

**Dr. Aaron Payment,  
Chairperson  
Sault Ste. Marie Tribe of Chippewa Indians**

**Testimony  
For**

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

**Tribal Consultation  
Regarding The**

**Tribal Broadband Connectivity Program (TBCP)**

**February 11, 2021**

Aaron Payment, n'dizhnikaaz. Kina Baawaa'ting Anishinaabek Omaa go nda Onji-kida. My name is Aaron Payment. As the elected Chairperson of the Sault Ste. Marie Tribe of Chippewa Indians, I am submitting comments on behalf of the Tribe. These comments are in response to issues pertaining to the Tribal Broadband Connectivity Program.

**Program Eligibility:**

Section 905 (a)(8) of the Consolidated Appropriations Act, 2021, identifies five entities that are eligible for the Tribal Grant Program:

- Tribal governments;
- Tribal colleges and universities
- The Department of Hawaiian Homelands on behalf of the Native Hawaiian Community, including Native Hawaiian education programs;
- Tribal organizations; and
- Native corporations as defined under Section 3 of the Alaska Native Claims Settlement Act.

The U.S. Constitution recognizes Tribes as “distinct governments,” along with foreign nations and several States. The U.S. Supreme Court has described their status as “domestic dependent nations” in which Tribal governments have retained nation status and inherent powers of self-government, but are subservient to U.S. federal government powers. The United States entered into more than 370 treaties with the Tribes. Within these treaties, Tribal governments retained their sovereignty rights and ceded millions of acres of land and natural resources to the federal government in exchange for peace. The specifics of each treaty are unique, but all included federal promises to provide health and general welfare provisions.

Recommendation 1: The Sault Ste. Marie Tribe of Chippewa Indians strongly urges 90% of grant funds be set aside for Tribal governments, as they are recognized as sovereign governments. The other eligible entities have no such relationship with the federal government, nor are they owed treaty obligations or trust responsibilities.

Recommendation 2: The Sault Ste. Marie Tribe of Chippewa Indians strongly recommends each Tribe be limited to one application each. With so many Tribes, and with such a limited amount of grant money available, each Tribe should have only one “bite at the apple.”

Recommendation 3: A Tribal organization cannot apply on behalf of a Tribe or Tribes. –If a Tribe, or group of Tribes, wishes to work with each other or with a Tribal organization to leverage its program, that factor can be used in their favor (see Recommendations 12, 13, and 14), but Tribal organizations cannot apply with, or on behalf of, other Tribes.

Recommendation 4: A Tribal organization or consortium should not be allowed to support member Tribes. Each Tribal application should be weighed on its own merits.

Recommendation 5: Tribes should be able to provide broadband services to any geographic area in which their membership resides and not be limited to reservation or trust lands.

### **Equitable Distribution:**

#### Recommendation 6:

The Sault Ste. Marie Tribe of Chippewa Indians recommends an equitable formulaic distribution.

- **50% should be based on Tribal population.**

Recommendation 7: To determine population, use Tribal enrollment data which Tribes can certify. This is done routinely by the Department of Health and Human Services, Administration for Children and Families, Children’s Bureau, for Title IV-B programs. Do not use U.S. Census data, as its Native American population numbers have large margins of error and are known to be marred by significant data collection and reporting issues.<sup>1</sup>

- **30% should be based on connectivity needs.** Connectivity needs will vary significantly from Tribe to Tribe. While a few Tribes have large, contiguous land areas, many do not. The Sault Ste. Marie Tribe of Chippewa Indians, for example, has an extremely limited land base. It consists of several small, isolated land-parcels, scattered across a seven-county area in the Upper Peninsula of Michigan. To the best of its ability, the Sault Ste. Marie Tribe of Chippewa Indians provides essential government services to its members. Due to the non-contiguous nature of its land base, however, these programs and services

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<sup>1</sup> O’Hare, William. “2020 Census Faces Challenges in Rural America” National Issue Brief #131. University of New Hampshire, Carsey Research. 2017.

are spread out. The scattered nature of its lands has created a “checker-board” type scenario, with trust land abutting private, non-Indian lands.

Recommendation 8: The varied character of Indian Country requires NTIA (National Telecommunications and Information Administration) to establish weight based upon land base as well as the distance within Tribal service areas.

An additional factor must be the affordability of connectivity. For example, within most Tribes, including my own, the vast majority of Tribal members cannot afford to connect to existing networks. As a result, few have connectivity to the internet. Having no access to broadband or broadband services leaves many without access to telehealth, distance learning opportunities, and digital inclusion efforts. Nationally, Native Americans have a poverty rate of over 25%,<sup>2</sup> which is higher than any other group in the United States. Few can afford to connect to broadband.

Recommendation 9: The Sault Ste. Marie Tribe of Chippewa Indians recommends that NTIA treat all Tribes equally, by assuming connectivity is unaffordable for Tribal members across the board.

- **20% Tribal Capacity Needs.** NTIA will need to consider Tribal capacity needs (including hardware) to fully accommodate telemedicine and tele-behavioral health.

Recommendation 10: Everything should be based upon open criteria, based upon Tribal justification. Each Tribal Nation is unique and is in a different place. The types of fund “uses” range in scale from shovel ready to proposed projects or from hotspot assistance to construction for a fiber optic line. There should be no project minimums so that even the smallest of Tribal communities can make use of these funds.

Recommendation 11: The Tribal Broadband Connectivity Program should be flexible enough that Tribes can build off of the program in the future. For example, if a Tribe uses Tribal Broadband Connectivity Program funding to create a viable telehealth program, it should be allowed to use the foundation of the program to grow an unrelated distance-learning program in the future using funds from a different source.

Recommendation 12: Leveraging federal, state, local, and/or private programs with the Tribal Broadband Connectivity Program should be strongly encouraged and weighted in favor of the Tribe.

Recommendation 13: Leveraging inter-Tribal and/or intra-Tribal programs with the Tribal Broadband Connectivity Program should be encouraged and strongly weighted in favor of the Tribe.

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<sup>2</sup> Muhammad, Tec, and Ramirez, “Racial Wealth Snapshot: American Indians/Native Americans” National Community Reinvestment Coalition. November 18, 2019.

Recommendation 14: Leveraging with Tribal colleges and universities programs with the Tribal Broadband Connectivity Program should be encouraged and strongly weighted in favor of the Tribe.

Recommendation 15: There should be no restrictions based on the overlay of other programs. Nor should any other program broadband grants preclude the use of funds from this program.

Recommendation 16: Tribes should be able to link their broadband grant to tribal economic development so that we can service both our tribal membership and the communities that they live in. The tribal and non-tribal communities are often overlaid and we should be able to provide services to both. Utilizing broadband as an economic engine will allow the tribe to provide ongoing maintenance and long-term sustainability of our part of the broadband system.

### **National Historic Preservation Act (NHPA), Environmental Assessment, and Cultural Resources:**

Recommendations 17 and 18: It is essential that when the fiber is going to be laid or when towers are going to be placed, that they do not disrupt areas of cultural importance to the Tribes. NTIA will need to follow current NHPA regulations that protect areas of Tribal cultural importance. The same standard of care will need to be applied to the environment in Indian Country, and National Environmental Policy Act (NEPA) regulations will need to be followed as well.

**Unserved Areas:** Maps made without Tribal input that purport to identify service areas are often inaccurate.

Recommendation 19: Tribes can/should report unserved/underserved areas via self-certification.

### **Reporting Requirements:**

Recommendation 20: The Sault Ste. Marie Tribe of Chippewa Indians recommends that the evaluation and reporting for each Tribe should be unique to each Tribe's application and planned activities in the application they submit. No additional criteria should be crafted.

### **Conclusion:**

Thank you for this opportunity to comment. If you have any questions or need any additional information, please do not hesitate to contact me or the Sault Ste. Marie Tribe of Chippewa Indians Legislative Director, Mike McCoy at [mmccoy@saulttribe.net](mailto:mmccoy@saulttribe.net).