your grant profiles. To add an organizational profile to your Grants.gov account, enter the UEI for the organization in the UEI field. If you are an individual applicant submitting on your own behalf, you do not need a UEI to add the profile. For more detailed instructions about creating a profile on Grants.gov, refer to: <https://www.grants.gov/web/grants/applicants/registration/add-profile.html>

4) *EBiz POC Authorized Profile Roles:* After you register with Grants.gov and create an Organization Applicant Profile, the applicant's request for Grants.gov roles and access is sent to the EBiz POC. The EBiz POC is then expected to log in to Grants.gov and authorize the appropriate roles, which may include the AOR role, thereby giving you permission to complete and submit applications on behalf of the organization. You will be able to submit your application online any time after you have been assigned the AOR role. For more detailed instructions about creating a profile on Grants.gov, refer to: <https://www.grants.gov/web/grants/applicants/registration/authorize-roles.html>

5) *Track Role Status:* To track your role request, refer to:

<https://www.grants.gov/web/grants/applicants/registration/track-role-status.html>

Electronic Signature: When applications are submitted through Grants.gov, the name of the organization applicant with the AOR role that submitted the application is inserted into the signature line of the application, serving as the electronic signature. The EBiz POC of the organization **must** authorize people who are able to make legally binding commitments on behalf of the organization as a user with the AOR role; **this step is often missed and it is crucial for valid and timely submissions.** Should the AOR be unable to provide an electronic signature, the AOR may submit a signed letter delegating electronic signatory authority to sign electronically on the AOR's behalf.

b. How to Submit an Application for the Tribal Broadband Connectivity Program via Grants.gov

Grants.gov applicants can apply online using Workspace. Workspace is a shared, online environment where members of a grant team may simultaneously access and edit different webforms within an application. For each funding opportunity announcement, you can create individual instances of a workspace.

For an overview of applying on Grants.gov using Workspaces, refer to:

<https://www.grants.gov/web/grants/applicants/workspace-overview.html>

1) *Create a Workspace:* Creating a workspace allows you to complete it online and route it through your organization for review before submitting.

2) *Complete a Workspace:* Add participants to the workspace to work on the application together, complete all the required forms online or by downloading PDF versions, and check for errors before submission. The Workspace progress bar will display the state of your application process as you apply. As you apply using Workspace, you may click the blue question mark icon near the upper-right corner of each page to access context-sensitive help.

a. *Adobe Reader:* If you decide not to apply by filling out webforms you can download individual PDF forms in Workspace. The individual PDF forms can be downloaded and saved to your local device storage, network drive(s), or external drives, then accessed through Adobe Reader.

NOTE: Visit the Adobe Software Compatibility page on Grants.gov to download the appropriate version of the software at:

<https://www.grants.gov/web/grants/applicants/adobe-software-compatibility.html>

b. *Mandatory Fields in Forms:* In the forms, you will note fields marked with an asterisk and a different background color. These fields are mandatory fields that must be completed to successfully submit your application.

c. *Complete SF-424 Fields First:* The forms are designed to fill in common required fields across other forms, such as the applicant name, address, and SAM UEI Number. Once it is completed, the information will transfer to the other forms.

3) *Submit a Workspace*: An application may be submitted through workspace by clicking the Sign and Submit button on the Manage Workspace page, under the Forms tab. Grants.gov recommends submitting your application package at least 24-48 hours prior to the close date to provide you with time to correct any potential technical issues that may disrupt the application submission.

4) *Track a Workspace Submission*: After successfully submitting a workspace application, a Grants.gov Tracking Number (GRANTXXXXXXXX) is automatically assigned to the application. The number will be listed on the Confirmation page that is generated after submission. Using the tracking number, access the Track My Application page under the Applicants tab or the Details tab in the submitted workspace.

For additional training resources, including video tutorials, refer to:
<https://www.grants.gov/web/grants/applicants/applicant-training.html>

Applicant Support: Grants.gov provides applicants 24/7 support via the toll-free number 1-800-518-4726 and email at support@grants.gov. For questions related to the specific grant opportunity, contact the number listed in the application package of the grant you are applying for.

If you are experiencing difficulties with your submission, it is best to call the Grants.gov Support Center and get a ticket number. The Support Center ticket number will assist NTIA with tracking your issue and understanding background information on the issue.

c. Timely Receipt Requirements and Proof of Timely Submission

Online Submission. Proof of timely submission is automatically recorded by Grants.gov. An electronic date/time stamp is generated within the system when the application is successfully received by Grants.gov. The applicant with the AOR role who submitted the application will receive an acknowledgement of receipt and a tracking number (GRANTXXXXXXXX) from Grants.gov with the successful transmission of their application. This applicant with the AOR role will also receive the official date/time stamp and Grants.gov Tracking number in an email serving as proof of their timely submission.

When NTIA successfully retrieves the application from Grants.gov, and acknowledges the download of submissions, Grants.gov will provide an electronic acknowledgment of receipt of the application to the email address of the applicant with the AOR role who submitted the application. Again, proof of timely submission shall be the official date and time that Grants.gov receives your application. Applications received by Grants.gov after the established due date for the program will be considered late and will not be considered for funding by NTIA.

Applicants using unreliable internet connections should be aware that the process of completing the Workspace can take some time. Therefore, applicants should allow enough time to prepare and submit the application before the package closing date. Grants.gov will provide either an error or a successfully received submission message in the form of an email sent to the applicant with the AOR role attempting to submit the application.

E. Application Review Information

NTIA will conduct a three-stage review process to evaluate applications received under this grant program for an award, consisting of an Initial Administrative and Eligibility Review, Merit Review, and Programmatic Review.

NTIA will evaluate applications submitted by Eligible Entities against objective evaluation criteria to determine whether the proposal merits an award. Applications that score highly when evaluated against the objective evaluation criteria during the Merit Review will advance to the Programmatic Review. From this pool of applications, NTIA will select awardees based on the results of the Merit and Programmatic Reviews, and by applying the Selection Factors listed in this NOFO.

1. Evaluation Criteria for Broadband Use and Adoption Projects

The evaluation criteria that will be used by the Merit Reviewers to review and analyze applications for Broadband Use and Adoption Projects are grouped into three categories: (1) Project Purpose and Benefits; (2) Project Viability; (3) Project Budget and Capacity Building. Each application will be evaluated against the following objective criteria.

a. Project Purpose and Benefits (40 points)

Level of Impact on Tribal land (40 points). Reviewers will assess the extent to which the project provides broadband education, awareness, training, access, equipment, and support to Native American/Alaska Native/Native Hawaiian-serving anchor institutions including schools, libraries, medical and healthcare providers, tribal colleges, public housing, workforce facilities, and other community support organizations serving Native American/Alaska Native/Native Hawaiian populations. Reviewers will consider the number of new Native American/Alaska Native/Native Hawaiian broadband subscribers that the project will generate and/or the number of existing Native American/Alaska Native/Native Hawaiian broadband subscribers the project will retain through the implementation of affordable broadband programs. Reviewers will assess the extent to which the project improves access to, and use of, broadband services by Native American/Alaska Native/Native Hawaiian anchor institutions to deliver telehealth, remote learning, digital inclusion and workforce development programs. Reviewers will also assess the extent to which the project stimulates the adoption and use of broadband services for telehealth, remote learning, telework, entrepreneurship, economic growth, technological job creation, workforce capacity building, and servicing community anchor institutions for Native American/Alaska Native/Native Hawaiian communities.

For applications proposing to offer affordable broadband programs, reviewers will assess the extent to which the applicant provides a clear price comparison of the proposed service solution to comparable available service. Reviewers will assess the extent to which the applicant includes affordable price predictions for the service offering period, up to a maximum of five years of service, as well as a defined plan for iterative pricing evaluation and adjustments to maintain affordability. Additionally, reviewers will assess whether the applicant develops

strategies to address affordability issues on the Tribal Lands impacted by the project, including but not limited to, strategies to increase enrollment in the FCC's ACP by eligible households.

b. Project Viability (30 points)

i. Operational Approach of the Proposed Project Plan (15 points). Reviewers will assess the operational aspects of the project, including the clarity and level of detail of the proposed project plan. Reviewers will examine how the project assesses the needs of Native American/Alaska Native/Native Hawaiian communities and conducts planning to facilitate online education, telehealth, digital inclusion, workforce development, and digital skills development for these communities.

ii. Strength of Applicant's Organizational Capability (15 points). Reviewers will assess the strength of the applicant's organizational capability necessary to undertake and complete the project. Reviewers will consider the years of experience and expertise of the project management team and the past track record of the organization and any subgrantees it proposes to use with projects of a similar size and scope, as well as the organization's and subgrantees' capacity and readiness. Reviewers will also assess the strength of the applicant's partnership and/or subrecipient strategy, including how it complements the applicant's organizational capability, as well as the project approach, feasibility, and timely completion of the proposed project. NTIA will only fund proposals where it determines that the applicant has the organizational capability necessary to carry out the project to completion.

c. Project Budget and Capacity Building (30 points)

i. Reasonableness of the Budget (10 points). This criterion evaluates whether the applicant presents a budget that is both reasonable and cost efficient, considering the nature and full scope of the project. Reviewers will consider whether the applicant has demonstrated adequate and appropriate budget resources to successfully execute the proposed project activities. Reviewers will assess whether the budget detail is consistent with the allowable programmatic activities as outlined in the project narrative. Reviewers will evaluate the reasonableness of the budget based on its clarity, level of detail, comprehensiveness, appropriateness to the proposed technical and programmatic solutions, the reasonableness of its costs, and whether the allocation of funds is sufficient to complete the tasks outlined in the project plan.

ii. Capacity Building (20 points). Reviewers will assess the extent to which the project builds digital skills and workforce capacity in Native American/Alaska Native/Native Hawaiian communities to enable the work initiated by the project to continue beyond the award period to the extent feasible. Reviewers will assess the extent to which the proposed project includes a plan to create technology-based employment for Tribal members within the service area through any means of on-the-job training, formal/academic training/certification, or other steps/processes to increase the availability of technology-related jobs and the skilled knowledge base of the community and Tribe being served. Reviewers will assess the extent to which the proposed project includes a clear plan to build technological skills for future workforce capacity by investing or partnering with schools and/or local community programs to provide technology

training for future workers and for those reentering the workforce. Reviewers will also assess the extent to which the project gathers data and conducts evaluation of the digital inclusion and broadband adoption programs funded by the grant to determine their effectiveness and develop best practices to facilitate digital inclusion and broadband adoption in Native American/Alaska Native/Native Hawaiian communities.

2. Evaluation Criteria for Broadband Infrastructure Deployment Projects

The evaluation criteria that will be used by the Merit Reviewers to review and analyze applications for Broadband Infrastructure Deployment Projects are grouped into three categories: (1) Project Purpose and Benefits; (2) Project Viability; and (3) Project Budget and Sustainability. Each application will be evaluated against the following objective criteria.

a. Project Purpose and Benefits (45 points)

i. Level of Need on the Tribal Land (30 points). Applications will be evaluated based upon the level of need for the deployment of broadband infrastructure in the proposed service area on eligible lands where tribal citizens reside. Reviewers will consider several criteria to assess the level of need and the positive impact of the project on the Native American/Alaska Native/Native Hawaiian community covered by the project. Reviewers will consider the total number of Native American/Alaska Native/Native Hawaiian households, businesses, and community anchor institutions that lack access to Qualifying Broadband Service at or above 25 Mbps downstream/3 Mbps upstream. Reviewers will consider the total number of Native American/Alaska Native/Native Hawaiian households and Community Anchor Institutions that do not have Internet access. Reviewers will consider the total number of Native American/Alaska Native/Native Hawaiian households, businesses, and Community Anchor Institutions that will be connected to a network providing broadband service at minimum speeds of 25 Mbps downstream/3 Mbps upstream and the number of Native American/Alaska Native/Native Hawaiian households, businesses, and Community Anchor Institutions that will be connected at speeds higher than 25 Mbps downstream/3 Mbps upstream. Applications that propose to connect 100% of Unserved households, businesses, and Community Anchor Institutions in the service area will receive 20 points. Projects to deploy middle mile networks must prioritize connecting with last mile networks serving Unserved households and substantiate the incremental value to the last mile connection to the middle mile network, including increased network capacity for last mile circuits, increased network performance, and lower costs that are passed onto end users, as well as identify potential or partnered last mile networks that could or would leverage the middle mile network in the proposed service area to receive points in this category.

Reviewers will consider the percentage of total Native American/Alaska Native/Native Hawaiian households that are below 150% of the poverty line applicable to the average family size represented on the particular Tribal Land in the lower 48 states, Alaska, and Hawaii (utilizing U.S. Department of Health and Human Services (HHS) Poverty Guidelines). Reviewers will assign 15 points for those applications covering 100% of Native American/Alaska Native/Native Hawaiian households that are below 150% of the poverty line applicable to the average family size represented on the particular Tribal Land covered by the project in the lower 48 states,

Alaska, and Hawaii (utilizing HHS Poverty Guidelines); 10 points for those applications covering 75% but less than 100% of Native American/Alaska Native/Native Hawaiian households that are below 150% of the poverty line applicable to the average family size represented on the particular Tribal Land covered by the project in the lower 48 states, Alaska, and Hawaii (utilizing HHS Poverty Guidelines); and 5 points for those applications covering 50% but less than 75% of Native American/Alaska Native/Native Hawaiian households that are below 150% of the poverty line applicable to the average family size represented on the particular Tribal Land covered by the project in the lower 48 states, Alaska, and Hawaii (utilizing HHS Poverty Guidelines).

Reviewers will consider the total number of jobs and subset of jobs estimated to be created for Native American/Alaska Native/Native Hawaiian individuals because of the project and those jobs and services that comply with TERO.

ii. Affordability of Services Offered (15 points). Applications will be evaluated on the pricing of the broadband services offered compared to existing broadband services in the proposed service area or based on nationwide averages. Applicants should demonstrate that this pricing is competitive and affordable to their target markets. Applicants committing to participate in the FCC's ACP, or committing to ensure that any service provider they partner with to deliver broadband service will participate in this program, will receive 5 points.

b. Project Viability (30 points)

i. Technical Approach and Related Network Planning, Capacity, and Performance (20 points). Reviewers will evaluate the strength, comprehensiveness, and appropriateness of the project's technical approach and the clarity, level of detail, and cost-effectiveness of the network system design. Reviewers will assess the appropriateness of the technology solution, elements, and design to meet the level of infrastructure needs on the Tribal Lands covered by the project, including the technical and/or capacity infrastructure requirements for last-mile deployments as well as non-last-mile network infrastructure, *e.g.*, middle mile networks, backhaul to Internet Points of Presence, submarine cable systems, and access to submarine cable system elements. Reviewers will also consider the reasonableness and specificity of the overall project plan, including cost effectiveness (*e.g.*, costs for single network and economies of scale for consortiums), service capacity, timeframes for construction, and scalability. Additionally, reviewers will consider the extent to which the proposed project will deploy a broadband network that meets quality of service performance measures such that network outages do not exceed on average, 48 hours over any 365-day period. Those networks that propose a design that can be scaled to accommodate commercial grade equipment and speeds will receive 2 points. Proposed networks with high latency will be viewed less favorably. However, reviewers will consider the extent to which a proposed technological solution with or without higher latency offers the only viable service option given the characteristics of the proposed service area. Reviewers may award up to 5 points in evaluating the factors described in this paragraph.

Applications will be evaluated on the proposed technological solution and the ability of the proposed network to provide sufficient capacity, as well as scalability, to meet the needs of the Native American/Alaska Native/Native Hawaiian businesses, households, and community anchor institutions on the Tribal Lands covered by the project. Proposed networks delivering

end-user speeds at 25 Mbps downstream/3 Mbps upstream will receive 5 points. Networks delivering end-user speeds at speeds above 25 Mbps downstream/3 Mbps upstream and below 100 Mbps downstream/20 Mbps upstream will receive 7 points. Networks delivering end-user speeds of at least 100 Mbps downstream and 20 Mbps upstream will receive 10 points. Networks delivering end-user speeds of at least 1000 Mbps symmetrical will receive 14 points. NTIA will prioritize funding projects designed to provide broadband service at speeds of 100/20 Mbps or above.

Reviewers will give 1 point to applications that include a clear plan to include technology-focused workforce training to build the capacity and knowledge base of Native American/Alaska Native/Native Hawaiian communities as a component of the network planning project.

ii. Strength of Applicant's Organizational Capability (10 points). Reviewers will assess the strength of the applicant's organizational capability necessary to undertake and complete the project. Reviewers will consider the years of experience and expertise of the project management team, and the past track record of the organization, and any proposed subrecipients, with projects of a similar size and scope, as well as the organization's and subrecipients' capacity and readiness. Reviewers will also assess the strength of the applicant's partnership and/or subrecipient strategy, including how it complements the applicant's organizational capability, as well as the project approach, feasibility, and timely completion of the proposed project. NTIA will only fund proposals where it determines that the applicant has the organizational capability necessary to carry out the project to completion.

c. Project Budget and Sustainability (25 points)

i. Reasonableness of the Budget (10 points). This criterion evaluates whether the applicant presents a budget that is both reasonable and cost efficient, considering the nature and full scope of the project. Reviewers will consider whether the applicant has demonstrated adequate and appropriate budget resources to successfully execute the proposed project activities. Reviewers will assess whether the budget detail is consistent with the allowable programmatic activities as outlined in the project narrative. Reviewers will evaluate the reasonableness of the budget based on its clarity, level of detail, comprehensiveness, appropriateness to the proposed technical and programmatic solutions, the reasonableness of its costs, and whether the allocation of funds is sufficient to complete the tasks outlined in the project plan.

ii. Sustainability of the Project (15 points). Applicants must convincingly demonstrate the ability of the project to be sustained beyond the award period. Reviewers will assess applicants' pro forma financial projection documents and consider the reasonableness of the applicant's plan for long-term network sustainability, including revenue, operating expenses, working capital, and equipment replacement funding. Reviewers will consider business plans, market projections, third-party funding commitments, and other data as may be appropriate to the nature of the applicant and the proposed project. Reviewers will consider demonstrations of community commitments or anchor tenant commitments that would help promote sustainability. Reviewers may award up to 7 points in evaluating the above-described factors. Project plans that

describe the ability to scale and integrate evolving advanced services over time (such as interoperable interfaces for fifth generation wireless (5G) or by deploying fiber) will receive up to 8 points.

3. Review Process for the Tribal Broadband Connectivity Program

The review process will be divided into three stages as outlined below:

a. Initial Administrative and Eligibility Review of Applications

NTIA will conduct an initial review of timely received applications submitted in response to the NOFO to determine eligibility, completeness, and responsiveness to the programmatic requirements of the TBCP, including a review of the executive summary, project narrative, detailed budget justification, budget narrative, and required federal forms. Applications submitted by anyone other than an Eligible Entity will be eliminated from further review. NTIA may continue the initial administrative review process for an application that is timely submitted by an Eligible Entity, but that is missing certain documentation required by this NOFO, and will request missing or incomplete information from the applicant as needed. The applicant will have seven (7) calendar days to submit materials responsive to the feedback provided by NTIA, unless this period is extended by NTIA. Pursuant to section 905(e)(2)(B) of the Act, an Eligible Entity's failure to remedy deficiencies in a timely manner may result in NTIA's denial of an application.

b. Merit Review

Applications satisfying the Initial Administrative and Eligibility Review will be reviewed by at least two objective reviewers who have demonstrated expertise in the programmatic aspects of the TBCP. They may be federal employees or non-federal persons. During the review process, the reviewers may discuss the applications with each other, but scores will be determined on an individual basis. As applicable, reviewers will be required to sign and submit a nondisclosure and confidentiality form pertaining to the dissemination of confidential information and to potential financial and other conflicts of interest.

i. Prioritization

NTIA will prioritize and stage TBCP applications for Merit Review based on the following groupings:

- 1) Single application from DHHL on behalf of the Native Hawaiian Community because of its unique status as the only applicant to whom the Act directed that a specific amount of TBCP funds be made available;
- 2) Standalone Broadband Use and Adoption projects from Eligible Entities, including consortium applications. NTIA anticipates making awards in this grouping in a total amount of not more than \$100 million. Within this category, NTIA will prioritize the

review of Standalone Broadband Use and Adoption projects: (1) that propose digital equity planning activities; and/or (2) from Eligible Entities that did not receive an award in the first round of TBCP funding;

- 3) Standalone Broadband Infrastructure Deployment projects submitted by recipients of awards for Planning, Engineering, Feasibility, and Sustainability projects during the first round of TBCP funding or those who received equitable distribution awards to purchase supplies and equipment under the first TBCP NOFO;
- 4) Standalone Broadband Infrastructure Deployment projects from Eligible Entities, including consortium applications, that did not receive TBCP funding in the first round of funding;
- 5) Dual Broadband Infrastructure Deployment and Broadband Use and Adoption project applications from Eligible Entities, including consortium applications, that did not receive TBCP funding in the first round of funding. Note that NTIA will prioritize funding for the infrastructure deployment components of the application and will consider the broadband use and adoption components subject to the availability of TBCP funding. NTIA will not fund broadband use and adoption activities that are dependent upon the completion of the broadband infrastructure deployment components of the project;
- 6) Remaining applications from Federally Recognized Tribes eligible to receive the equitable allocation of up to \$500,000 if NTIA determines it is unable to fully fund the applicant's original request due to the availability of TBCP funding. Equitable distributions of up to \$500,000 will be awarded only to Tribal Governments that have not previously received a TBCP award (which includes equitable distribution awards) in the first round of funding from the TBCP. For consortium or regional applications that include Tribal Governments, equitable distribution amounts of up to \$500,000 per participating Tribal Government (that have not previously received a TBCP award) within the consortium would be awarded to the consortium's lead applicant on behalf of the eligible participating Tribal Governments. Lead consortium applicants that previously received TBCP funding may apply with a consortium composed of new Tribes that did not receive funding as part of a consortium application awarded in the first round of funding; and
- 7) If TBCP funding remains available, NTIA will then consider applications for Broadband Infrastructure Deployment projects from Eligible Entities, including consortium applications, that received awards in the first round of TBCP funding and applied in the second round for TBCP funding for additional project activities; provided, that they have successfully completed their first-round projects or are on track to do so.

All proposed projects submitted should be comprehensive and completely autonomous, and therefore not reliant on future funding or a future-adjacent project.

ii. Merit Review Process

Reviewers will evaluate applications according to the evaluation criteria provided in Section E.1 of this NOFO and independently score each application based on a scale of 0-100 points. Reviewers will evaluate applications for Broadband Infrastructure Deployment projects and Broadband Use and Adoption projects submitted by the same applicant under the criteria

applicable to each type of project and independently score each application based on a scale of 0-100 points.

In response to reviewer feedback, NTIA may seek additional clarifying information or corroborating documentation from an applicant during Merit Review and may suggest revisions be made to an application to resolve perceived material programmatic or financial weaknesses or deficiencies. In such cases, NTIA will review the feedback from the reviewers and will contact the applicant and provide the applicant with an opportunity to respond to the Merit Review feedback. The applicant will have fourteen (14) calendar days to respond to the reviewer feedback, unless this time period is extended by NTIA. Pursuant to section 905(e)(2)(B) of the Act, an eligible applicant's failure to remedy application deficiencies in a timely and constructive manner may result in NTIA's denial of the application.

Based on an average of the reviewers' scores, applications will be assigned a rating of qualified for funding or unqualified for funding for each priority grouping, in accordance with the following scale:

Qualified for Funding – (70-100 points)

Unqualified for Funding – (0-69 points)

NTIA will not round up merit reviewer score averages when determining whether an application is qualified for funding. NTIA may use its sole discretion to terminate the Merit Review revision process for an applicant if, after multiple opportunities to respond to Merit Review feedback, NTIA determines that the applicant is not sufficiently responding to requests for additional information or remedying application deficiencies.

c. Programmatic Review

i. Programmatic Review Process

NTIA Program Staff will review applications determined to be qualified for funding during the Merit Review process for conformity with programmatic objectives, requirements, and priorities. During Programmatic Review, NTIA may ask applicants to submit additional information, as appropriate, to clarify or to further substantiate the representations made in their applications. Applicants will have ten (10) calendar days to submit information responsive to the feedback provided by NTIA, unless this time period is extended by NTIA. NTIA Program Staff will review the supplemental information, along with all information submitted with the application, to confirm eligibility and evaluate the applications with respect to the requirements and priorities of the TBCP. Applicants whose supporting documents are not complete, accurate, and timely submitted or who do not adequately substantiate the representations in their applications, may be denied.

ii. De-Duplication Review Process

NTIA will permit Tribes to provide a Tribal Government Certification attesting to the Unserved status of proposed service areas within Tribal Lands, and lands providing services to Tribal

members, with a description of how the Tribe determined that the area is Unserved.²² NTIA will conduct an analysis to validate certifications that an area is Unserved as well as disclosures of the presence of facilities capable of delivering Qualifying Broadband Service. This analysis will include, but not be limited to, a review of the National Broadband Map, a review of broadband funding data available to NTIA from federal and state agencies and through the FCC's Broadband Funding Map, and direct coordination with relevant federal and state agencies to identify and resolve potentially duplicative funding.²³ If NTIA determines that duplication exists, NTIA will work to resolve it. NTIA may, at its option, negotiate with an applicant to descope the application to avoid duplicative funding prior to selecting an application for award. NTIA will conduct a final de-duplication review of the potential grantees' proposed project service areas prior to award to account for any lag time between the initial review for duplication and the date the award is issued. In addition, NTIA will impose a specific award condition to allow for a descope of the project, which may include a reduction in TBCP grant funding, as needed post-award.

NTIA reserves the right at any time during the Merit and Programmatic Review processes to negotiate with the applicant relative to specific modifications to the application, including, but not limited to, the resolution of any differences that may exist between the applicant's original request and NTIA's determination of programmatic priorities, the eligibility of the applicant's proposed service areas, and eligible costs. Further, to the extent that NTIA is unable to award the full funding request (*e.g.* due to the limited availability of TBCP funding), NTIA may, at its own initiative, negotiate with applicants representing Federally Recognized Tribes to identify eligible activities and modify the scope of the project to fund an amount up to the Equitable Distribution allocation. Upon completion of the Programmatic Review, NTIA Program Staff will summarize their analysis for each application reviewed.

4. Selection Factors and Selection Process

The Assistant Secretary, or designee, will serve as the Selecting Official for the TBCP. As set forth in section 905(e)(2)(B)(ii) of the Act, the Assistant Secretary may deny an application submitted under the TBCP only if the Assistant Secretary provides the applicant an opportunity to cure any defects in the application and, after receiving the opportunity to cure any defects in the application, the applicant still fails to meet the requirements of the grant program. The multiple opportunities described in Section E.3 of this NOFO for an applicant to remedy any deficiencies with its application satisfy this requirement.

The Associate Administrator for the Office of Internet Connectivity and Growth (OICG Associate Administrator) will prepare and present a package or packages of recommended grant

²² As discussed in Section D.2.c.v, it is a TBCP application requirement that any Tribe providing a Tribal Government Certification attesting to the Unserved status of the proposed service area(s) must consult the FCC's National Broadband Map. If that map indicates that Qualifying Broadband Service is available at any location within the proposed service area, but the Tribe disagrees, then the Tribe must demonstrate that it has submitted (but not necessarily resolved) a formal challenge to the FCC using the challenge process for its National Broadband Map, and, if appropriate, filed a challenge in a state's submission for the FCC's challenge process, and provide documentation to NTIA of the challenge(s) submitted.

²³ See IIA § 60105 ("Broadband Deployment Locations Map").

awards to the Selecting Official for review and approval. The OICG Associate Administrator's recommendations will consider the following selection factors:

1. The scores and technical comments of the objective expert reviewers during Merit Review;
2. The analysis of NTIA Program Staff during Programmatic Review;
3. Satisfaction of the statutory purposes and the overall goals and objectives of the TBCP;
4. Whether, and the extent to which, the applicant proposes to incorporate strong labor protections, consistent with Tribal law, into the performance of the construction project, including paying prevailing wages;
5. Whether, and the extent to which, the applicant provides an assessment of the climate threats within the Tribal Lands served by the project and proposes strategies to avoid and/or mitigate the weather and climate risks identified;
6. The extent to which the infrastructure investment is necessary to provide Qualifying Broadband Service in the proposed service area and is unlikely to be made using private sources of funds;
7. Whether an applicant has previously received TBCP funding;
8. Avoidance of duplication with the initiatives of other federal agencies, including, but not limited to, U.S. Department of Agriculture (USDA) loan and grant programs for broadband services and applicable universal service programs authorized by the Commission;
9. The geographic distribution of the proposed awards; and
10. The availability of funds and the equitable distribution of funds as required by section 905(c)(3)(A) of the Act.

The Assistant Secretary will generally select and recommend applications for funding based on the recommendations from the OICG Associate Administrator. As the Selecting Official, the Assistant Secretary retains discretion to select and recommend an application for funding that was not recommended by the OICG Associate Administrator based on one of the selection factors enumerated above and/or not to select an application that was recommended for funding by the Associate Administrator. The Assistant Secretary will submit the applications recommended for funding, along with the bases for the selection decisions, to the National Oceanic and Atmospheric Administration (NOAA) Grants Officer, who serves as the Grants Officer for the TBCP. The final approval of selected applications and the issuance of awards will be made by the NOAA Grants Officer. The award decisions of the NOAA Grants Officer are final.

Awards will be made on a rolling basis subject to the availability of funds. Unsuccessful applicants will be notified in writing.

5. Federal Awarding Agency Review of Risk Posed by Applicants

After applications are proposed for funding by the Selecting Official, the NOAA Grants Management Division will perform pre-award risk assessments in accordance with 2 C.F.R. § 200.206, which may include a review of the financial stability of an applicant, the quality of the applicant's management systems, the history of performance, reports, and findings from audits, and/or the applicant's ability to effectively implement statutory, regulatory, or other requirements imposed on non-federal entities. In addition, prior to making an award where the total federal share is expected to exceed the simplified acquisition threshold (currently \$250,000), the NOAA Grants Management Division will review and consider the non-publicly available information about that applicant in the Federal Awardee Performance and Integrity Information System (FAPIS). Upon completion of the pre-award risk assessment, the NOAA Grants Management Division will determine whether the applicant is qualified to receive the award and, if so, whether appropriate specific award conditions that correspond to the degree of risk posed by the applicant should be applied to the award.

6. Anticipated Announcement and Award Dates

NTIA expects to complete its review, selection of successful applicants, and award processing by **June 20, 2024**. NTIA expects the earliest start date for awards under this NOFO to be **July 5, 2024**.

F. Federal Award Administration Information

1. Federal Award Notices

A grants officer from the NOAA Grants Office will serve as the Grants Officer for awards issued pursuant to this NOFO. Applicants will be notified in writing by the NOAA Grants Officer if their application is selected for an award. If the application is selected for funding, the NOAA Grants Officer will issue the grant award (Form CD-450), which is the authorizing financial assistance award document. By signing the Form CD-450, the recipient agrees to comply with all award provisions, terms, and conditions.

If an applicant is awarded funding, neither NTIA nor NOAA is under any obligation to provide any additional future funding in connection with that award or to make any future award(s). Amendment of an award to extend the period of performance is at the discretion of NTIA and the NOAA Grants Officer, in accordance with the requirements and limitations contained in the Act.

2. Notification to Unsuccessful Applicants

Unsuccessful applicants will be notified by e-mail and will have the opportunity to receive a debriefing after the opportunity is officially closed. Applicants must submit a written request

within 10 business days of the email notification to receive a debriefing from NTIA. NTIA will then work with the unsuccessful applicant to arrange a date and time for the debriefing.

3. Retention of Unsuccessful Applications

Unsuccessful applications will be retained in accordance with NTIA record-keeping requirements.

4. Administrative and National Policy Requirements

Grant recipients must comply with applicable statutes and regulations, including but not limited to:

- **Uniform Administrative Requirements, Cost Principles, and Audit Requirements.** Through 2 C.F.R. § 1327.101, the Department of Commerce adopted the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. Part 200, which apply to awards in the TBCP. Refer to <http://go.usa.gov/SBYh> and <http://go.usa.gov/SBg4>.
- **Department of Commerce Financial Assistance Standard Terms and Conditions.** The Department of Commerce will apply to each award in the TBCP the Financial Assistance Standard Terms and Conditions in effect on the date of award. The current version, dated November 12, 2020, is accessible at [Department of Commerce Financial Assistance Standard Terms and Conditions](#). Refer to Section VII of this NOFO, Federal Awarding Agency Contacts, Grant Rules and Regulations, for more information.
- **Pre-Award Notification Requirements.** The Department of Commerce will apply the Pre-Award Notification Requirements for Grants and Cooperative Agreements dated December 30, 2014 (79 FR 78390), accessible at <http://go.usa.gov/hKkR>. Refer to Section G. of this NOFO, Federal Awarding Agency Contacts, Grant Rules and Regulations, for more information.
- **Environmental and National Historical Preservation Requirements.** Awarding agencies are required to analyze the potential environmental impacts, as required by the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) and the National Historic Preservation Act (NHPA) (54 U.S.C. 300101 *et seq.*), for applicant proposals and awardee projects seeking funding under the TBCP. Additionally, in accordance with Section 2(a)(1) of Executive Order 11988, as amended by Executive Order 13690, before taking an action, the applicant, in coordination with NTIA, must determine whether a proposed action will occur in a floodplain. Applicants with projects containing construction and/or ground disturbing activities are required to submit all required environmental documentation with their application package or describe in their project narrative the physical project location and include photographs, as described above, and how they will comply with applicable environmental and national historical preservation requirements. It is the applicant's responsibility to obtain all necessary federal, state, and

local governmental permits and approvals necessary for the proposed work to be conducted. Applicants are expected to design their projects so that they minimize the potential for adverse impacts on the environment. Applicants also will be required to cooperate with NTIA in identifying feasible measures to reduce or avoid any identified adverse environmental impacts of their proposed projects. The failure to do so may be grounds for not making an award. Applications will be reviewed to ensure that they contain sufficient information to allow agency staff to conduct a NEPA analysis so that appropriate NEPA documentation can be submitted to NTIA, along with the recommendation for funding of the selected applications. If additional information is required after an application is accepted for funding, funds can be withheld by NTIA under a special award condition requiring the awardee to submit additional environmental compliance information sufficient for the agency to make an assessment of any impacts that a project may have on the environment.

- **Property Trust Relationship and Public Notice Filings for Grant-Acquired Property.** In accordance with 2 C.F.R. 200.316, real property, equipment, and intangible property that are acquired or improved with a federal award must be held in trust by the recipient or subrecipient as trustee for the beneficiaries of the project or program under which the property was acquired or improved. In this connection, NTIA may require the non-federal entity to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with a federal award and that use and disposition conditions apply to the property. Awards issued pursuant to this NOFO may contain specific award conditions pertaining to the use and disposition of grant-acquired property and to a requirement that the recipient or subrecipient file certain public notices (*e.g.*, UCC-1, Covenant of Purpose, Use and Ownership, etc.) with respect to grant-acquired property.
- Tribal Laws including TERO, Environmental Protections Ordinances, and other applicable Tribal laws enacted by the Tribal Government.
- The Davis Bacon Act, Public Law 71-798, 46 Stat. 1494 (Mar. 3, 1931) (Davis Bacon Act) is not applicable to the TBCP; thus, Tribes may use their Tribal Force Account Wage Rates in lieu of Davis Bacon Act Wage Rates.
- **Open Network Requirements.** NTIA will require a recipient receiving funds to deploy broadband infrastructure under this grant program to make the network open for interconnection with other broadband service providers. The requirement to interconnect will apply to applicants that deploy middle mile networks or submarine cable landing stations and not last mile networks. Awards issued pursuant to this NOFO may contain a specific award condition imposing a requirement to comply with NTIA's open network requirements, which allows all other carriers to interconnect with these networks on fair and non-discriminatory terms and conditions. This specific award condition may include the following:
 - **Interconnection:** Recipients shall allow interconnection to grant-funded facilities at any technically feasible point along the network (without exceeding current or reasonably anticipated capacity limitations). This duty includes, at a minimum,

the physical interconnection of the recipient's facilities to a requesting party's facilities for the exchange of traffic. In addition, recipients shall connect to the public Internet directly or indirectly and provide requesting parties with an ability to connect to the Internet. Rates and terms for interconnection shall be reasonable and nondiscriminatory.

- **Negotiate in Good Faith:** Recipients shall negotiate in good faith with all requesting parties (*i.e.*, public, private, non-profit, or other parties) making a bona fide request for interconnection or wholesale services.
- **Wholesale Broadband Service:** NTIA encourages recipients to offer wholesale broadband service at rates and terms that are reasonable and nondiscriminatory.
- **Build America, Buy America Domestic Content Procurement Preference Requirements.** TBCP Broadband Infrastructure Deployment projects present an important opportunity to ensure that American taxpayer dollars are spent procuring needed products and supplies from American workers and businesses, strengthening and growing U.S. domestic manufacturing capacity. Accordingly, all funds made available through TBCP for Broadband Infrastructure Deployment projects must comply with the following requirements:

Pursuant to IIJA, Pub. L. No. 117-58, which includes the BABA, Pub. L. No. 117-58, §§ 70901-52, and Office of Management and Budget Memorandum M-22-11,²⁴ recipients of an award of federal financial assistance from the Department of Commerce are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

- 1) all iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
- 2) all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
- 3) all construction materials²⁵ are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the

²⁴ Memorandum for Heads of Executive Departments and Agencies, Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure, M-22-11, Office of Management and Budget (Apr. 18, 2022).

²⁵ Excludes cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.

construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

To help federal agencies and recipients meet BABA requirements, the Hollings Manufacturing Extension Partnership (MEP) National Network™ of the National Institute for Standards and Technology (NIST) provides a service to connect stakeholders, including recipients, to U.S. manufacturers that have relevant production capabilities and capacities to help fulfill current market and supply chain needs. Recipients considering requesting a BABA nonavailability waiver are strongly encouraged to contact the NIST/MEP for assistance with supplier scouting services prior to seeking a BABA nonavailability waiver. Further information on the NIST/MEP supplier scouting services is available at: <https://www.nist.gov/mep/supplier-scouting>.

Waivers

When necessary, recipients may apply for, and the Department may grant, a waiver from these requirements. The Department will provide the recipient with information on the process for requesting a waiver from these requirements.

- 1) When the Department has made a determination that one of the following exceptions applies, the awarding official may waive the application of the domestic content procurement preference in any case in which the Department determines that:
 - a. applying the domestic content procurement preference would be inconsistent with the public interest;
 - b. the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
 - c. the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

A request to waive the application of the domestic content procurement preference must be in writing. NTIA will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Made in America Office of the Office of Management and Budget (OMB).

There may be instances where an award qualifies, in whole or in part, for an existing waiver described at <https://www.commerce.gov/oam/build-america-buy-america>.

Definitions

“Construction materials” includes an article, material, or supply—other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials;

aggregates such as stone, sand, or gravel; or aggregate binding agents or additives²⁶—that is or consists primarily of:

- non-ferrous metals;
- plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- glass (including optic glass);
- lumber; or
- drywall.

In the case of construction materials, all manufacturing processes for the construction material must have occurred in the United States.²⁷

“Domestic content procurement preference” means all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States.

“Infrastructure” includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure includes facilities that generate, transport, and distribute energy.

“Project” means the construction, alteration, maintenance, or repair of infrastructure in the United States.

- **Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.** Pursuant to 2 C.F.R. 200.321, a non-federal entity must take all necessary affirmative steps (as described in 2 C.F.R. 200.321) to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.
- **Cybersecurity and Supply Chain Risk Management.** NTIA recognizes the importance of (a) protecting American communications networks and those who use them from domestic and international threat actors, and (b) promoting the natural evolution of cybersecurity and supply-chain risk management practices in a manner that allows flexibility in addressing evolving threats. It is the policy of the United States to strengthen the security and resilience of its critical infrastructure against both physical and cybersecurity threats. Entities receiving federal funds must ensure that cybersecurity is integrated into the design, development, operation, and maintenance of critical infrastructure information technology and operational technology. Accordingly, each Eligible Entity is required to submit, as part of its TBCP application, an executed copy of

²⁶ IIJA, § 70917(c)(1).

²⁷ *Id.* at § 70912(6)(C).

the *Certification Regarding Compliance with Cybersecurity and Supply Chain Management Requirements* contained in Appendix A of this NOFO.

To accomplish the cybersecurity objectives of the United States Government, an Eligible Entity shall attest, and prior to allocating any funds to any subgrantee require it to attest, at a minimum, that it or they have completed the following actions:

- Reviewed the Cybersecurity and Critical Infrastructure Security Agency (CISA) Cross-Sector Cybersecurity Performance Goals (CPGs) (https://www.cisa.gov/sites/default/files/2023-03/CISA_REPORT_v1.0.1_FINAL.pdf). CPGs establish the baseline cybersecurity practices and controls with known risk-reduction value that are actionable and broadly applicable across all critical infrastructure sectors.
- Performed an initial assessment of the cybersecurity practices of the TBCP award-funded project using the CISA CPG Checklist Adapted for Grant Awards. This assessment will include the cyber assets controlled as part of the execution of the project and the cybersecurity practices of the Eligible Entity organization and any subgrantees.
- Develop and submit a Cybersecurity Risk Mitigation Plan for the Eligible Entity organization and any prospective or actual subgrantees that includes:
 - The CISA CPG Checklist Adapted for Grant Awards with a current assessment documented for cyber assets controlled as part of the project, as well as an assessment of the cybersecurity practices of the Eligible Entity organization and any prospective or actual subgrantees;
 - A prioritized list of the CPG gaps for the project that need to be addressed for cyber assets controlled as part of the execution of the project, as well as any CPG gaps affecting the Eligible Entity organization and any prospective or actual subgrantees;
 - Documentation of project cybersecurity risk mitigations to be undertaken as part of execution of the grant award, with a target implementation date identified for each mitigation effort, including mitigation efforts to address identified project CPG gaps, as well as mitigation efforts to address identified CPG gaps of the Eligible Entity organization and any prospective or actual subgrantees.

With respect to supply chain risk management (SCRM), the Eligible Entity shall attest, and prior to allocating any funds to any subgrantee require it to attest, at a minimum, that:

- The Eligible Entity and/or prospective subgrantee has a SCRM plan in place that is either: operational, if the Eligible Entity and/or prospective subgrantee is already providing service at the time of the grant; or ready to be operationalized, if the Eligible Entity and/or prospective subgrantee is not yet providing service at the time of grant award;
- The SCRM plan is based upon the key practices discussed in the NIST publication NISTIR 8276, *Key Practices in Cyber Supply Chain Risk Management: Observations from Industry* and related SCRM guidance from NIST, including NIST 800-161, *Cybersecurity Supply Chain Risk Management*

Practices for Systems and Organizations, and specifies the SCRM controls being implemented;

- The SCRM plan will be reevaluated and updated on a periodic basis and as events warrant; and
- Each SCRM plan from a subgrantee, if applicable, will be submitted to the Eligible Entity prior to the allocation of funds. If a subgrantee makes any substantive changes to its SCRM plan, a new version will be submitted to the Eligible Entity within 30 calendar days. The Eligible Entity must provide its SCRM plan, or those of its subgrantees, as applicable, to NTIA upon request.

An Eligible Entity also must ensure that, to the extent it or its subgrantee relies in whole or in part on network facilities owned or operated by a third party (*e.g.*, purchases wholesale carriage on such facilities), it will obtain the above attestations from its network provider with respect to both cybersecurity and SCRM practices.

5. Reporting

a. Reporting Requirements. The following reporting requirements described in Sections A.01, Reporting Requirements, of the [Department of Commerce Financial Assistance Standard Terms and Conditions](#) (dated November 12, 2020), apply to awards in this program:

- 1) **Financial Reports.** Each award recipient will be required to submit an SF-425, Federal Financial Report, on a semi-annual basis for the periods ending March 31 and September 30 of each year. Reports will be due within 30 days after the end of the reporting period to the NTIA Federal Program Officer, Grants Officer, and Grants Specialist named in the award documents. A final financial report is due within 120 days after the end of the project period.
- 2) **Performance (Technical) Reports.** Each award recipient will be required to submit a technical progress report to the NTIA Federal Program Officer, Grants Officer, and Grants Specialist named in the award documents on a semi-annual basis for the periods ending March 31 and September 30 of each year. Reports will be due within 30 days after the end of the reporting period. Technical progress reports shall contain information as prescribed in 2 C.F.R. 200.329 (<http://go.usa.gov/xkVgP>) and [Department of Commerce Financial Assistance Standard Terms and Conditions dated November 12, 2020](#), Section A.01.

b. Annual Report. Not later than one year after receiving grant funds under the TBCP, and annually thereafter until the funds have been expended, an Eligible Entity shall submit to the Assistant Secretary (via email to the NTIA Federal Program Officer listed in the recipient's award documents) a report, with respect to the one-year period immediately preceding the report date, that:

- (i) describes how the Eligible Entity expended the funds;

(ii) certifies that the Eligible Entity complied with the requirements of the Act and the TBCP, including:

(I) a description of each service provided with the grant funds; and

(II) the number of locations or geographic areas at which broadband service was provided using the grant funds; and

(iii) identifies each subgrantee that received a subgrant from the Eligible Entity and a description of the specific project for which grant funds were provided.

c. Provision of Information To FCC And USDA. The Assistant Secretary will provide the information collected under Section F.5 of this NOFO to the Commission and to the Department of Agriculture to be used when determining whether to award funds for the deployment of broadband under any program administered by those agencies. *See* section 905(f)(1)(B) of the Act.

d. Transmission of Reports To Congress. Not later than five days after receiving an Annual Report from an Eligible Entity under the TBCP, the Assistant Secretary will transmit the report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives.

e. Recipient Integrity and Performance Matters

In accordance with section 872 of Public Law 110-417 (as amended; *see* 41 U.S.C. § 2313), if the total value of a recipient's currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of an award made under this NOFO, then the recipient shall be subject to the requirements specified in Appendix XII to 2 C.F.R. Part 200,²⁸ for maintaining the currency of information reported to SAM that is made available in FAPIIS about certain civil, criminal, or administrative proceedings involving the recipient.

f. Audit Requirements

2 C.F.R. Part 200 Subpart F, adopted by the Department through 2 C.F.R. 1327.101, requires any non-federal entity (*e.g.*, non-profit institutions of higher education and other non-profit organizations) that expends federal awards of \$750,000 or more in the recipient's fiscal year to conduct a single or program-specific audit in accordance with the requirements set out in the Subpart. Additionally, unless otherwise specified in the terms and conditions of the award, entities that are not subject to Subpart F of 2 C.F.R. Part 200 (*e.g.*, commercial entities) that expend \$750,000 or more in Department funds during their fiscal year must submit to the Grants Officer either: (i) a financial related audit of each Department award or subaward in accordance with Generally Accepted Government Auditing Standards; or (ii) a project specific audit for each award or subaward in accordance with the requirements contained in 2 C.F.R.

200.507. Applicants are reminded that NTIA, the Department's Office of Inspector General (OIG), or another authorized federal agency may conduct an audit of an award at any time.

²⁸ *See* 2 C.F.R. Part 200, Appendix XII, available at <http://go.usa.gov/cTBwC>.

g. Federal Funding Accountability and Transparency Act of 2006

In accordance with 2 C.F.R. Part 170, all recipients of a federal award made on or after October 1, 2010, are required to comply with reporting requirements under the Federal Funding Accountability and Transparency Act of 2006, Public Law No. 109-282, 120 Stat. 1186 (Sep. 26, 2006). In general, all recipients are responsible for reporting sub-awards of \$30,000 or more. In addition, recipients that meet certain criteria are responsible for reporting executive compensation. Applicants must ensure they have the necessary processes and systems in place to comply with the reporting requirements should they receive funding.²⁹

h. Project Signage and Public Acknowledgements

Recipients are required (for construction projects) and encouraged (for non-construction projects) to post project signage and to include public acknowledgments in published and other collateral materials (*e.g.*, press releases, marketing materials, website, etc.) satisfactory in form and substance to NTIA, that identifies the nature of the project and indicates that “the project is funded by the Infrastructure Investment and Jobs Act.” In addition, recipients employing project signage are required to use the official Investing in America emblem in accordance with the Official Investing in America Emblem Style Guide: <https://www.whitehouse.gov/wp-content/uploads/2023/02/Investing-in-America-Brand-Guide.pdf>. Costs associated with signage and public acknowledgments must be reasonable and limited. Signs or public acknowledgments should not be produced, displayed, or published if doing so results in unreasonable cost, expense, or recipient burden. The Recipient is encouraged to use recycled or recovered materials when procuring signs.

G. Federal Awarding Agency Contact(s)

1. Please direct programmatic inquiries to:

Matt Rogotzke
Federal Program Officer, Tribal Connectivity and Nation to Nation Coordination
Office of Internet Connectivity and Growth
National Telecommunications and Information Administration
U.S. Department of Commerce
1401 Constitution Avenue, NW, Room 4887
Washington, DC 20230
Phone: (202) 482-2048
Email: Tbcpnofo2@ntia.gov

2. Please direct grant management inquiries to:

Nicola Bell

²⁹ See Requirements for Federal Funding Accountability and Transparency Act Implementation, Interim Final Guidance to Agencies with Opportunity to Comment, Office of Management and Budget, 75 FR 55663 (Sept. 14, 2010), available at <http://go.usa.gov/hKnQ>.

Grants Officer
National Oceanic and Atmospheric Administration
Grants Management Division
1325 East West Highway, Room 9340, (SSMC2)
Silver Spring, MD 20910-3282
Phone: (301) 628-1328
Email: Nicola.Bell@noaa.gov

3. Please direct media inquiries to:

Charles Meisch
Director
Office of Public Affairs
National Telecommunications and Information Administration
U.S. Department of Commerce
1401 Constitution Avenue NW, Room 4897
Washington, DC 20230
Phone: (202) 482-7002
Email: press@ntia.doc.gov

H. Other Information

1. Protected and Proprietary Information. The applicant acknowledges and understands that information and data contained in applications for financial assistance, as well as information and data contained in financial, performance, and other reports submitted by applicants, may be used by NTIA in conducting reviews and evaluations of its financial assistance programs. For this purpose, applicant information and data may be accessed, reviewed, and evaluated by NTIA employees, other federal employees, federal agents and contractors, and/or by non-federal personnel, all of whom enter into appropriate confidentiality and nondisclosure agreements covering the use of such information. As may be provided in the terms and conditions of a specific financial assistance award, applicants are expected to support program reviews and evaluations by submitting required financial and performance information and data in an accurate and timely manner, and by cooperation with NTIA and external program evaluators. In accordance with 2 C.F.R. 200.303(e), applicants are reminded that they must take reasonable measures to safeguard protected personally identifiable information and other confidential, cultural, or sensitive personal or business information created or obtained in connection with a Department financial assistance award.

NTIA will protect confidential and proprietary information from public disclosure to the extent authorized by applicable law, including the Freedom of Information Act (FOIA), as amended (5 U.S.C. 552), the Trade Secrets Act, as amended (18 U.S.C. 1905), and the Economic Espionage Act of 1996 (18 U.S.C. 1831 *et seq.*). Applications submitted in response to this NOFO may be subject to requests for release under the FOIA. In the event that an application contains information or data that the applicant deems to be confidential cultural or commercial information that is exempt from disclosure under FOIA, that information should be identified, bracketed, and marked as Privileged, Confidential, Cultural, Commercial, or Financial

Information. Based on these markings, the confidentiality of the contents of those pages will be protected to the extent permitted by law.

Additionally, some of the information submitted in the course of applying for funding under this program, or provided in the course of its grant management activities, may be considered law enforcement sensitive or otherwise important to national security interests. This may include threat, risk, and needs assessment information, and discussions of demographics, transportation, public works, and industrial and public health infrastructures. While this information under federal control is subject to requests made pursuant to the FOIA, 5 U.S.C. 552, all determinations concerning the release of information of this nature are made on a case-by-case basis and may fall within one or more of the available exemptions under the FOIA. The applicant is encouraged to consult its own state and local laws and regulations regarding the release of information, which should be considered when reporting sensitive matters in the grant application. The applicant may consult with NTIA regarding concerns or questions about the release of information under state and local laws. The applicant should be familiar with the regulations governing Protected Critical Infrastructure Information (6 C.F.R. Part 29) and Sensitive Security Information (49 C.F.R. Part 1520), as these designations may provide additional protection to certain classes of homeland security information.

2. Funding Availability and Limitation of Liability. Funding for the program listed in this NOFO is contingent upon the availability of appropriations. In no event will NTIA, NOAA or the Department be responsible for application preparation costs, including, but not limited to, if the program fails to receive funding or is cancelled because of agency priorities. Publication of this NOFO does not oblige NTIA, NOAA, or the Department to award any specific project or to obligate any available funds. NTIA will fund only projects that are deemed likely to achieve the TBCP's goals and for which funds are available.

3. Third Party Beneficiaries. The TBCP is a discretionary grant program that is not intended to and does not create any rights enforceable by third party beneficiaries.

4. Waiver Authority. It is the general intent of NTIA not to waive any of the provisions set forth in this NOFO. However, under extraordinary circumstances and when it is in the best interest of the federal government, NTIA, upon its own initiative or when requested, may waive the provisions in this NOFO. Waivers may only be granted for requirements that are discretionary and not mandated by statute or other applicable law. Any request for a waiver must set forth the extraordinary circumstances for the request.

5. Paperwork Reduction Act. This NOFO contains an information collection requirement subject to the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*). The PRA requires each federal agency to seek and obtain OMB approval before collecting information from the public. Federal agencies may not collect information unless an information collection form displays a currently valid OMB control number. NTIA will use Standard Forms 424 (Application for Federal Assistance), 424A (Budget Information for Non-Construction Programs), 424B (Assurances for Non-Construction Programs), 424C (Budget Information for Construction Programs), 424D (Assurances for Construction Programs), 425 (Federal Financial Report), and SF-LLL (Disclosure for Lobbying Activities), under the respective control numbers 4040-0004, 4040-0006, 4040-0007, 4040-0008, 4040-0009, 4040-0014, and 4040-0013.

Additionally, NTIA will use the TBCP2 Project Information Form along with the Pro Forma Financial Projection Template approved in the Application for Broadband Grant Programs information collection (0660-0046) and the Baseline Report, Performance (Technical) Report, and the Annual Report forms approved in the TBCP Reporting Requirements information collection (0660-0047).

6. Transparency, Accountability, And Oversight Required. The Assistant Secretary has adopted measures, including audit requirements, to implement the TBCP that:

a. ensure sufficient transparency, accountability, and oversight to provide the public with information regarding the award and use of grant funds under the TBCP;

b. ensure that a recipient of a grant under the TBCP uses the grant funds in compliance with the requirements of Section 905 of the Act, this NOFO, and the overall purpose of the TBCP; and

c. deter waste, fraud, and abuse of grant funds.

7. Access to Records

Pursuant to 2 C.F.R. 200.337, NTIA, OIG, or any of their authorized representatives, must have the right of access to any documents, papers, or other records of the non-Federal entity which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. These rights also include timely and reasonable access to the non-Federal entity's personnel for the purpose of interviews and discussions related to such documents. The rights of access in this section are not limited to the required retention period, but last as long as the records are retained.

8. U.S. Department of Commerce Office of Inspector General

The OIG seeks to improve the efficiency and effectiveness of the Department's programs, including through deterring and detecting fraud, waste, abuse, and mismanagement. The OIG accomplishes this mission primarily through investigations, audits, and inspections of Department activities, including grants, cooperative agreements, loans, and contracts.

a. Disclosures

Recipients of financial assistance originating from the Department, including NTIA, as well as applicants applying to this funding opportunity, shall timely disclose, in writing, to the OIG and to the awarding agency, whenever, in connection with the application process prior to award, award, performance, or closeout of this grant or sub-award thereunder, the recipient has credible evidence that a principal, employee, agent, or sub-recipient has committed:

1. A violation of federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code; or
2. A violation of the civil False Claims Act (31 U.S.C. §§ 3729-3733).

b. Reporting

The OIG maintains a hotline to receive allegations of fraud, waste, or abuse. To report such allegations, please visit <https://www.oig.doc.gov/Pages/Hotline.aspx> to submit a complaint, or call toll-free at 800-424-5197. The OIG will accept complaints via U.S. mail at the following address: U.S. Department of Commerce, Office of Inspector General, 1401 Constitution Avenue, Washington, DC 20230. Upon request, the OIG will take appropriate measures to protect the identity of any individual who reports misconduct, as authorized by the Inspector General Act of 1978, as amended. Reports to the OIG may also be made anonymously.

c. Whistleblower Protection

Recipients, sub-recipients, and employees working on this grant award will be subject to the whistleblower rights and remedies established under 41 U.S.C. 4712.

An employee of a recipient or sub-recipient may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing information that the employee reasonably believes is evidence of: gross mismanagement of a federal contract or award; a gross waste of federal funds; an abuse of authority (*i.e.*, an arbitrary and capricious exercise of authority that is inconsistent with the mission of NTIA or the Department or the successful performance of a contract or grant awarded by NTIA or the Department) relating to a federal contract or award; a substantial and specific danger to public health or safety; or a violation of a law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

The recipient or sub-recipient shall inform its employees and contractors, in writing, in the predominant language of the workforce or organization, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described above and at <https://www.oig.doc.gov/Pages/Whistleblower-Protection-Program.aspx>.

9. Enforcement

NTIA shall take appropriate enforcement action against recipients of TBCP grant awards and recipients shall take appropriate enforcement action against subgrantees in accordance with 2 C.F.R. 200.339, Remedies for non-compliance.

10. Unauthorized Use of Funds. To the extent that the Assistant Secretary or the OIG determines that an Eligible Entity has expended grant funds received under the TBCP in violation of Section 905 of the Act, the Assistant Secretary will recover the amount of funds that were so expended. *See* Section 905(e)(5) of the Act. Additionally, if the OIG determines funds are used for unauthorized purposes, not only will those funds be recovered, but the Eligible Entity may also be subject to criminal prosecution, civil and administrative penalties, and other remedies. *See* Section D.8 of the NOFO for more information.

Appendix A

Certification Regarding Compliance with Cybersecurity and Supply Chain Management Requirements

[To be completed and submitted by each applicant as part of its application]

On behalf of [*Organization Name*], I, [*print name*] _____, hereby certify that, in submitting this Tribal Broadband Connectivity Program (TBCP) application, my organization is in compliance with the Cybersecurity and Supply Chain Management requirements discussed in Section F.4 of the Tribal Broadband Connectivity Program Notice of Funding Opportunity, Funding Opportunity Number NTIA-ICG-TBCPO-2023-2008098, published on July 27, 2023. I further certify that my organization is in compliance with each of the below requirements and attest that:

My organization and any prospective or actual subgrantees of my organization fully recognize and understand that it is the policy of the United States to strengthen the security and resilience of its critical infrastructure against both physical and cybersecurity threats. Entities receiving federal funds must therefore ensure that cybersecurity is integrated into the design, development, operation, and maintenance of critical infrastructure communication technology and operational technology;

In order to accomplish the cybersecurity objectives of the United States Government, my organization and any prospective or actual subgrantees will complete the following actions within twelve (12) months of the acceptance of any TBCP grant award to my organization:

1. Review the Cybersecurity and Infrastructure Security Agency (CISA) Cross-Sector Cybersecurity Performance Goals (CPGs) (https://www.cisa.gov/sites/default/files/2023-03/CISA_CPG_REPORT_v1.0.1_FINAL.pdf), which establish the baseline cybersecurity practices and controls with known risk-reduction value that are actionable and broadly applicable across all critical infrastructure sectors;
2. Perform an initial assessment of the cybersecurity practices of the TBCP award-funded project (Project) using the CISA CPG Checklist Adapted for Grant Awards. This assessment will include the cyber assets controlled as part of the execution of the Project and the cybersecurity practices of my organization and any parent and/or partner organizations;
3. Develop and submit a Cybersecurity Risk Mitigation Plan (Plan) for my organization and any prospective or actual subgrantees that includes:
 - a. The CISA CPG Checklist Adapted for Grant Awards with a current assessment documented for cyber assets controlled as part of the Project, as well as an assessment of the cybersecurity practices of my organization and any parent and/or partner organizations;

b. A prioritized list of Project CPG gaps that need to be addressed for cyber assets controlled as part of the execution of the Project, as well as any CPG gaps affecting my organization and any parent and/or partner organizations;

c. Documentation of Project cybersecurity risk mitigation efforts to be undertaken as part of the execution of the TBCP award, with a target implementation date identified for each mitigation effort, including mitigation efforts to address identified Project CPG gaps, as well as mitigation efforts to address identified CPG gaps of my organization and any parent and/or partner organization;

My organization and any prospective or actual subgrantees of my organization fully recognize and understand that any failure to submit and obtain the approval of a Plan by the National Telecommunications and Information Administration (NTIA) within twelve (12) months of acceptance of a TBCP award to my organization will result in corrective action, potentially including, but not limited to, the imposition of a performance improvement plan, additional risk monitoring measures, and/or possible limitations on certain uses of TBCP award funds;

With respect to Supply Chain Risk Management (SCRM), my organization has an SCRM plan (SCRM Plan or Plans) in place that is either: operational, if either my organization or any prospective or actual subgrantees is or are already providing any form or type of telecommunications services; or ready to be operationalized, if my organization and/or any prospective or actual subgrantees is or are not yet providing any form or type of telecommunications services;

The SCRM Plan is based upon the key practices discussed in the National Institute of Standards and Technology (NIST) publication NISTIR 8276, *Key Production In Cyber Supply Chain Risk Management: Observations from Industry* and related SCRM guidance from NIST, including NIST 800-161, *Cybersecurity Supply Chain Risk Management Practices for Systems and Organizations*, and specifies the supply chain risk management controls being implemented;

The SCRM Plan will be reevaluated and updated by my organization on a periodic basis and as events warrant;

The SCRM Plan or Plans of any prospective or actual subgrantees will be submitted to my organization prior to the allocation of grant funds. If a prospective or actual subgrantee makes any substantive changes to its SCRM Plan, a new version will be submitted to my organization within 30 calendar days. My organization will provide its SCRM Plan and the SCRM Plan or Plans of any prospective or actual subgrantees to NTIA upon request; and

My organization will ensure that, to the extent that my organization and/or any prospective or actual subgrantee relies or rely in whole or in part on network facilities owned or operated by one or more third parties (e.g., through the purchase of wholesale carriage on such facilities), my organization will obtain the above attestations from these third parties with respect to both cybersecurity and SCRM practices.

I understand and agree that, if I or my organization knowingly or negligently provides false or inaccurate information in this certification, the organization shall:

1. Not be eligible to receive the Tribal Broadband Connectivity Program grant funding associated with this certification and accompanying application for funding; and
2. Return any grant awarded under the Tribal Broadband Connectivity Program during the time that this certification was not valid; and
3. Not be eligible to receive any subsequent grants under the Tribal Broadband Connectivity Program; and
4. potentially be subject to criminal prosecution (including under 18 U.S.C. § 1001 and/or 1621), civil and administrative penalties, and other remedies, as may its officers, executives, members, or employees, as applicable, as well as any other associated entities, persons, or individuals, including I myself.

Signature of Authorized Organization Representative:

Title: _____

Date: _____