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## Frequently Asked Questions and Answers Version 2.0

State Digital Equity Capacity Grant  
Program



U.S. Department of Commerce  
National Telecommunications and Information Administration

## Note

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The State Digital Equity Capacity Grant Program (Capacity Grant Program), authorized by Section 60304(d) of the Infrastructure Investment and Jobs Act, Public Law 117-58, 135 Stat. 429 (November 15, 2021), also commonly known as the Bipartisan Infrastructure Law, provides federal funding to equip individuals and communities with the skills and tools needed for full participation in society and the economy. The following is the first in a series of FAQ documents intended to provide guidance on information set forth in NTIA's Notice of Funding Opportunity (NOFO) issued on March 29<sup>th</sup>, 2024. This FAQ document is applicable to States and Territories, additional guidance for Native Entities guidance will be forthcoming. Following the release of this document, further questions may be submitted to [digitalequity@ntia.gov](mailto:digitalequity@ntia.gov) to be considered for inclusion in future FAQ documents.

The below FAQs are for informational purposes only and are intended solely to assist potential applicants in better understanding the State Digital Equity Capacity Grant Program (Capacity Grant 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 inconsistent information contained in the below FAQs.

*Please note that all new questions are disbursed throughout the document in their appropriate sections. All new questions and answers are italicized.*

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# 1. General Capacity Grant Program Overview

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## 1.0 What is the State Digital Equity Capacity Grant Program?

The State Digital Equity Capacity Grant Program (Capacity Grant Program) will award grants to States and U.S. Territories for the purpose of **implementing** the State Digital Equity Plans developed as part of the State Digital Equity Planning Grant Program (Planning Grant Program) and to address barriers to digital equity for the Covered Populations identified in the Digital Equity Act of 2021 (Digital Equity Act). In addition, the Capacity Grant Program establishes a Competitive Grant Program to make both the Planning Grant Program funds and the Capacity Grant Program funds available to Indian Tribes, Alaskan Native entities, and Native Hawaiian organizations (Native Entities) to address digital equity and inclusion.

## 1.1 Who is eligible for the Capacity Grant Program?

Each Eligible State may apply for a grant under the Capacity Grant Program. An Eligible State is any State, including Washington D.C. and the Commonwealth of Puerto Rico, that has developed an accepted Digital Equity Plan that meets the requirements of 47 U.S.C. §1723(c). In addition, U.S. Territories (the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands) are eligible to apply for an award. Finally, Native Entities, or a consortium of Native Entities, are eligible to apply for both Capacity Grant and Planning Grant funding.

The current Notice of Funding Opportunity (NOFO) will make \$840,000,000 available for grants under the Capacity Grant Program through fiscal year 2024. See Section K of the NOFO for an additional breakdown of funds.

## 1.2 What programs are in the Digital Equity Act, and what are the differences across the programs?

The Digital Equity Act established three programs:

1. The State Digital Equity Planning Grant Program (Planning Grant Program), a \$60 million program for grantees to develop Digital Equity Plans.
2. The State Digital Equity Capacity Grant Program (Capacity Grant Program), a \$1.44 billion program for grantees to implement their Digital Equity Plans and carry out digital inclusion activities.
3. The Digital Equity Competitive Grant Program (Competitive Grant Program), a \$1.25 billion program for grantees to develop and implement digital equity projects.

The Planning Grant Program was launched in 2022 and provided funding to States and four U.S. Territories to develop Digital Equity Plans that identify the barriers to digital equity faced by the Covered Populations.

The Capacity Grant Program will provide funds to States and U.S. Territories to implement the State Digital Equity Plans developed pursuant to the Planning Grant Program and carry out digital inclusion activities. The amount of funding available to States is based upon a statutory formula. Funding for U.S. Territories will consist of an equal distribution of the amount set

aside for U.S. Territories and possessions under the Digital Equity Act. The set-aside amount for U.S. Territories is one percent of the total funds appropriated in a given year. The Capacity Grant Program will also award funding to Native Entities on a competitive basis and will make available five percent of the total funds appropriated in a given year to Native Entities.

The Competitive Grant Program is the third Digital Equity Program and will provide funding on a competitive basis to eligible applicants including, for example, a political subdivision, agency, or instrumentality of a State, including an agency of a State that is responsible for adult education, literacy, or public housing, Native Entities, nonprofits (excepting schools), community anchor institutions, local educational agencies, workforce development organizations, and/or a partnership between these entities that will fund digital equity and inclusion activities.

### **1.3 What is an Administering Entity?**

The term “Administering Entity” refers to the entity selected by the governor (or equivalent official) of each State to administer the Planning Grant Program the Capacity Grant Program. This must be the same entity selected for the purposes of the Planning Grant Program unless the governor (or equivalent official) selects a new entity to administer the Capacity Grant Program.

The administering entity shall—

1. Serve as the recipient of, and administering agent for, any grant awarded to a State under this program;
2. Develop, implement, oversee, and, as applicable, update the State Digital Equity Plan for the State;
3. Make subgrants to any entity, described in Section 1.7 of these FAQs that is located in the State in support of:
  - a. The State Digital Equity Plan for the State; and
  - b. Digital inclusion activities in the State generally; and
4. Serve as—
  - a. An advocate for digital equity policy and digital inclusion activities; and
  - b. A repository of best practice materials regarding the digital equity policies and digital inclusion activities.

An Administering Entity must have demonstrated a capacity to administer the program on a statewide level, and may be any of the following:

1. The State, a political subdivision, agency, or instrumentality of the State, an Indian Tribe located in the State, an Alaska Native entity located in the State, or a Native Hawaiian organization located in the State;
2. A foundation, corporation, institution, association, or coalition that is—
  - a. a not-for-profit entity;
  - b. providing services in the State; and
  - c. not a school;
3. A community anchor institution, other than a school, that is located in the State;
4. A local educational agency that is located in the State;
5. An entity located in the State that carries out a workforce development program;
6. An agency of the State that is responsible for administering or supervising adult education and literacy activities in the State;

7. A public or multi-family housing authority that is located in the State; or
8. A partnership between any of the previously listed entities (1) through (7).

#### **1.4 What is an Administering Organization?**

The term “Administering Organization” means the organization selected by the governor (or equivalent official) of a U.S. Territory to administer the Capacity Grant Program award. The organization selected by the U.S. Territory for the purposes of the Planning Grant Program must also administer the Capacity Grant Program, unless the governor (or equivalent official) selects a new entity to serve in this role.

#### **1.5 How can I change my Administering Entity for the State Digital Equity Capacity Program?**

States are permitted to change the Administering Entity for the Capacity Grant Program. Officially changing a State’s Administering Entity requires a letter from the governor acknowledging and certifying the change and for the new Administering Entity to be named as such on the Capacity Grant Program application.

#### **1.6 Who can receive a subgrant under the State Digital Equity Capacity Grant Program?**

The Administering Entity of a State may use funds awarded under the Capacity Grant Program to award subgrants to the following entities to assist in the implementation of the State Digital Equity Plan of the State, pursue digital inclusion activities in the State consistent with the State Digital Equity Plan of the State, and report to the State regarding the digital inclusion activities of the entity:

1. A political subdivision, agency, or instrumentality of a State, including an agency of a State that is responsible for administering or supervising adult education and literacy activities, or for providing public housing, in the State.
2. An Indian Tribe, an Alaska Native entity, or a Native Hawaiian organization.
3. A foundation, corporation, institution, or association that is-
  - a. a not-for-profit entity; and
  - b. not a school.
4. A community anchor institution.
5. A local educational agency.
6. An entity that carries out a workforce development program.
7. A partnership between any of the entities described in paragraphs (1) through (6).
8. A partnership between-
  - a. an entity described in any of paragraphs (1) through (6); and
  - b. an entity that-
    - i. the Assistant Secretary, by rule, determines to be in the public interest; and
    - ii. is not a school.

States selecting subgrantees will be required to adhere to their procurement and solicitation processes.

## 2. State Digital Equity Plans

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### 2.0 Is the Administering Entity allowed to update the Digital Equity Plan under the Capacity Grant Program?

Yes, funds awarded through the Capacity Grant Program can be used to update and implement State Digital Equity Plans that were accepted by NTIA under the Planning Grant Program. The grantee may not use more than 20% of grant funding for the purpose of updating State Digital Equity Plans.

### 2.1 Will the digital equity data used for formula allocations continue to be updated throughout the Capacity Program's life? Will the formula incorporate newer versions of data sources (e.g., new FCC maps) in later years?

The State funding allocations contained in the current NOFO are based upon a statutorily mandated allocation formula using the most current data. Once the challenge period for this allocation has ended, and the Assistant Secretary has made any needed adjustments, those allocations will be final. Future NOFOs will be based upon the same statutory formula but will be updated with the most current data. Each NOFO issued in connection with the Capacity Grant Program will detail how NTIA plans to implement the statutory funding formula for that phase of the program, including the current editions of each data source.

### 2.2 What is the process to get an updated plan approved by NTIA during the Capacity Grant application period?

The updated plan will be reviewed as part of the application process and will be subject to approval by the Assistant Secretary as part of the award made under the Capacity Grant Program. Applicants are expected to upload their accepted plan and a red-lined version of their updated plan which must meet all the requirements stated in the [Digital Equity Model Plan Guidance](#), as a part of their Capacity application.

#### **Digital Equity Model Plan Guidance:**

[https://broadbandusa.ntia.doc.gov/sites/default/files/2023-08/Digital\\_Equity\\_Model\\_Plan\\_Guidance.pdf](https://broadbandusa.ntia.doc.gov/sites/default/files/2023-08/Digital_Equity_Model_Plan_Guidance.pdf)

### 2.3 If I want to update my plan under the Capacity Grant Program, what activities are allowable within the 20% cap?

All activities that were allowable under the Planning Grant Program are allowable under the Capacity Grant Program to update the State Digital Equity Plan, subject to the 20% cap. The updated State Digital Equity Plan must be submitted to NTIA for compliance review. Plans that change significantly will need to be posted for public comment before NTIA can approve the updated plan.

### 2.4 What is the Subgrantee Selection Process?

If a State or U.S. Territory applying for Capacity Grant Program funds intends to subgrant all or a portion of their award funds to subgrantees to implement their Digital Equity Plan through projects, it must establish, through its Administering Entity or Administering Organization, a

fair, transparent, equitable, and inclusive process, consistent with applicable State or Territory laws and administrative requirements for selecting subgrantees.

The applicant's selection processes must be made clear to potential subgrantees before subawards are made. NTIA strongly encourages States and Territories to take deliberate steps to ensure that subgrant opportunities are accessible to a diverse range of organizations, particularly those owned, led and/or managed by members of the Covered Populations. The subgrantee selection process must also comply with 2 C.F.R. Part 200.

## 3. Application

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### 3.0 When are applications for the Capacity Grant Program due?

#### Applications for States, the District of Columbia, and the Commonwealth of Puerto Rico:

- a. Must be submitted by 11:59 p.m. Eastern Time (ET) 60 days after issuance of the NOFO (May 28, 2024).
- b. Must be received through the NTIA Grants Portal (<https://grants.ntia.gov>).

#### Applications for U.S. Territories:

- a. Must be submitted by 11:59 p.m. Eastern Time (ET) on July 31, 2024.
- b. Must be received through the NTIA Grants Portal (<https://grants.ntia.gov>)

#### Applications for Indian Tribes, Alaska Native entities, and Native Hawaiian organizations (Native Entities):

- a. The application window for Native Entities will open 180 days after the issuance of this NOFO (September 25, 2024) and close 315 days after issuance of this NOFO (February 7, 2025).
- b. Must be submitted by 11:59 p.m. Eastern Time (ET) February 7, 2025.
- c. Must be received through the NTIA Grants Portal (<https://grants.ntia.gov>), by email ([digitalequity@ntia.gov](mailto:digitalequity@ntia.gov)), or by mail or courier to:

Angela Thi Bennett  
Director of Digital Equity  
Office of Internet Connectivity and Growth  
National Telecommunications and Information Administration  
U.S. Department of Commerce  
1401 Constitution Avenue, NW  
Washington, DC 20230

*Application materials are available at <https://broadbandusa.ntia.doc.gov>. Note that States and Territories have the same application requirements for the Capacity Grant Program, but further guidance and requirements for Native Entities will be released at a later date.*

### 3.1 When will my Eligible State receive funds to implement the plan?

NTIA expects to begin issuing awards to Eligible States pursuant to this NOFO no later than August 28, 2024. NTIA expects to make additional awards on a rolling basis.

### 3.2 What must be included in a State's or Territory's application for the Capacity Grant Program?

Any State or Territory applying for the Capacity Grant Program must submit an application that includes the following information:

- a. A description of the entity selected to serve as the Administering Entity for the State (see definitions set forth in Section I.C of this NOFO) or in the case of a U.S. Territory, the Administering Organization.

- b. A Digital Equity Plan for the State meeting the requirements of 47 U.S.C. §1723(c) or the Digital Equity Plan for the Territory meeting the requirements of the Digital Equity Planning Grant award of the Territory.
- c. A certification that the State or Territory, acting through the Administering Entity for the State or through the Administering Organization for the Territory, shall not later than five (5) years after the date on which the Assistant Secretary awards the Capacity Grant to the State or Territory:
  - i. Implement the Digital Equity Plan of the State or Territory; and
  - ii. Make subgrants in a manner that is consistent with the aims of the Digital Equity Plan.
- d. The assurances required under 47 U.S.C. §1723(e) and set forth in Appendix C to the NOFO.
- e. A Project Narrative describing an overall implementation strategy and further details as outlined in the NOFO and Section 3.4 of these FAQs.
- f. A detailed description of how the State or Territory's implementation of the Digital Equity Plan, through Digital Equity Capacity Grant Program funding, will benefit each of the Covered Populations located within that State or Territory.
- g. A certification that the Capacity Grant funds will be used to supplement, not supplant, other Federal or State funds that have been made available to carry out the activities in the Digital Equity Plan and this NOFO.
- h. A description of all other funding sources (including funding applied for) the State or Territory intends to use to implement its Digital Equity Plan, the amount allocated, and the specific Digital Equity Plan elements they will fund. Applicants should include in this funding description other Federal programs, State or local government programs, and any private for-profit or not-for-profit funding. This description should include an explanation as to how this alternative funding is being used in a way that does not supplant, conflict with, or duplicate the activities for which the Capacity Grant Funds will be used.
- i. A Consolidated Budget Form, further details as outlined in the NOFO and Section 3.5 of these FAQs.
- j. The following standard federal financial assistance forms and documentation:
  - i. Standard Form 424: Application for Federal Assistance;
  - ii. CD-511 Certification Regarding Lobbying;
  - iii. Standard Form LLL, Disclosure of Lobbying Activities (if applicable); and
  - iv. Negotiated Indirect Cost Rate Agreement (as applicable).

### **3.3 What should Eligible States and Territories include in the Capacity Grant application Project Narrative?**

An implementation strategy that is consistent with the Digital Equity Plan and that promotes the purposes of the Digital Equity Act and the NOFO. The Project Narrative must describe the details of **each specific project and activity to be funded by the State Digital Equity Capacity Grant Program** that has been identified at the time of application submission. If at the time of application, a State or Territory has not yet identified all of the projects to be used for Digital Equity Plan implementation, or is unable to provide all of the project details listed below, this information must be submitted to NTIA via the NTIA Grants Portal as soon as practicable, but **no later than nine months from the award start date**, unless extended in writing by

the Grants Officer, and will be subject to review and written approval by the Grants Officer before a State may draw down funds to implement the project(s) at issue.

***\*\*The information that is in italics can be found in your accepted State Digital Equity Plan***

The Project Narrative must include (Section II.C.2.e of the NOFO):

- i. An Executive Summary of the overall implementation strategy and the project(s) to be funded (approximately 500 words). Please note, 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 commercial or financial information as part of the Executive Summary. See 15 C.F.R. §4.9(b) concerning the designation of business information by the applicant.
- ii. *Identification of the elements of the Digital Equity Plan to be implemented in this initial allocation of Capacity Grant Program funding, whether specific elements of the plan or specific Covered Populations are being prioritized, and the rationale for prioritizing those elements or Covered Populations consistent with the needs assessment within the Digital Equity Plan.*
- iii. For each of the specific implementation projects or activities to be funded by the State Digital Equity Capacity Grant Program, include:
  - 1) A brief summary of the specific activity or set of activities the project intends to complete or implement;
  - 2) *The barrier(s) to digital equity the project will address;*
  - 3) *The measurable objectives to be pursued and the data to be collected to demonstrate success in meeting these objectives, including quantitative baseline data;*
  - 4) *The Covered Populations to be served and the estimated number of individuals within those Covered Populations to be served;*
  - 5) *The specific geographies to be served (if not State-or Territory-wide);*
  - 6) Whether the State or Territory acting through its Administering Entity or Administering Organization (as applicable) will implement the activity directly or subgrant funds to implement the activity;
  - 7) If the State or Territory will subgrant the funds, the entity implementing the proposed project (if known at the time of application), including a description of its capacity to manage the project;
  - 8) How the proposed project or activity will be evaluated to determine successful implementation of the Digital Equity Plan of the State or Territory, including specific references to the Digital Equity Plan and quantitative baseline data; and
  - 9) Estimates of the anticipated outputs of each activity or project. (For example, the number of hours of training to be provided, the curricula to be developed, or the number of certifications to be awarded).

- iv. Confirmation that the State or Territory will not use more than 20% of the award amount to update its Digital Equity Plan, the activities it intends to conduct to update the Plan, and a timeline for updates, including publication for public comment;
- v. *A description of the ongoing collaboration efforts the State or Territory will conduct with key stakeholders in the State or Territory as listed at 47 U.S.C. §1723(c)(1)(D);*
- vi. To the extent the applicant intends to use subgrantees to implement grant projects and activities, a description of the process by which subgrantees will be selected and the safeguards in place to ensure the selection process fosters a sense of fairness and accountability by being open, transparent, equitable, and inclusive;
- vii. A description of the overall plan to evaluate how the proposed projects and activities will achieve the goals of the Digital Equity Plan;
- viii. *A description of how the project’s success will be measured across the digital equity outcomes identified at 47 U.S.C. §1723(c)(1)(C):*
  - 1) *economic and workforce development*
  - 2) *education,*
  - 3) *health,*
  - 4) *civic and social engagement,*
  - 5) *delivery of other essential services, and*
  - 6) *any other digital equity outcomes specified in the Digital Equity Plan.*
- ix. *A description of how the benefits delivered to the Covered Populations will be measured to the extent not addressed above, and a description of any other proposed research activities, as applicable.*
- x. A Project Plan including:
  - 1) A description of all major project activities and timelines, including key milestones and when each major project activity will start and end; and
  - 2) A description of how progress on measurable objectives will be tracked and recorded alongside key milestones.
- xi. A description of the safeguards the applicant will put in place to prevent waste, fraud, and abuse in the implementation of the program.

### **3.4 What should Eligible States and Territories include in a Consolidated Budget Form?**

All budget information in the Consolidated Budget Form must support the dollar amounts **identified in the SF-424** and demonstrate that the **project or activity meets the eligible use requirements** in the Digital Equity Act and the NOFO. The Consolidated Budget Form consists of a **budget narrative** and a **detailed budget spreadsheet**.

- a. The **budget narrative** (the ‘Justification of Need’ and ‘Basis of Costs’ columns in the detailed budget spreadsheet) must explain the necessity and basis for all costs, clearly correspond to the information included in the detailed budget spreadsheet and reflect only *allowable costs* that are consistent with the project scope.

- i. *Allowable costs* are determined in accordance with the cost principles identified in 2 C.F.R. Part 200, including Subpart E of such regulations and in 48 C.F.R. Part 31 for commercial organizations, as well as the Digital Equity Act.
- b. The **detailed budget spreadsheet** must reflect the cost categories that appear on the SF-424 and include itemized calculations for each cost placed under those categories.
- c. The budget should account for the State or Territory's:
  - i. **Administrative costs**, capped at 3% of the grant amount,
 

For this purpose, the 3% limitation on administrative costs 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 3% limitation on administrative costs. If indirect costs are included in the proposed budget, the applicant must provide a copy of the approved negotiated indirect cost rate agreement if this rate was negotiated with a cognizant federal agency or otherwise document those indirect costs consistent with 2 C.F.R. 200.414.
  - ii. **Program evaluation costs**, capped at 5% of the state's total award amount for the purposes of evaluating the efficacy of the efforts funded by grants made to subgrantees,
  - iii. **Digital Equity Plan updates and maintenance**, capped at 20% of the grant amount (see Section II.C.3. in the NOFO regarding limitations on plan updates and maintenance, program evaluation and administrative costs).
  - iv. **Affordable Broadband Programs**, capped at 10% of the grant amount for fund subsidies for the provision of broadband services through affordable broadband programs (see Section II.C.3.c. in the NOFO).

### **3.5 To what extent can an Eligible State or Territory use direct text from the Digital Equity Plan to complete the Capacity Grant Program application?**

NTIA highly encourages entities to utilize direct text from their Digital Equity Plans to complete their Capacity applications. The Digital Equity Plans serve as the guiding roadmap and should form the foundational basis for the preparation of the Capacity applications. Utilizing direct language from your plan will help you align your Digital Equity Plan's measurable objectives, implementation strategies, and timelines with the activities and projects put forward in your Capacity application.

### **3.6 Capacity Grant Program NOFO application materials require an explanation of whether specific elements of the plan or specific Covered Populations are being prioritized and a rationale for that prioritization. What should an Eligible State or Territory submit to explain the approach to prioritization?**

The State or Territory's Digital Equity Plan must address the barriers to digital equity faced by each of the Covered Populations. Implementation of the Digital Equity Plan will likewise address each of the Covered Populations. NTIA recognizes, however, that Plan implementation may not be able to simultaneously address every Covered Population. Accordingly, the State Digital Equity Capacity NOFO requires States and Territories to identify the manner in which the specific elements of the Digital Equity Plan or Covered Populations are being prioritized. This prioritization should be based upon the needs assessment completed as part of the Digital Equity Plan and demonstrate an objective basis for prioritizing one project or Covered Population over another. For example, a particular project may be selected for priority because it will reach the largest number of individuals within the State or Territory or because it will address an urgent need such as emergency health care or public safety services.

### 3.7 Given the time constraints associated with the 60-day application window, what elements must be submitted by an Eligible State or Territory with the Capacity Grant Program application materials?

The State Digital Equity Capacity NOFO requires the submission of a Project Narrative that provides both an overall implementation strategy and a detailed description of each of the projects and/or activities for which the State or Territory will seek funding. Recognizing that the limited 60-day application window imposed by the statute may not allow sufficient time to collect this level of detail for every project, however, NTIA allows for additional time to complete the provision of this more detailed information. This information must be submitted to NTIA via the NTIA Grants Portal as soon as practicable, but no later than nine months from the award start date, unless extended in writing by the Grants Officer, and will be subject to review and written approval by the Grants Officer before a State may draw down funds to implement the project(s) at issue.

Applicants can use the State Digital Equity Capacity Grant Program States and Territories [Application Guidance](#) document to understand the Capacity Grant Program Application components and how to complete the application.

### 3.8 What activities are subject to caps under the Capacity Grant Program NOFO?

Each State or U.S. Territory must consider Digital Equity Plan updates, program efficacy evaluation, and administrative costs. Below are caps for each activity:

- a. **20 Percent Cap on Digital Equity Plan Updates:** No more than 20 percent of the amount of the grant may be used to update or maintain the Digital Equity Plan of the State or of the Territory (as applicable).
- b. **5 Percent Cap on the Evaluation of Program Efficacy:** No more than 5 percent of the amount of the grant may be used to evaluate the efficacy of the efforts funded by grants made to subgrantees to: (a) assist in the implementation of the Digital Equity Plan of the State or Territory; (b) pursue digital inclusion activities in the State or Territory consistent with the Digital Equity Plan of the State or Territory; and (c) report to the State regarding the digital inclusion activities of the entity.
- c. **3 Percent Cap on Administrative Costs:** No more than 3 percent of the amount of the grant may be used for administrative costs (exclusive of costs for program evaluation and updating the Digital Equity Plan) in carrying out allowable activities under this program and described in an SDECGP award. For this purpose, the three 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 3 percent limitation on administrative costs.
- d. **10 Percent Cap on Affordable Broadband Programs:** No more than 10 percent of the amount of the grant may be used to fund subsidies for the provision of broadband services through affordable broadband programs.

## 4. Awards and Funds/Allowable Uses

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### 4.0 How will funds be distributed?

The amount of funding Eligible States (including the District of Columbia and the Commonwealth of Puerto Rico) will receive through the Capacity Grant Program will be determined pursuant to the statutory formula set forth at 47 U.S.C. §1723(d)(3)(A)(I) and the NOFO. U.S. Territories will receive equal shares of the Capacity Grant Program funding set aside for U.S. Territories consistent with 47 U.S.C. §1723(a)(3).

Pursuant to §1723(d)(3)(A)(i) of the Digital Equity Act, the amount awarded to each Eligible State in a given fiscal year will be calculated by applying a formula in which:

- a. **Fifty (50) percent** of the total grant amount is based on the population of the Eligible State in proportion to the total population of all Eligible States;
- b. **Twenty-five (25) percent** of the total grant amount is based on the number of individuals in the Eligible State who are members of the Covered Populations, in proportion to the total number of individuals in all Eligible States who are members of the Covered Populations; and
- c. **Twenty-five (25) percent** of the total grant amount is based on the comparative lack of availability and adoption of broadband in the Eligible State relative to all Eligible States, as determined by data collected from the annual inquiry of the Federal Communications Commission pursuant to Section 706(b) of the Telecommunications Act of 1996, the American Community Survey, NTIA Internet Use Survey, and any other source that the Assistant Secretary, after appropriate notice and opportunity for public comment, determines to be appropriate.

\*\* In the event that certain data on broadband availability or adoption are unavailable for the Commonwealth of Puerto Rico during a given fiscal year, the Assistant Secretary shall use the median value among all Eligible States for each affected factor in the formula and assign it to Puerto Rico for the purposes of making the calculations for that fiscal year.

After reviewing applications and determining which States are eligible to receive Capacity Grants, NTIA will apply the funding formula as detailed in Appendix A of the NOFO.

### 4.1 How much money will my territory receive under the State Digital Equity Capacity Grant Program?

Consistent with the Digital Equity Act, NTIA has reserved one (1) percent of the funds made available for fiscal years 2022, 2023, and 2024 (\$8,400,000) to award grants to, or enter into contracts or cooperative agreements with, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States that is not a State, to enable those entities to carry out the activities described in the statute.

Further, the Assistant Secretary tentatively allocates \$2,100,000 to each of:

- a. the United States Virgin Islands,
- b. Guam,
- c. American Samoa, and
- d. the Commonwealth of the Northern Mariana Islands

for the purpose of implementing the Digital Equity Plans each U.S. Territory has developed pursuant to 47 U.S.C. §1723(c).

\*\*This tentative funding amount may be modified if one of the named U.S. Territories does not apply, applies but fails to receive a grant under this Program, or is awarded a grant for an amount less than the tentative allocation identified in the NOFO.

#### **4.2 Can my State receive funding if we are receiving other sources of Federal or State funding for broadband?**

Yes. However, duplication of federal or state funding must be avoided. Grants or subgrants awarded under the Grant Program must supplement, not supplant (e.g., supersede, replace, or take the place of), federal or state funds available to the State to carry out digital equity and inclusion activities.

#### **4.3 Can my State implement its State Digital Equity Plan using funds from sources other than funding provided under the Capacity Grant Program?**

Yes. Applicants are required to certify that the Capacity Grant funds will be used to supplement, **not supplant**, other Federal or State funds that have been made available to carry out the activities in the Digital Equity Plan and the State Digital Equity Capacity Grant NOFO. However, the NOFO recognizes that other sources of funding may be utilized. To maintain financial transparency and ensure the effective use of funds, any State or Territory that plans to use multiple funding sources in the implementation of its Digital Equity Plan must submit a description of all other funding sources (including funding applied for) the State or Territory intends to use, the amounts to be allocated, and the specific Digital Equity Plan elements to be funded using alternative sources. See Section II.C.5 of the NOFO for further information.

#### **4.4 What are the allowable uses of Capacity Grant Program funds?**

Grant recipients may only use federal award funds to pay for allowable costs under the Capacity Grant Program. Allowable costs are determined in accordance with the cost principles identified in [2 C.F.R. Part 200](#), including [Subpart E](#) of such regulations 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.

Applicants must comply with the requirements of 47 U.S.C. §1723(d)(3)(D) of the Digital Equity Act and the NOFO. An eligible State or Territory to which a Capacity Grant is awarded must, through its designated Administering Entity or Administering Organization (as applicable), use the grant funds **only** for the following purposes:

- i. To update or maintain the State Digital Equity Plan of the State or Territory, provided, however, that the awardee may not use more than 20 percent of the amount of the grant for this purpose.
- ii. To implement the State Digital Equity Plan of the State or Territory.
- iii. To make subgrants to any of the eligible entities identified at 47 U.S.C. §1724(b) that are located in the State or Territory to: (a) assist in the implementation of the Digital Equity Plan of the State or Territory; (b) pursue digital inclusion activities in the State or Territory consistent with the Digital Equity Plan of the State or Territory;

and (c) report to the State or Territory regarding the digital inclusion activities of the entity.

- 1) Before an Administering Entity or Administering Organization may award a subgrant, the Administering Entity or Administering Organization must require that the entity to which a subgrant is to be awarded certify that: The entity shall carry out the activities required under items (a), (b), and (c) of this subsection;
- 2) The receipt of the subgrant shall not result in unjust enrichment of the entity; and
- 3) The entity shall cooperate with any evaluation of the program as it relates to a grant awarded to the entity and that is carried out by or for the Administering Entity or Administering Organization, the Assistant Secretary, or another Federal official.

***Failure to comply with these certification requirements will result in appropriate enforcement action in accordance with 2 CFR 200.339, up to and including termination under a Capacity Grant Program award.***

- iv. To evaluate the efficacy of the efforts funded by grants made to subgrantees under paragraph iii above, provided that the Administering Entity or Administering Organization may not use more than 5 percent of the amount of the grant for this purpose.
- v. For administrative costs (exclusive of costs for program evaluation and updating the Digital Equity Plan) incurred in carrying out the activities described above, provided that an Administering Entity or Administering Organization may not use more than 3 percent of the amount of the grant for this purpose.

NTIA recognizes that Digital Equity Plans will contain a wide variety of potential programs, activities and interventions, and encourages the development of new and innovative strategies to address the barriers to digital equity. These programs must focus on creating the necessary conditions to empower individuals and communities with the technological capacity to fully participate in society and the economy.

Capacity Grant Program funding may include uses such as pursuing digital inclusion activities, facilitating adoption of high-speed Internet, implementing training and workforce development programs, or making equipment and software for high-speed Internet services available.

#### **4.5 How much money will my State receive under the Capacity Grant Program?**

As set forth in the NOFO, the Capacity Grant funds for States (including the District of Columbia and the Commonwealth of Puerto Rico) will be tentatively allocated (subject to challenges to the allocation formula and participation levels) in accordance with the Digital Equity Act. See Section II.A.4.b of the NOFO for the tentative State award allocation amounts. States, the District of Columbia and the Commonwealth of Puerto Rico may challenge their allocation amounts. Refer to Section II.A.4.c of the NOFO for additional guidance on the allocation Challenge Process.

#### **4.6 When can project work begin on the Capacity Grant Program?**

The period of performance for the Capacity Grant is 5 years from the effective date of the Federal award and will be listed in the grant award documents. In general, work may begin after the award is issued and has been signed by the recipient. Applicants may incur pre-award costs pursuant to 2 CFR § 200.458 which requires written approval from NTIA. Without prior written approval pre-award costs are incurred at the risk of the applicant.

#### **4.7 What costs are considered pre-award costs?**

Pre-award costs are those incurred prior to the effective date of the Federal award or subaward where such costs are necessary for efficient and timely performance of the negotiated scope of work. All costs incurred before the Federal awarding agency makes the Federal award are at the recipient's risk (*i.e.*, the Federal awarding agency is not required to reimburse such costs if for any reason the recipient does not receive a Federal award or if the Federal award is less than anticipated and inadequate to cover such costs). See also § 200.458. In addition, such costs are allowable only to the extent that they would have been allowable if incurred during the period of performance. If charged to the award, these costs must be charged within the period of performance of the award, unless otherwise specified by the NTIA or recipient. Additionally, as applicable, applicants must meet the terms of the Human Subjects Research (HSR) Specific Award Condition before beginning any project activities prior to the period of performance.

#### **4.8 What costs are subject to the 3% Administrative Cap? What costs are not subject to the 3% Administrative Cap?\***

As required by the Digital Equity Act<sup>1</sup>, the Capacity Grant Program limits the amount of the grant to be used for administrative costs to no more than three (3) percent of the amount of the grant<sup>1</sup>. The three (3) percent limitation on administrative expenses includes the combined total of indirect and direct administrative costs charged to an award. The administrative cost cap only applies to the administrative costs incurred by the administering entity and does not apply to administrative costs incurred by subrecipients. Administrative costs are distinct from programmatic costs. Programmatic costs are not subject to the 3% administrative cap. Eligible entities may use their Negotiated Indirect Cost Rate Agreements (NICRA), but should be mindful that their NICRA does not replace the 3% administrative cap. Not all costs included in an entity's NICRA are necessarily administrative costs subject to the 3% cap, so even when using a NICRA, the entity must still explain how they have determined which costs are administrative costs. In all cases, total direct and indirect administrative costs must be less than or equal to the 3% cap.

- **Administrative costs** are those expenses not related to the direct provision of program activities.
- **Programmatic costs** encompass expenses directly associated with the implementation and delivery of specific services or activities outlined in digital equity plans. These costs are directly attributable to the achievement of program objectives and the provision of services to Covered Populations and include program evaluation and updating, maintaining and/or amending the Digital Equity Plan.

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<sup>1</sup> Digital Equity Capacity Grant Notice of Funding Opportunity (“NOFO”), Section II.C.3.a.v and Section II.C.3.c(iii), p. 33 & 36, (March 29, 2024).

Costs may be attributed to several categories for the Capacity Grant Program, depending on the activity. For example, if an employee is working on updating or maintaining their DE Plan, then that time is not subject to the administrative cost cap but would be subject to the twenty (20) percent cap on maintaining or updating their DE plan. If the employee is performing grant management activities, the costs associated with that time will likely fall under the 3% admin cap. If the employee is working on specific program activities, then that may fall outside the 3% admin cap as a general programmatic cost.

The Consolidated Budget Form requires applicants to split out costs subject to the administrative cap (3%) and costs related to subgrantee evaluation (5%)<sup>2</sup>. Applicants are encouraged to additionally split out costs related to maintenance and updating their state plan (capped by statute at 20%)<sup>3</sup> and broadband device programs (capped in the NOFO at 10%)<sup>4</sup> in the budget justification section of the consolidated budget form and through the supplemental addenda. Any errors in categorization will be addressed during curing.

## 5. Additional Questions

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<sup>2</sup> 47 U.S.C. § 1723(d)(3)(D)(iv)(II).

<sup>3</sup> 47 U.S.C. § 1723(d)(3)(D)(i)(II).

<sup>4</sup> NOFO Section II.C.3.c.iv, p. 36, (March 29, 2024).

## **5.0 When will the Digital Equity Competitive Grant Program begin?**

The Bipartisan Infrastructure Law provides \$1.25 billion to NTIA to establish the Competitive Grant Program. The law requires NTIA to establish the program “not later than 30 days after the date on which the Assistant Secretary begins awarding [State Digital Equity Capacity Grants], and not before that date.”<sup>5</sup>

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<sup>5</sup> 47 U.S.C. §1724(a)(1).

## Appendix: \*New Questions & Answers as of Version 2.0

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### What costs are subject to the 3% Administrative Cap? What costs are not subject to the 3% Administrative Cap?

As required by the Digital Equity Act<sup>6</sup>, the Capacity Grant Program limits the amount of the grant to be used for administrative costs to no more than three (3) percent of the amount of the grant<sup>6</sup>. The three (3) percent limitation on administrative expenses includes the combined total of indirect and direct administrative costs charged to an award. The administrative cost cap only applies to the administrative costs incurred by the administering entity and does not apply to administrative costs incurred by subrecipients. Administrative costs are distinct from programmatic costs. Programmatic costs are not subject to the 3% administrative cap. Eligible entities may use their Negotiated Indirect Cost Rate Agreements (NICRA), but should be mindful that their NICRA does not replace the 3% administrative cap. Not all costs included in an entity's NICRA are necessarily administrative costs subject to the 3% cap, so even when using a NICRA, the entity must still explain how they have determined which costs are administrative costs. In all cases, total direct and indirect administrative costs must be less than or equal to the 3% cap.

- **Administrative costs** are those expenses not related to the direct provision of program activities.
- **Programmatic costs** encompass expenses directly associated with the implementation and delivery of specific services or activities outlined in digital equity plans. These costs are directly attributable to the achievement of program objectives and the provision of services to Covered Populations and include program evaluation and updating, maintaining and/or amending the Digital Equity Plan.

Costs may be attributed to several categories for the Capacity Grant Program, depending on the activity. For example, if an employee is working on updating or maintaining their DE Plan, then that time is not subject to the administrative cost cap but would be subject to the twenty (20) percent cap on maintaining or updating their DE plan. If the employee is performing grant management activities, the costs associated with that time will likely fall under the 3% admin cap. If the employee is working on specific program activities, then that may fall outside the 3% admin cap as a general programmatic cost.

The Consolidated Budget Form requires applicants to split out costs subject to the administrative cap (3%) and costs related to subgrantee evaluation (5%)<sup>7</sup>. Applicants are encouraged to additionally split out costs related to maintenance and updating their state plan (capped by statute at 20%)<sup>8</sup> and broadband device programs (capped in the NOFO at 10%)<sup>9</sup> in

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<sup>6</sup> Digital Equity Capacity Grant Notice of Funding Opportunity (“NOFO”), Section II.C.3.a.v and Section II.C.3.c(iii), p. 33 & 36, (March 29, 2024).

<sup>7</sup> 47 U.S.C. § 1723(d)(3)(D)(iv)(II).

<sup>8</sup> 47 U.S.C. § 1723(d)(3)(D)(i)(II).

<sup>9</sup> NOFO Section II.C.3.c.iv, p. 36, (March 29, 2024).

the budget justification section of the consolidated budget form and through the supplemental addenda. Any errors in categorization will be addressed during curing.