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February 11, 2021

Douglas W. Kinkoph, Associate Administrator  
Office of Telecommunications and Information Applications  
U.S. Department of Commerce  
1401 Constitution Avenue, N.W.  
Washington, D.C. 20230

Dear Mr. Kinkoph,

The Alaska Native Tribal Health Consortium (ANTHC) is a statewide tribal health organization serving all 229 tribes and more than 177,000 Alaska Native and American Indian (AN/AI) individuals in Alaska. ANTHC and Southcentral Foundation co-manage the Alaska Native Medical Center, the tertiary care hospital for all AN/AI people in Alaska. ANTHC also provides a wide range of statewide public health, community health, environmental health and other programs and services for Alaska Native people and their communities.

We are writing to provide our comment and recommendations on the Tribal Broadband Connectivity Program (TBCP) included in the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260 (Act). The Act provides \$1 billion in new funding to support broadband assistance that can assist in mitigating the effects of the COVID-19 pandemic exacerbating the digital divide across tribal communities throughout the United States. Our letter discusses seven recommendations focused on eligibility, equitable distribution, and eligible uses.

### **Program Eligibility**

The Act specifies that before a grant is awarded to an eligible entity that the Assistant Secretary consult with the Federal Communications Commission (FCC) to prevent duplication of funding. The National Telecommunications and Information Administration's (NTIA) Dear Tribal Leader Letter (DTLL) requested input on implementing a program with such broad eligibility, and specifically how to ensure that the priorities of tribal nations are represented. We discuss and make the following recommendations concerning eligibility.

1. The definitions regarding Eligible Service Areas, Eligible Entities, Native Corporations, Native Hawaiians, and Tribal Governments are clear in the statute. We concur with these definitions and recommend the Office of Telecommunications and Information Applications (OTIP) implement these definitions as intended by Congress. While the definition of tribal organization is not cited in the Act, we recommend that the definition from the Indian Self-Determination and Education Assistance Act (ISDEAA) at 25 U.S.C. § 5304(l) be used to determine grant eligibility in this program.

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2. We underscore that the Assistant Secretary is instructed in the statute to "...award a grant to each eligible entity that submits an application...", after consulting with the FCC to prevent duplication of funding. We understand this requirement to mean that any eligible entity that applies so long as there is no duplication of funding by the FCC will be awarded a grant. We agree with and support this requirement.
3. We urge the NTIA when consulting with the FCC about funding duplication to take into consideration how FCC sources of funding for broadband deployment in high-cost areas, including tribal communities, may come with strict regulations, requirements for matching funds, and restrictions that create barriers to broadband deployment initiatives on tribal communities. For example, one of the most significant barriers are requirements restricting federal funding to single-use deployments. For example, health care, education, libraries, law enforcement, or housing. These are often statutory or regulatory requirements which prevent federal funds designated to support infrastructure deployment to specific types of facilities from being used to support wider community use. The funding with these endeavors is also time limited and often inadequate to meet the needs of tribal communities, not to mention Indian Country. We urge NTIA and the FCC to take these factors into consideration in determining duplication of funding issues.

### **Equitable Distribution**

The statute focuses heavily on the equitable distribution of these funds and the NTIA requests input on options to establish a funding formula, creating a competitive process, or a combination of the two methods. During the virtual tribal consultation sessions, it was recommended that the funding be divided into funding pools to be distributed on tribal population size, connectivity, and an amount set-aside for a Request for Proposal process. While we are not opposed to dividing the resources into funding pools, we feel the criteria used to allocate funds should be linked to obstacles that hinder development of broadband capacity in tribal communities. We do not believe that distributing funding based on population size or reservation land-base or other measures of community size is appropriate. In light of these considerations we recommend the following factors for equitable distribution:

4. Tribes are impeded by the lack of access to essential broadband building blocks. Tribal communities historically have had less access to telephone and broadband service than other segments of the population for a number of reasons, such as the high build-out costs of the infrastructure necessary to provide ubiquitous telephone and broadband services to residents on Tribal lands and the limited financial resources of many tribal communities. The very remote, large geographic, and difficult rugged terrain are significant challenges to the development of broadband in Alaska. This deters communications service providers from investing in the development of broadband because there is not an adequate return on investment. This contributes to other social and economic factors like educational opportunities, access to telehealth care, and high unemployment. We recommend NTIA use an established measure such as the percentage of population or households on tribal lands with access to fixed terrestrial 25 Mbps/3Mbps service.
5. Much of Alaska and tribal communities in the contiguous United States lack adequate middle-mile connectivity. On Tribal lands, unfortunately, there is no market-based solution for this problem due to the lack of return on investment. The General Accounting Office (GAO) has

recognized this as a barrier to serving Tribal lands.<sup>1</sup> While middle-mile connectivity problems are not unique in remotes parts of the United States, the challenges are greatest in tribal communities. Lack of funding to support infrastructure for the middle mile, which connects high-speed backbone transmission to last-mile connectivity for Tribal end users, must be overcome to resolve the barriers to broadband--especially in the very remote and rugged topologies in Alaska. We recommend that NTIA develop an equitable funding method that takes this factor into account to address the unique circumstances of places like Alaska and in other tribal communities.

6. Equitable distribution should take into consideration the cost differences across the United States for developing broadband infrastructure. There are unique costs associated with geographic considerations, lack of telecommunication providers, compliance requirements associated with the National Historic Preservation Act, Archeological Resource Protection Act (ARPA), and the Native American Graves Repatriation Act (NAGPRA), right of way issues, and other unique challenges that drive up broadband costs. Compliance with these types of requirements drive up costs in particular markets and are reflected in price. ANTHC recommends NTIA utilize a cost of living index to guide its distribution process to ensure equity across the tribal system.

Adjusting for price variations is a policy already utilized by federal agencies. For example, the Indian Health Service (IHS) utilizes an economic index developed by the Council of Community and Economic Research<sup>2</sup> when Congress allocates program increases in the Purchased and Referred Care (PRC) program<sup>3</sup> and in the Indian Health Care Improvement Fund (IHCIF).<sup>4</sup> A similar method could be adopted by the NTIA to address the high variability of prices associated with broadband technology.

## Eligible Uses

One of the most significant barriers to developing and funding broadband in tribal communities are the restrictions of federal funding to single-use deployments, for example, health care, education, libraries, law enforcement, or housing. These requirements prevent federal funds designated to support infrastructure deployment to specific types of facilities from being used to support wider community use, making it difficult for Tribes to achieve synergies and efficiencies. While the Eligible Uses described in the statute are very broad, we encourage the NTIA to provide broad flexibility within the categories for Tribes to use the funding.

For example, within the category broadband adoption activities, such activities as remote monitoring of water/sewer systems might not be included. However, this helps ensure efficient operation of water/sewer systems, identifying operational problems before they become emergencies, and preventing emergencies. These critical infrastructure is necessary to mitigate and suppress COVID-19. ANTHC's remote monitoring program was designed to complement our rural energy and utility support programs. In the last 12 years, ANTHC's rural energy program has decreased cost of energy in sanitation

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<sup>1</sup> U.S. Government Accountability Office, GAO-16-222, Additional Coordination and Performance Measurement Needed for High-Speed Internet Access Programs on Tribal Lands at 10 (2016).

<sup>2</sup> Formerly referred to as the American Chamber of Commerce Research Association (ACCRA) Index. Available at: <http://www.c2er.org>.

<sup>3</sup> See: <https://www.ihs.gov/ihtm/pc/part-2/chapter-3-purchased-referred-care/>

<sup>4</sup> See: <https://www.ihs.gov/ihcif/>

by nearly 50%, and the utility support program has significantly decreased the number and cost of sanitation emergencies. Remote monitoring is a critical piece of sustaining these reductions in energy and emergency costs. Remote monitoring also allows problems to be identified and repaired before they become extremely costly emergencies that deprive entire communities of water and sewer service. Remote monitoring is an inexpensive way to protect water/sewer infrastructure investments worth tens of millions of dollars in each community.

7. This is one example of the many ways that broadband can support tribal communities and infrastructure. There are likely many more, and we recommend the broadest application of the criteria that are included in the Act.

We thank you for the opportunity to provide our comment and recommendations regarding the Tribal Broadband Connectivity Programs and look forward to your final decisions. If you should have any questions concerning our comment or recommendations, do not hesitate to contact me at [gmoses@anthc.org](mailto:gmoses@anthc.org).

Sincerely,



Gerald Moses, Vice President  
Intergovernmental Affairs

cc: Jean Rice, Senior Broadband Program Specialist, National Telecommunications and Information Administration