

Wiegand, Ryan

From: Robert Mark Kirk <rmkirk@osagenation-nsn.gov>
Sent: Thursday, February 11, 2021 4:38 PM
To: BroadbandUSA
Cc: Candy Thomas; Susan Bayro; Paul Bemore
Subject: Tribal Broadband Grant Program by February 11, 2021.

Good afternoon, we have a few comments we would like to submit in addition to the comments we added during the consultation.

ADDITIONAL COMMENTS FROM OSAGE NATION

NTIA's Tribal Consultation on the Tribal Broadband Connectivity Program

Key questions posed by the National Telecommunications and Information Administration (NTIA):

- (1) **Program Eligibility:** How to ensure that priorities of Tribal Nations are represented?

NOTES FOR A RESPONSE: Each of the 574 Tribal Nations is a unique, sovereign Nation—each with its own priorities and needs. The best way to ensure that priorities of Tribal Nations are represented is to provide maximum flexibility allowed under the Act for Tribal governments to decide how best to use Federal dollars to meet their local needs and achieve their priorities.

- (2) **Equitable Distribution:** The Act directs NTIA to provide funds on an equitable basis to tribes. The Act also identifies eligible entities to include: 1) tribal governments; 2) tribal colleges and universities; 3) the Department of Hawaiian Homelands on behalf of the Native Hawaiian Community, including Native Hawaiian education programs; 4) tribal organizations; and 5) native corporations as defined under Section 3 of the Alaska Native Claims Settlement Act.

- a. **Formula:** Is a formula the best method for achieving an equitable distribution? If so, what criteria is appropriate for a broadband formula and/or are their existing formulas used by Bureau of Indian Affairs (BIA), Indian Health Services (IHS), or other federal programs that are applicable?

NOTES FOR A RESPONSE: Yes, a funding formula should be used to achieve equitable distribution. However, NTIA should avoid using existing data sets that are known to be flawed or inappropriate given the purpose of these funds just because they exist within the Federal government.

- b. **Competitive:** Is a competitive program appropriate for allocating funds under this program? If so, are there federal programs that represent best practices for evaluating tribal broadband projects?

NOTES FOR A RESPONSE: Competitive funding is not appropriate. Competitive funding puts smaller tribes at a disadvantage because they may not have skilled grant writers needed to obtain the funding, which makes it hard for them to compete. Even non-competitive grant opportunities require significant staff time and resources to prepare the application and supporting documents. While tribes are on the front line responding to the COVID-19 pandemic, there is even less time and resources to prepare grant applications. This creates delays and barriers in getting this funding to tribes.

- c. **Combination:** Should eligible entities receive an allocation of funding for planning, and the balance of the grant funds allocated for deployment and implementation? For example, plans approved by the FCC for 2.5 GHz licenses, funded by BIA planning grants issued in Summer 2020, or plans developed via State programs such as Washington.

NOTES FOR A RESPONSE: NTIA should avoid, to the extent possible, being prescriptive on the use of funds awarded to Tribal governments. Tribal governments are in the best position to identify their needs and the best use of these funds to address those needs. Some Tribal governments may need to use funds for planning purposes and others may not.

Many Federal programs allocate funding specifically for the purposes of “planning” and, unfortunately, there are lots of “plans” that will never be implemented. We believe Tribes know what planning activities they need to undertake and can each determine the proper balance for planning vs. implementation.

- (3) **NHPA, Environmental Assessment and Cultural Resources:** NTIA is seeking input on processes to address historic preservation and environmental assessment.

- (4) **Unserved Areas:** The Act stipulates that grant funds be prioritized to unserved areas. Further, NTIA has been directed to ensure that federal funds are not used to overbuild areas that already have broadband service from the private sector or are served by a project funded by another federal or state agency. NTIA seeks tribal input about how to ensure that grant funds are prioritized to unserved areas.

NOTES FOR A RESPONSE: Tribal governments are in the best position to know the unserved areas within their communities. We ask that NTIA minimize its reliance on broadband access data provided by the Federal Communications Commission (FCC). In September 2018, the U.S. Government Accountability Office (GAO) reported to Congress that FCC’s broadband access data overstates the ability to obtain service on Tribal lands. In addition, FCC and the U.S. Census Bureau do not recognize all

homes within Tribal communities as domiciles—making these homes invisible when it comes to identifying unserved areas.

- (5) **Reporting Requirements:** NTIA is seeking input on the reporting requirements that are not overly burdensome, yet allow for the public to be informed about how federal funds are being utilized.

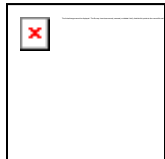
NOTES FOR A RESPONSE: Reporting requirements should not go beyond what is absolutely required by law.

- (6) **Tribal Lands:** The Act describes the Tribal Lands to be served and provides for funding of services that are near, adjacent, or contiguous areas to reservations where financial assistance and social service programs are delivered to Indians. NTIA is seeking input on how to implement this concept.


If we can do anything else to help you in preparing for this important program, please let us know. we look forward to working with you in the near future.

Thanks,

Mark...



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