

Tribal Broadband Connectivity Program

Second Set of Frequently Asked Questions (FAQ) (July 13, 2021)

The below FAQs are for informational purposes only and are intended solely to assist potential applicants in better understanding the NTIA Tribal Broadband Connectivity Program and the application requirements set forth in the Notice of Funding Opportunity (NOFO) for this program. The FAQs do not and are not intended to supersede, modify, or otherwise alter applicable statutory or regulatory requirements, or the specific application requirements set forth in the NOFO. In all cases, statutory and regulatory mandates, and the requirements set forth in the NOFO, shall prevail over any inconsistencies contained in the below FAQs.

Eligibility

Are Tribes that are recognized by state governments but are not federally recognized eligible for funding under this program?

No. Only Tribal Governments that are federally recognized are eligible, pursuant to section 905(a)(12) of the Consolidated Appropriations Act, 2021 (Act) and section A.2.1 of the Notice of Funding Opportunity (NOFO), which provides the definition of a Tribal Government for purposes of the Tribal Broadband Connectivity Program.

Is a sub-unit or local community of a Tribal government considered an eligible entity?

This depends on whether the sub-unit or local community meets the definition of an eligible entity, as defined in section 905(a)(8) of the Act and in section A.2.f of the NOFO. Applicants that are not clearly listed as eligible entities in the Act and the NOFO should submit documentation of eligibility in their application, including Tribal Government resolutions. Note that if the applicant meets the eligible entity definition and is submitting an application for a Broadband Infrastructure Deployment project, the applicant must obtain Tribal consent (see Section C.3.c.i of the NOFO).

Is a Small Business Administration Certified Tribally-owned 8(a) company chartered by a federally recognized Tribe considered an eligible entity?

Yes, if this company is eligible, per the definitions in section 905(a)(8) of the Act and in section A.2.f of the NOFO. Applicants should submit documentation of eligibility in their application, including Tribal government resolutions. Note that if the applicant meets the eligible entity definition and is applying for the Broadband Infrastructure Deployment funds, the applicant must obtain Tribal consent (see Section C.3.c.i of the NOFO).

What is the definition of eligible service area for the purposes of this program?

Under the Tribal Broadband Connectivity Program (TBCP), eligible entities may select their proposed service areas for Broadband Infrastructure Deployment projects, which must be on Tribal Lands, as defined in section 905(a)(13) of the Act and section A.2.m of the NOFO. Additionally, 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 permits Tribes to self-certify 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. For the purposes of the TBCP, Tribal Lands, per section A.2.m of the NOFO, 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 exterior 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.

What methods could be used for the Tribe to self-certify that they are unserved?

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 self-certify 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. Tribes can use a variety of data to demonstrate that the area is underserved, including Federal data found in NTIA’s public-facing [National Broadband Availability Map \(NBAM\)](#), state or regional based data, and tribal or local community data, including surveys and speed test data.

May grant funds be used to improve existing broadband infrastructure that is not on the reservation?

Yes, if the area is a part of Tribal Lands as defined in section 905(a)(13) of the Act and section A.2.m of the NOFO. Infrastructure may be built if the area is unserved by qualifying broadband service. Section 905(a)(14) of the Act and section A.2.o of the NOFO define unserved as, with respect to a household, (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. Further, tribes can self-certify the unserved status of proposed service areas within Tribal Lands and are to include a description of how the Tribe determined that the area is unserved. In addition, middle mile projects that require construction off of Tribal Lands are eligible for funding.

Can a Tribal Government apply for both the Tribal Broadband Connectivity and the Broadband Infrastructure grant programs?

Eligible applicants for NTIA’s Broadband Infrastructure Program are “covered partnerships,” which means a partnership between: (A) a State, or one or more political subdivisions of a State; and (B) a provider of fixed broadband service. If the Tribal government is considered a political

subdivision of a State, and can provide a citation to the specific State law that authorizes or establishes it as a political subdivision of the State in its grant application, then it may be eligible to apply to the Broadband Infrastructure Program as part of a covered partnership that must also include a fixed broadband service provider.

How should applicants calculate the percentage of households that are below the poverty line?

Applicants should use the Department of Health and Human Services (HHS) poverty guidelines to calculate the percentage of households that are below the poverty line. Please see this HHS website for additional information: <https://aspe.hhs.gov/frequently-asked-questions-related-poverty-guidelines-and-poverty>.

Can a company be considered an eligible entity if it works in partnership with a Tribal Government, or a Tribal College, or a University, or the Department of Hawaiian Home Lands on behalf of the Native Hawaiian Community including Native Hawaiian Education Programs, or a Tribal organization, or an Alaskan Native Corporation?

No, only eligible entities, as defined in section 905(a)(8) of the Act and section A.2.f of the NOFO, are eligible applicants. A company (that is not a tribal entity) may be a subgrantee or partner to the project. 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.

The NOFO states that NTIA will allocate up to \$500,000 to each Tribe. Does this mean that Tribes will receive \$500,000 regardless of the application they submit?

No. The Tribal Government must submit a single application by the application deadline to be eligible for program funding and propose a project consisting of eligible broadband infrastructure deployment and/or broadband use and adoption activities (the latter, during the COVID-19 pandemic). The applicant must include a budget narrative and detailed budget justification consisting of allowable costs associated with the proposed project activities. The grant applicant must follow the application instructions outlined in section D of the NOFO and each applicant will be reviewed and scored against the evaluation criteria set forth in sections E.1 and/or E.2 of the NOFO. Note that this grant program is not a formula or block grant program and that the \$500,000 allocation is not a funding cap.

Will projects that are currently underway, in which funds have been already been expended, be eligible for retroactive funding if a part of a larger project?

Grant funds may not be applied to retroactive project costs. Federal funds committed to an award under this program may only be used to cover allowable costs incurred during the grant award period of performance. Applicants, if awarded grants, are allowed to use up to 5% in awarded funds towards the reasonable pre-application costs of preparing applications for this grant program. Any 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.

Are projects that have already commenced, including costs expended already for planning, permitting, and/or construction, eligible for funding?

Yes, projects already underway are eligible for funding under this program. However, federal funds committed to an award under this program may only be used to cover allowable costs incurred during the grant award period of performance. No project costs incurred before the period of performance are allowable costs under this program. Applicants, if awarded grants, are allowed to use up to 5% in awarded funds towards the reasonable pre-application costs of preparing applications for this grant program, subject to the conditions discussed above. Further, a grant recipient cannot receive duplicate funding from NTIA for costs that are already paid for from another source.

What type of telehealth activities are allowable costs?

Under the Broadband Use and Adoption portion of this program, telehealth projects are eligible during the COVID-19 pandemic. Typically, telehealth involves a patient at home or at another location communicating with a doctor or other health professional online. Eligible costs could include equipment, training, and connectivity costs.

Is building a cellular tower an eligible project activity?

Yes, if the infrastructure is deployed on Tribal Lands, as defined in section 905(a)(13) of the Act and section A.2.m of the NOFO, and the cellular tower will be used to provide qualifying broadband service. Section A.2.j of the NOFO defines qualifying broadband service as 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 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.

Other Federal Funding and Proposed Service Areas

If a Tribal Government is awarded funding under other federal broadband grant programs, are Tribal Governments eligible to apply?

Yes, as long as there is no duplication of activities between the proposed project and previously-funded projects or activities. NTIA will consult with the Federal Communications Commission (FCC) to avoid any duplication of funding. With regard to coverage, NTIA may give favorable consideration to certification by Tribes when FCC data conflicts with Tribal data. In areas where there is potential duplication of funding with unconstructed projects that would provide qualifying broadband service or higher capacity to unserved areas, Tribal Governments should indicate if they have authorized and/or commenced the use of the other funding on Tribal Lands, and if they have not, funding may still be eligible through the TBCP. See the definitions of “enforceable buildout commitment” and “unserved” in sections A.2.g and A.2.o of the NOFO. If a portion of the project proposed is deemed to be ineligible for funding, NTIA, during the application review process, may request that the applicant descope that portion of the project if other portions of the project are deemed eligible and the proposed project scores favorably against the evaluation criteria described in sections E.1 and/or E.2 of the NOFO.

Are service areas that were preliminarily awarded in the FCC’s Rural Digital Opportunity Fund (RDOF) program considered served under this program even if the final awards are not yet decided?

NTIA intends to fund specific eligible areas for which there are no other Federal funds awarded and/or leveraged to provide qualifying broadband service as defined in Section A.2.j of the NOFO. NTIA will consult with the FCC to avoid any duplication of funding. With regard to coverage, NTIA may give favorable consideration to certification by Tribes when FCC data conflicts with Tribal data. In areas where there is potential duplication of funding with unconstructed projects that would provide qualifying broadband service or higher capacity to unserved areas, Tribal Governments should indicate if they have authorized and/or commenced the use of the other funding on Tribal Lands, and if they have not, funding may still be eligible through the TBCP. See the definitions of “enforceable buildout commitment” and “unserved” in sections A.2.g and A.2.o of the NOFO. NTIA will also coordinate with the FCC on the status of proposed RDOF projects in order to understand if areas of proposed projects are descoped or projects are no longer eligible for Federal funding.

Is my Tribal government eligible to apply if I am a partner/subawardee/contractor on a grant that was awarded under the FCC’s RDOF funding initiative?

Yes, as long as there is no duplication of activities or costs in the proposed project. NTIA will also coordinate with the FCC on the status of proposed RDOF projects in order to understand if areas of proposed projects are descoped or projects are no longer eligible for federal funding. However, a Tribal Government may not certify that Tribal Lands that will receive service under an Enforceable Buildout Commitment as unserved, as those terms are defined in sections A.2.g and A.2.o of the NOFO. A Tribal government must disclose whether it has terminated an existing agreement qualifying as an Enforceable Buildout Commitment in anticipation of receiving funding under the TBCP.

Are service areas that were awarded in the FCC’s CAF II program excluded as potential funded service areas for this program?

NTIA intends to fund specific areas for which there are no other federal funds awarded and/or leveraged to provide qualifying broadband service as defined in Section A.2.j of the NOFO. NTIA will consult with the FCC to avoid any duplication of funding. With regard to coverage, NTIA may give favorable consideration to certification by Tribes when FCC data conflicts with Tribal data. In areas where there is the potential duplication of funding with unconstructed projects that would provide qualifying broadband service or higher capacity to unserved areas, Tribal Governments should indicate if they have authorized and/or commenced the use of the other funding on Tribal Lands, and if they have not, funding may still be eligible through the TBCP. See the definitions of “enforceable buildout commitment” and “unserved” in sections A.2.g and A.2.o of the NOFO. NTIA will also coordinate with the FCC on the status of funded CAF II projects in order to understand if areas of funded projects are descoped or projects are no longer eligible for federal funding.

Are areas that have already received federal funding for broadband infrastructure projects providing service less than 25/3 eligible for funding under this grant program?

Yes.

Grant Award and Reporting Requirements

If a Tribal Government applies for funds for both Broadband Infrastructure Deployment and Broadband Use and Adoption projects, but the adoption and use projects are delayed due to the time to complete the infrastructure deployment project, must the Tribal Government give back funding that was allocated to adoption and use?

Extensions for the expenditure of award funds are not available for Broadband Use and Adoption projects. As established in section 905(c)(4)(B) of the Act, the award period for the TBCP is one year from the receipt of grant funds. Furthermore, section 905(c)(4)(A)(i) of the Act requires an eligible entity to commit the funds in accordance with its approved application not later than 180 days after receiving grant funds under the TBCP (if the eligible entity fails to commit these funds by the 180-day deadline, the funds will revert to the general fund of the Treasury). Accordingly, all Broadband Use and Adoption projects funded pursuant to the NOFO must be completed within one year of an eligible entity receiving grant funds from NTIA and applicants should only propose broadband use and adoption projects in which funds can be expended within one year of receiving an award. Any grant funds that an eligible entity has received for a broadband use and adoption project that are not expended by this one-year deadline shall be returned to NTIA and may be made available by NTIA to other TBCP eligible entities, pursuant to section 905(c)(4)(B)(iii) of the Act.

Will Tribal Organizations be allowed extensions on their broadband infrastructure projects if there are delays due to extenuating circumstances, including delays in federal approvals for permitting and environmental and historic preservation?

The Assistant Secretary may extend the one-year TBCP award period 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.

The eligible entity may submit a request for an extension of the one-year award period with its application or not later than ninety (90) calendar days before the end of the award period. This request for extension only applies to Broadband Infrastructure Deployment projects. *See* Section B.2 of the NOFO.

If a Tribal Government enters into a contract with a commercial carrier to build and operate a broadband network, what are the ownership requirements? Can the commercial carrier, as a subgrantee, own the infrastructure?

The grant recipient (Tribal Government or other eligible entity) or a subrecipient, including the broadband service provider, must retain ownership (serve as the trustee, see below) of the funded project's infrastructure and associated assets. Title vests subject to the terms and conditions of this program and of the Property Standards located at 2 C.F.R. §§ 200.310-200.327. Applicants and grant recipients must be aware that 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.