

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION MEETING/WORKSHOP AGENDA

91-5420 Kapolei Parkway, O'ahu, Hawai'i, Interactive Conference Technology-Zoom
Tuesday, August 10, 2021, 9:30 a.m.

Livestream at www.dhhl.hawaii.gov/live

Commission meeting packets will be available at DHHL.hawaii.gov by Thursday, August 5, 2021.

I. ORDER OF BUSINESS

- A. Roll Call
- B. Approval of Agenda

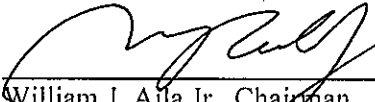
II. ITEMS FOR INFORMATION /DISCUSSION

- A. For Information Only – Workshop discussion on Broadband Basics and Review of Notice of Funding Opportunity of the National Telecommunications and Information Administration's Tribal Broadband Connectivity Program.
- B. For Information Only - Appointment of Investment Committee Permitted Interaction Group Pursuant to Hawai'i Revised Statutes Section 92-2.5 And Hawai'i Administrative Rules Section 10-2-16(B)(1).

III. PUBLIC TESTIMONY ON AGENDIZED ITEMS (see below)

IV. ANNOUNCEMENTS AND ADJOURNMENT

- A. Next Meeting – August 16 & 17, 2021
- B. Adjournment



William J. Aila Jr., Chairman
Hawaiian Homes Commission

COMMISSION MEMBERS

Randy K. Awo, Maui	Zachary Z. Helm, Moloka'i
Patricia L. Teruya, O'ahu	David B. Ka'apu, West Hawai'i
Pauline N. Namu'o, O'ahu	Dennis L. Neves, Kaua'i
Michael L. Kaleikini, East Hawai'i	Russell K. Kaupu, O'ahu

Public Testimony on Agendized Items can be submitted in writing at

<https://dhhl.hawaii.gov/hhc/testimony/>

To provide live oral/video Public Testimony on Agendized Items, submit a form at **<https://dhhl.hawaii.gov/hhc/testimony/>** at least 24 hours in advance, with your name, phone number, email address, and the agenda item on which you would like to testify. Once your request has been received, you will receive an email with the Zoom link via which to testify. You will need a computer with internet access, video camera and microphone to participate. If you require access by phone only, please indicate that in your request. Testimony will be limited to a maximum of three (3) minutes per person.

STATE OF HAWAI'I
DEPARTMENT OF HAWAIIAN HOME LANDS
August 10, 2021

To: Chairman and Members, Hawaiian Homes Commission

Through: Niniau Kawaihae, Special Assistant
Office of the Chairman

Subject: Broadband Basics and Review of Notice of Funding
Opportunity of the National Telecommunications and
Information Administration's Tribal Broadband
Connectivity Program

RECOMMENDED MOTION:

None; for information only.

DISCUSSION:

The Consolidated Appropriations Act ("CAA") was passed by the U.S. Congress and signed by former President Donald J. Trump at the end of December 2020. The CAA authorizes the creation of the Tribal Connectivity Program ("TCP") under the National Telecommunications and Information Administration ("NTIA") of the U.S. Department of Commerce. Section 905(a)(8)(III) sets aside no less than \$30 million to the Department of Hawaiian Home Lands ("DHHL") on behalf of the Native Hawaiian Community, including Native Hawaiian Education Programs. On June 3, 2021, the NTIA released its Notice of Funding Opportunity ("NOFO") for the TCP, attached as Exhibit A. Since February 2021 DHHL staff and its consultants have met with various broadband/telehealth/distance education stakeholders as well as state agencies. This broadband survey of every county and across professional disciplines was used to identify digital gaps; assess existing broadband infrastructure and broadband adoption programs; and analyze strengths in current community networking project areas that address affordable access.

Also attached is Exhibit B, the PowerPoint Broadband 101 presentation that will walk thru the fundamental elements of community networking that promote and address digital sovereignty and digital equity gaps that many indigenous communities across the globe experience.

NOTICE OF FUNDING OPPORTUNITY

TRIBAL BROADBAND CONNECTIVITY PROGRAM

EXECUTIVE SUMMARY

A. Federal Agency Name

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

B. Funding Opportunity Title

Tribal Broadband Connectivity Program

C. Announcement Type

Initial

D. Funding Opportunity Number

NTIA-TBC-TBCPO-2021-2006948

E. Assistance Listing (CFDA Number)

11.029, Tribal Broadband Connectivity Program

F. Key Dates

- Applications submitted online through the Grants.gov system must be received no later than 11:59 p.m. Pacific Daylight Time (PDT) on **September 1, 2021**.
- Applications submitted by postal mail or by courier service must be postmarked (for postal mail) or show clear evidence of mailing (for courier submissions) no later than 11:59 p.m. Pacific Daylight Time (PDT) on **September 1, 2021**.
- Applications submitted by electronic mail must be received no later than 11:59 p.m. Pacific Daylight Time (PDT) on **September 1, 2021**.
- *See* Section D in the Full Announcement Text of this Notice of Funding Opportunity (NOFO) for detailed information concerning application submission requirements.

Eligible entities must submit a single application by the application deadline to be eligible for program funding. The Tribal Broadband Connectivity Program is not a formula or block grant program and a single application for funding must be timely submitted by an eligible entity to receive funding consideration from NTIA.

G. Application Submission Address

Complete application packages may be submitted: (i) electronically through www.grants.gov; (ii) through electronic mail; or (iii) by postal mail or courier. NTIA prefers that applicants use Grants.gov to submit their applications; however, applicants must submit complete application packages using only one of these methods and may not submit partial or duplicate applications using multiple methods of transmission. *See* Section D. of this NOFO for detailed information concerning application submission requirements.

Eligible entities may only submit a single application for funding pursuant to this program. Accordingly, an eligible entities' single application must include the total amount of funding being requested and must account for all projects that will utilize the requested funding. *See* Section C.3.a of this NOFO for additional information on the single application requirement.

H. Funding Opportunity Description

NTIA issues this NOFO to describe the requirements under which it will award grants for the Tribal Broadband Connectivity Program, authorized by the Consolidated Appropriations Act, 2021, Division N, Title IX, Section 905(c), Public Law 116-260, 134 Stat. 1182 (Dec. 27, 2020) (Act). The Tribal Broadband Connectivity Program provides new federal funding for grants to eligible entities to expand access to and adoption of: (i) broadband service on Tribal Land; or (ii) for programs that promote the use of broadband to access remote learning, telework, or telehealth resources during the COVID-19 pandemic. *See* Section A. of this NOFO for the full description of this program.

Additionally, the American Rescue Plan Act of 2021 appropriated \$10 billion to the U.S. Department of the Treasury (Treasury) to establish the Coronavirus Capital Projects Fund to provide funding to states, territories, and Tribal Governments to carry out critical capital projects directly enabling work, education, and health monitoring, including remote options, in response to the public health emergency with respect to the Coronavirus Disease (COVID-19).¹ NTIA is coordinating with Treasury to allow Tribal Governments to indicate their interest in receiving funding under the Treasury program when they submit their application for NTIA's Tribal Broadband Connectivity Program in accordance with the process outlined in this NOFO. *See* Sections B.1 and D.2.d.3 of this NOFO for more information.

I. Funding Instrument

Grant.

J. Eligibility

Section 905(a)(8) of the Act specifies the following entities as eligible to receive grants pursuant to the Tribal Broadband Connectivity Program: (i) a Tribal Government; (ii) a Tribal College or

¹ American Rescue Plan Act of 2021, Title IX, Subtitle M, Section 9901, Public Law 117-2 (March 11, 2021). Section 9901 of the Act amends Title VI of the Social Security Act (42 U.S.C. 801 *et seq.*) to add Section 604, which establishes the Coronavirus Capital Projects Fund.

University; (iii) the Department of Hawaiian Home Lands on behalf of the Native Hawaiian Community, including Native Hawaiian Education Programs; (iv) a Tribal organization; or (v) an Alaska Native Corporation. There are several instances where applicants will need to obtain a Tribal Government Resolution. Each “eligible entity” must coordinate internally (which includes all departments, subsidiaries, etc.) in submitting its single application. In an instance where one “eligible entity” is a subsidiary of another (*e.g.*, a Tribal Government and a subsidiary Tribal College or University), this shall not affect the subsidiary’s eligibility to submit its own application, so long as it includes the requisite Tribal Government Resolution. *See* Section C of this NOFO for additional information concerning the eligibility requirements for this program.

K. Anticipated Amounts

NTIA will make up to \$980,000,000 available for federal assistance under the Tribal Broadband Connectivity Program. In accordance with Section 905(c)(3)(A) of the Act, NTIA will allocate not less than 3% of the funds, or not less than \$30,000,000, for the benefit of Native Hawaiians.

To further meet the equitable distribution requirement of the Act, NTIA will allocate up to \$500,000 to each of the Federally Recognized Tribes delineated by the Department of the Interior’s Bureau of Indian Affairs in accordance with Section B.3 of this NOFO. The \$500,000 allocation is not a funding cap for Federally Recognized Tribes, but rather is intended to ensure that program funding is equitably distributed by NTIA to all eligible entities, including Federally Recognized Tribes. The \$30,000,000 and \$500,000 allocations are not funding caps for the Department of Hawaiian Home Lands or for Federally Recognized Tribes, respectively, but rather are intended to ensure that program funding is equitably distributed by NTIA to all eligible entities.

NTIA expects to make awards under this program within the following funding ranges:

Broadband Infrastructure Deployment Projects: \$1,000,000 to \$50,000,000.

Broadband Adoption and Use Projects: \$50,000 to \$2,500,000.

These funding ranges are not required minimums and maximums, but eligible entities requesting funding for projects outside of these ranges must provide a reasonable explanation for the variance in their project size. The period of performance for grants issued pursuant to this program is one year; however, the Grants Officer may extend the period of performance beyond one year for broadband infrastructure projects. *See* Section B of this NOFO for additional information pertaining to award amounts and to the period of performance for grants issued pursuant to this NOFO.

L. Cost Sharing/Matching

The Act authorizing the establishment of the Tribal Broadband Connectivity Program does not contain a statutory cost sharing or matching funds requirement. NTIA will not require an eligible entity applying for a grant under the Tribal Broadband Connectivity Program to provide a non-federal cost contribution. *See* Section C of this NOFO for more information pertaining to the cost sharing requirements for this program.

Table of Contents

A. Program Description	4
B. Federal Award Information.....	9
C. Eligibility Information	12
D. Application and Submission Information	13
E. Application Review Information	38
F. Federal Award Administration Information	47
G. Federal Awarding Agency Contacts	52
H. Other Information	53

FULL ANNOUNCEMENT TEXT

A. Program Description

NTIA issues this NOFO to describe the requirements under which it will award grants for the Tribal Broadband Connectivity Program, authorized by the Consolidated Appropriations Act, 2021, Division N, Title IX, Section 905(c), Public Law 116-260, 134 Stat. 1182 (Dec. 27, 2020) (Act).

1. Overview of the Tribal Broadband Connectivity Program. The Tribal Broadband Connectivity Program makes grants available to eligible entities, which include a Tribal Government, a Tribal College or University, the Department of Hawaiian Home Lands on behalf of the Native Hawaiian Community, including Native Hawaiian Education Programs, a Tribal organization, or an Alaskan Native Corporation, for the deployment and adoption of broadband service on Tribal Land and for programs that promote the use of broadband to access remote learning, telework, or telehealth resources during the COVID–19 pandemic. Grant funds available under this program may be used for the following purposes:

- (A) Broadband infrastructure deployment projects, including support for the establishment of carrier-neutral submarine cable landing stations; and
- (B) Projects that promote the adoption and use of broadband services, including:
 - (i) affordable broadband programs, such as providing free or reduced-cost broadband service and preventing disconnection of existing broadband service;
 - (ii) distance learning;
 - (iii) telehealth;
 - (iv) digital inclusion efforts; and
 - (v) broadband adoption activities.

NTIA recognizes the challenges facing Indian tribes, and organizations that primarily serve and represent Native Hawaiians during the COVID-19 pandemic. Access to reliable high-speed Internet has never been more essential to Native American communities. And yet, only 46.6% of housing units on rural Tribal Lands have access to broadband service.² Insufficient broadband access and adoption not only “inhibits individuals’ access to education, health, telework, and

² Federal Communications Commission (FCC), 2020 Broadband Deployment Report, FCC-20-50A1 (Apr. 24, 2020) <https://docs.fcc.gov/public/attachments/FCC-20-50A1.pdf>.

economic resources, but also impedes Tribes' efforts to achieve self-governance and self-determination.”³

The purpose of the Tribal Broadband Connectivity Program is to improve the quality of life, spur economic development and commercial activity, create opportunities for remote employment and online entrepreneurship, remote learning, and telehealth by expanding broadband access and providing digital training and inclusion programs to Native American communities. In implementing and administering this grant program, NTIA will ensure that necessary investments are designed to provide an adequate minimum level of service and are unlikely to be made using private sources of funds.

a. Broadband Infrastructure Deployment. The Tribal Broadband Connectivity Program invites project proposals for the deployment of broadband infrastructure on Tribal Lands, including support for the establishment of carrier-neutral submarine cable landing stations. Such infrastructure deployment projects may involve the construction of middle mile or last mile networks as well as interconnection. Applicants may propose projects that deploy new broadband infrastructure, replace antiquated infrastructure, or upgrade or extend existing infrastructure. For example, applicants may propose projects that utilize 2.5 GHz licenses or other licensed spectrum received from the Federal Communications Commission (FCC). NTIA requires construction of networks that use commercial grade equipment that will meet current needs and be scalable to meet future needs. Infrastructure can include, but is not limited to, cable, fiber, wireless, fixed wireless, and satellite. Applicants may propose the technology or technologies that best meets Tribal needs; however, NTIA encourages the submission of project proposals that deploy future-proof infrastructure to the extent feasible, *e.g.* fiber. If an applicant is not at the stage where it can submit a broadband construction project proposal, NTIA will accept project proposals to conduct planning, engineering, feasibility, or sustainability studies as part of the necessary steps to develop a technological solution for broadband deployment.

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.

NTIA encourages infrastructure projects that enhance economic development and provide new jobs; expand education, telehealth, public safety and telework access; and support smart technologies for agriculture, manufacturing, utilities, and government operations and services on Tribal Lands. NTIA encourages all applicants to focus on the ongoing sustainability of their broadband infrastructure projects so that they can best serve Tribal communities for the long term.

It is important that necessary investments in broadband infrastructure be carried out in ways that produce high-quality infrastructure, avert disruptive and costly delays, and promote efficiency. NTIA understands the importance of promoting workforce development and encourages

³ Department of the Interior, Bureau of Indian Affairs, *National Tribal Broadband Strategy* at 3 (Jan. 15, 2021), available at <https://www.bia.gov/bia/ots/broadband>.

recipients to ensure that broadband projects use strong labor standards, consistent with Tribal law, including project labor agreements and community benefit agreements that offer wages at or above the prevailing rate and include local hire provisions, not only to promote effective and efficient delivery of high-quality infrastructure projects but also to support the economic recovery through strong employment opportunities for workers. Using these practices in construction projects may help to ensure a reliable supply of skilled labor that would minimize disruptions, such as those associated with labor disputes or workplace injuries.

The Act requires eligible entities to complete their projects within one year of their receipt of grant funds. The Assistant Secretary, however, may extend the award period for broadband infrastructure construction projects if the eligible entity certifies that: (1) it has a plan for the use of the grant funds, (2) the construction project is underway, or (3) extenuating circumstances require an extension of time to allow the project to be completed.

b. Broadband Use and Adoption. The Tribal Broadband Connectivity Program invites project proposals that address the digital divide on Tribal Lands, including broadband and digital inclusion planning, training staff and Tribal community members, and providing technical support and capacity building for Tribal institutions. NTIA encourages efforts to develop programs and other resources that not only address immediate COVID-19-related concerns, but also build the capacity of Tribes to use broadband to provide ongoing and sustainable benefits to Native American/Alaska Native/Native Hawaiian communities. The Act requires eligible entities to expend their grant funds and complete their Broadband Use and Adoption projects within one year of receiving grant funds from NTIA. There are no time extensions available for Broadband Use and Adoption projects.

Applicants may request funding for Broadband Use and Adoption projects that have at least one of the following purposes:

- i. Provides broadband education, awareness, training, access, equipment, and support to Native American/Alaska Native/Native Hawaiian serving anchor institutions including schools, libraries, medical and healthcare providers, Tribal colleges, public housing, workforce facilities and other community support organizations serving Native American/Alaska Native/Native Hawaiian populations;
- ii. Provides affordable broadband programs to Native American/Alaska Native/Native Hawaiian communities, including providing free or reduced-cost broadband service and preventing disconnection of existing broadband service;
- iii. Improves access to, and use of, broadband services by Native American/Alaska Native/Native Hawaiian anchor institutions to deliver telehealth, remote learning, digital inclusion and workforce development programs;
- iv. Stimulates the adoption and use of broadband services by Native American/Alaska Native/Native Hawaiian communities for telehealth, remote learning, telework and entrepreneurship, economic growth, and job creation;

- v. Builds digital skills and workforce capacity in Native American/Alaska Native/Native Hawaiian communities;
- vi. Assesses Native American/Alaska Native/Native Hawaiian community needs and conducts planning related to online education, telehealth, digital inclusion, workforce and digital skills development; and/or
- vii. Gathers data and conducts evaluation of the digital inclusion and broadband adoption programs funded by the grant to determine their effectiveness and develop best practices to facilitate digital inclusion and broadband adoption by Native American/Alaska Native/Native Hawaiian communities on Tribal Lands.

NTIA issues this NOFO to invite eligible entities to submit applications pursuant to the Tribal Broadband Connectivity Program, provide information on the amount of funding available for award, discuss how it will allocate funds to qualifying applicants, give instructions on the application process, and describe the evaluation criteria for application review. The definitions applicable to this NOFO are set forth below.

2. Definitions. The following definitions, including certain definitions set forth in section 905(a) of the Act, are applicable to the Tribal Broadband Connectivity Program:

- (a) Assistant Secretary— means the Assistant Secretary of Commerce for Communications and Information.
- (b) Broadband or Broadband Service—has the meaning given the term “broadband internet access service” in 47 C.F.R. § 8.1(b), or any successor regulation.
- (c) Commission—means the Federal Communications Commission.
- (d) Community Anchor Institutions—means schools, libraries, medical and healthcare providers, public safety entities, public housing authorities, institutes of higher education and other community support organizations that provide outreach, access, equipment and support services to facilitate greater use of broadband service by the entire population and local governments.
- (e) Department—means the Department of Commerce.
- (f) Eligible Entity— means—
 - (i) a Tribal Government;
 - (ii) a Tribal College or University;
 - (iii) the Department of Hawaiian Home Lands on behalf of the Native Hawaiian Community, including Native Hawaiian Education Programs;
 - (iv) a Tribal organization; or
 - (v) a Native Corporation.
- (g) Enforceable Buildout Commitment—means, in the context of the definition of unserved set forth in Section A.2.o of this NOFO, a legally binding agreement, which includes a Tribal

Government Resolution, between the Tribal Government of the Tribal Lands in the proposed service area, or its authorized agent, and a service provider offering “qualifying broadband service” to unserved households on those Tribal Lands.

(h) Native Corporation—has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act 11 (43 U.S.C. 1602).

(i) Native Hawaiian—has the meaning given the term in section 801 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4221).

(j) Qualifying Broadband Service—means 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.⁴

(k) State—means any State of the United States, the District of Columbia, Puerto Rico, American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

(l) Tribal Government—means the governing body of any Indian or Alaska Native Tribe, band, nation, pueblo, village, community, component band, or component reservation, individually recognized (including parenthetically) in the list published most recently as of the date of enactment of this Act pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).⁵

(m) Tribal Land—means— (A) any land located within the boundaries of— (i) an Indian reservation, pueblo, or rancheria; or (ii) a former reservation within Oklahoma; (B) any land not located within the boundaries of an Indian reservation, pueblo, or rancheria, 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

⁴ These standards are consistent with the manner in which other federal support programs apply these terms. See Rural Utilities Service, Department of Agriculture, *Funding Opportunity Announcement and Solicitation of Application for Second Round of the Reconnect Program*, 84 Fed. Reg. 67913, 67918 (Dec. 12, 2019), available at <https://www.govinfo.gov/content/pkg/FR-2019-12-12/pdf/2019-26522.pdf>; *In the Matter of Rural Digital Opportunity Fund, Connect America Fund*, WC Docket Nos. 19-126, 10-90, FCC 20-5, at ¶ 32 (Feb. 7, 2020), available at <https://docs.fcc.gov/public/attachments/FCC-20-5A1.pdf>

⁵ See Department of the Interior, Bureau of Indian Affairs, *Indian Entities Recognized by and Eligible to Receive Services From the United States Bureau of Indian Affairs*, 86 Fed. Reg. 7554 (Jan. 29, 2021), available at <https://www.govinfo.gov/content/pkg/FR-2021-01-29/pdf/2021-01606.pdf>

U.S.C. 8 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.

(n) Tribal Organization—is defined in 25 U.S.C. § 5304(l) and means the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: provided, that in any case where a contract is let or grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contract or grant.

(o) Unserviced—with respect to a household, means— (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.

B. Federal Award Information

1. Funding Availability

NTIA will make up to \$980,000,000 available for federal assistance under the Tribal Broadband Connectivity Program, which will be allocated to eligible entities as described in Section B.3 of this NOFO.

Additionally, the American Rescue Plan Act of 2021 appropriated \$10 billion to the Treasury Department to establish the Coronavirus Capital Projects Fund to provide funding to states, territories, and Tribal Governments to carry out critical capital projects directly enabling work, education, and health monitoring, including remote options, in response to the public health emergency with respect to the Coronavirus Disease (COVID-19).⁶ A focus of the Capital Projects Fund on the continuing need for connectivity in response to the COVID-19 pandemic complements the broader range of uses, including for broadband infrastructure, of the American Rescue Plan's separate \$350 billion Coronavirus State and Local Fiscal Recovery Funds.⁷ Capital projects include investments in depreciable assets and the ancillary costs needed to put the capital assets in use. Under the American Rescue Plan, these projects must be critical in

⁶ American Rescue Plan Act of 2021, Title IX, Subtitle M, Section 9901, Public Law 117-2 (March 11, 2021). Section 9901 of the Act amends Title VI of the Social Security Act (42 U.S.C. 801 *et seq.*) to add Section 604, which establishes the Coronavirus Capital Projects Fund.

⁷ Department of the Treasury, Coronavirus State and Local Fiscal Recovery Funds, Interim Final Rule, 86 Fed. Reg. 26786 (May 17, 2021).

nature, providing connectivity for those who lack it. The Capital Projects Fund thus allows for investment in high-quality broadband as well as other connectivity infrastructure, devices, and equipment, among other things.⁸ NTIA is coordinating with Treasury to allow Tribal Governments to indicate their interest in receiving funding under the Treasury program by providing a statement authorizing NTIA to share the complete application package that they submit for NTIA's Tribal Broadband Connectivity Program with Treasury for consideration for funding under the Treasury program. *See* Section D.2.d.3 of this NOFO for more information on this process.

2. Project/Award Period

As established in section 905(c)(4)(B) of the Act, the award period for the Tribal Broadband Connectivity Program 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 Tribal Broadband Connectivity Program. Any grant funds not committed by an eligible entity by this deadline will revert to the general fund of the Treasury pursuant to section 905(c)(4)(A)(ii).

a. Extensions For Infrastructure Projects: The Assistant Secretary may extend the period required for the expenditure of funds under the Tribal Broadband Connectivity Program 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.

Extensions for the expenditure of award funds are not available for Broadband Use and Adoption Projects. Accordingly, all Broadband Use and Adoption Projects funded pursuant to this NOFO must be completed with one year of an eligible entity receiving grant funds from NTIA.

b. Petition for Extension: With respect to infrastructure projects, 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 projects.

c. Reversion of Funds: NTIA will make any grant funds not expended by an eligible entity by the end of the one-year award period set forth in the Act available to other eligible entities for the purposes provided in the Tribal Broadband Connectivity Program, unless the eligible entity has received an extension from NTIA to complete its broadband infrastructure project.

⁸ This summary is available on Treasury's website at <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/capital-projects-fund>.

d. Carry Over of Funds: If NTIA does not award all available grant funds in the first round, NTIA may use the remaining available funds in a second round of grant funding, which will be publicly announced through NTIA's issuance of a new NOFO.

e. Treatment of Unallocated Funds

(i) In General.— In accordance with section 905(e)(2)(F) of the Act, if an eligible entity does not submit an application by the deadline established under this NOFO, or the Assistant Secretary does not approve an application submitted by an eligible entity under this NOFO, the Assistant Secretary will make the amounts allocated for the eligible entity available to other eligible entities on an equitable basis. If a Tribal Government does not submit an application to receive its minimum allocation of up to \$500,000 during this round of funding, NTIA will allow the Tribal Government to apply for this funding during a second process described below, if any funding remains.

(ii) Second Process.— NTIA will initiate a second notice and application process to reallocate any funds that remain available after awarding grants to eligible entities that submitted approved applications during this round of funding for the Tribal Broadband Connectivity Program.

3. Award Amount

In accordance with section 905(c)(3)(A) of the Act, NTIA will make the amounts appropriated under the Tribal Broadband Connectivity Program available to eligible entities on an equitable basis. In this connection, not less than 3% of the total amount of program funding, or \$30,000,000, will be allocated to the Department of Hawaiian Home Lands on behalf of the Native Hawaiian Community as the eligible entity designated in section 905(a)(8) of the Act. To further meet the equitable distribution requirement of the Act, NTIA will allocate up to \$500,000 to each of the Federally Recognized Tribes delineated by the Department of the Interior's Bureau of Indian Affairs (including those listed parenthetically). The \$30,000,000 and \$500,000 allocations are not funding caps for the Department of Hawaiian Home Lands or for Federally Recognized Tribes, respectively, but rather are intended to ensure that program funding is equitably distributed by NTIA to all eligible entities.

Importantly, all eligible entities, including but not limited to the Department of Hawaiian Home Lands and Federally Recognized Tribes, must submit a single application by the application deadline to be eligible for program funding. The Tribal Broadband Connectivity Program is not a formula or block grant program and an application for funding must be timely submitted by an eligible entity to receive funding consideration from NTIA. *See* Section C.3.a of this NOFO for more information on the single application requirement.

NTIA expects to make awards under this program within the following funding ranges:

Broadband Infrastructure Deployment Projects: \$1,000,000 to \$50,000,000
Broadband Use and Adoption Projects: \$50,000 to \$2,500,000

These funding ranges are not required minimums and maximums, but eligible entities requesting funding for projects outside of these ranges must provide a reasonable explanation for the variance in their project size. An award recipient may use NTIA award funds for any of the eligible uses enumerated in Section A of this NOFO.

In addition, pursuant to section 905(c)(4)(B)(iii) of the Act, NTIA retains discretion to make supplemental awards (*i.e.*, provide additional funding beyond the initial award) to an eligible entity to the extent that another eligible entity does not expend some or all of its grant funds during the other eligible entity's period of performance.

4. Type of Funding Instrument

The funding instrument for awards made pursuant to the NOFO will be a grant.

C. Eligibility Information

1. Eligible Applicants

Section 905(a)(8) of the Act defines the entities eligible to apply for a Tribal Broadband Connectivity Program grant. Specifically, eligible entities include: (i) a Tribal Government; (ii) a Tribal College or University; (iii) the Department of Hawaiian Home Lands on behalf of the Native Hawaiian Community, including Native Hawaiian Education Programs; (iv) a Tribal organization; or (v) an Alaska Native Corporation.

There are several instances where applicants will need to obtain a Tribal Government Resolution. *See* Section C.3.c of this NOFO for more information about this requirement. Each eligible entity must coordinate internally (which includes all departments, subsidiaries, etc.) in submitting its single application. In an instance where one eligible entity is a subsidiary of another (*e.g.*, a Tribal Government and a subsidiary Tribal College or University), this shall not affect the subsidiary's eligibility to submit its own application, so long as it includes the requisite Tribal Government Resolution.

2. Cost Sharing or Matching

The Act authorizing the establishment of the Tribal Broadband Connectivity Program does not contain a statutory cost sharing or matching funds requirement. Accordingly, NTIA will not require an eligible entity applying for a grant under the Tribal Broadband Connectivity Program to provide non-federal cost share and will not give additional consideration during the evaluation process for applications containing non-federal cost share.

3. Other

a. Single Application. Section 905(e)(2)(C) of the Act states that an eligible entity may submit only one application for the Tribal Broadband Connectivity Program. Accordingly, each eligible entity must coordinate internally (which includes all departments, subsidiaries, etc.) in submitting its single application. An eligible entities' single application must include the total amount of funding being requested, and must account for all Broadband Infrastructure

Deployment Projects and all Broadband Use and Adoption Projects, that will utilize the requested funding.

b. Encouragement of Consortium or Regional Applications. NTIA encourages a regional approach to Broadband Infrastructure Deployment Projects through the submission of an application on behalf of a consortium or of multiple Tribal partners (each of which must be an eligible entity) that cover regional infrastructure gaps or other eligible projects in the most cost-effective manner, while providing access to those communities that meet the definition of “unserved” per the statute. Similarly, NTIA encourages eligible entities to collaborate or participate as part of a consortium for Broadband Use and Adoption Projects.

c. Tribal Consent and Authorization.

i. Broadband Infrastructure Deployment. Each Eligible Entity applying for Broadband Infrastructure Deployment funds is required to submit a Resolution of Consent from each Tribal Government, from the Tribal Council of the appropriate governing body, upon whose Tribal Lands the infrastructure will be deployed.

- For Tribal Organizations and Tribal Colleges, even when the Tribal Government is a founding member, a Resolution of Consent must still be obtained.
- In the case of consortiums, a Tribal resolution is required from each Tribal Government participating in the project.
- For Broadband Infrastructure Deployment Projects on Tribal Lands in Hawaii, consent must be obtained from the Department of Hawaiian Home Lands.
- For Broadband Infrastructure Deployment Projects on Tribal Lands in Alaska, all applicants must notify all Tribal Governments within their proposed service area. Any Tribal Government located in a proposed service area may choose to define the area for which it will require Consent. The area defined by the Tribal Government must include their local presence and Tribal Member Households, and be submitted to NTIA. The Tribal Government may use information submitted in other proceedings, such as the FCC 2.5GHz Tribal Priority Window. If there is overlap between more than one Tribal Governments’ definition of their area, the overlapping Tribal Governments will be given an opportunity to cure by working together to resolve.

If a Tribal Government is not meeting due to COVID-19 restrictions or will not meet during the application window outlined in the NOFO, NTIA will allow the submission of a Letter of Consent from the Governing Body of the Tribe with the application. NTIA will provide an opportunity to cure missing Resolutions of Consent during review of the application and before the application is approved.

ii. Broadband Adoption and Use. Eligible Entities are strongly encouraged to coordinate with one another so that there are no competing applications. If there are competing applications, the Eligible Entities may be given an opportunity to cure by working together to resolve any potential overlaps. Deference will be given towards Tribal Governments on their own Tribal Lands.

D. Application and Submission Information

1. Address to Request Application Package

Application forms and instructions are available on the Grants.gov website (www.grants.gov). To access these materials, go to <http://www.grants.gov>, select “How to Apply for Grants,” and then select “Search for Opportunity Package.” Enter the CFDA number (11.029) and/or the funding opportunity number (NTIA-TBC-TBCPO-2021-2006948). Select “Grant Opportunity Package,” and then follow the prompts. To download the instructions, go to “Preview Opportunity Package” and select “Download Instructions.” NTIA recommends that applicants planning to file their applications through Grants.gov, visit the Grants.gov website prior to filing their applications so that they fully understand the process and requirements. Failure to properly register and apply for funds under the Tribal Broadband Connectivity Program by the deadline established in this NOFO may result in an eligible entity losing this grant opportunity. Applications will be accepted until the deadline and are processed as received.

Applicants without Internet access may request a copy of the application materials by contacting the NTIA representative identified in Section G.1 of this NOFO.

With respect to electronic methods for providing information about funding opportunities or accepting applicants’ submissions of information, NTIA is responsible for compliance with section 508 of the Rehabilitation Act of 1973, as amended by the Workforce Act of 1998.

2. Content and Form of Applications

Applications for the Tribal Broadband Connectivity Program must follow the format described in this NOFO. Applications must be timely submitted in accordance with the application deadlines set forth in Section D.4 of this NOFO. NTIA prefers that applicants use Grants.gov to submit their application. Applications submitted by mail may be in hard copy (paper) or electronic format (*e.g.*, CD-ROM, disk, or thumb drive). NTIA will also accept applications submitted by email to broadbandusa@ntia.gov. Applications submitted by email should be machine-readable and should not be copy-protected.

An eligible entity may elect to participate as a lower-tier member of a consortia in connection with the submission of a comprehensive application for a Broadband Infrastructure Deployment Project covering Tribal Lands and also submit its own application as the primary recipient for a Broadband Use and Adoption Project.

A complete application packet for this round of the Tribal Broadband Connectivity Program consists of the following forms and required submissions, including the SF-424 Family Forms, Project Narrative, and Budget Narrative and Detailed Budget Justification, which are all discussed in Sections D.2.a through D.2.c below.

Section D.2.a describes the forms and documentation required from all applicants for a Tribal Broadband Connectivity Program grant. Applicants proposing a project that involves the deployment or construction of broadband infrastructure will submit the required forms and

documentation enumerated in Section D.2.a and Section D.2.b of this NOFO, including the Standard Form 424C Budget Information-Construction Programs. Applicants proposing a project for broadband adoption or digital inclusion activities will submit the required forms and documentation enumerated in Section D.2.a and Section D.2.c of this NOFO, including Standard Form 424A Budget Information-Non Construction Programs. Applicants proposing a project that contains both broadband infrastructure and broadband adoption/digital inclusion activities will submit the forms and documentation enumerated in both Section D.2.b (for the construction components) and Section D.2.c (for the non-construction components) as well as the documents described in Section D.2.a.

a. Forms and Documentation Required from ALL Applicants for a Tribal Broadband Connectivity Program Grant

i. Standard Form 424: Application for Federal Assistance

This is the title page (SF-424). This form (and all additional forms requiring a signature) must be signed by the applicant’s authorized organization representative (AOR). Electronic signatures submitted through www.grants.gov satisfy this requirement.

- SF-424, Item 8.d Zip/Postal Code field, should reflect the Zip code + 4 (#####-####) format.
- SF-424, Item 12, should list the NOFO number as NTIA-TBC-TBCPO-2021-2006948.
- SF-424, Item 18, should list the total federal budget amount requested for the entire project.
- For SF-424, Item 21, the list of certifications and assurances is contained in SF-424B or SF-424D.

ii. **CD-511 Certification Regarding Lobbying:** Enter “NTIA-TBC-TBCPO-2021-2006948” in the Award Number field. Enter the title of the application used in field 15 of the SF-424, or an abbreviation of that title, in the Project Name field.

iii. **Standard Form LLL, Disclosure of Lobbying Activities** (if applicable).

b. Required Forms and Documentation for Broadband Use and Adoption Projects

i. Standard Form 424A: Budget Information for Non-Construction Programs (SF-424A) (required if application includes non-construction activities)

Applicants must complete this form and provide a budget summary for all proposed non-construction projects and activities to be funded by the grant funds.

ii. Standard Form 424B: Assurances for Non-Construction Programs (SF-424B) (required if application includes non-construction activities)

The SF-424B is required for all applicants that have not updated their System for Award Management (SAM.gov) entity registration since February 2, 2019 to include the federal financial assistance Certifications and Representations (Certs and Reps). If an applicant has updated their SAM.gov entity registration since February 2, 2019 to include the certifications and representations, then the SF-424B is not required.

iii. **Project Narrative for Broadband Use and Adoption Projects**

The Project Narrative is a word-processed document of not more than 20 single- or 40 double-spaced pages responsive to the program description, statutory purposes, funding priorities, and the evaluation criteria set forth in this NOFO. The project narrative must identify specific tasks, measurable milestones and performance outcomes for Native American/Alaska Native/Native Hawaiian communities resulting from the proposed project activities. The Project Narrative shall include:

- a. An executive summary of the project not to exceed two (2) pages. Please note, if an applicant's proposal is selected for funding, 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 cultural, commercial, or financial information as part of the Executive Summary. *See also* 15 C.F.R. § 4.9(c) concerning the designation of business information by the applicant;
- b. A description of the eligible entity applying for funds, and the qualifications and experience of key personnel responsible for implementing the proposed project;
 - **Table of Funded Project Participants and Unfunded Informal Collaborators.** (Does not count toward the page limit). Provide a table that identifies all organizations that will participate in and contribute to the proposed activities, if funded, known at the time of the application submission. The table should consist of an alphabetically ordered list, by organization, of all Funded Project Participants and all Unfunded Informal Collaborators. The table should include the organization's name, address, administrative role, scope of work (funded participants only) and proposed funding amount (funded participants only). Administrative roles are: applicant, subrecipient, or contractor for funded participants; or collaborator if they will not receive funding.
 - **Resumes of Key Personnel.** (Does not count toward page limit but are limited to one-page each). One-page resumes of no more than five key personnel from applicant (not subrecipients) may be included. Any information beyond one page for each resume and any additional resumes submitted will not be considered.
- c. A description of the project objectives related to promoting broadband adoption, telehealth, remote education, workforce and economic development, digital inclusion and skills, or providing affordable broadband programs for Native American/Alaska Native/Native Hawaiian communities. Describe any existing

broadband and/or digital inclusion plans, or any planning activities to be conducted during the project;

- d. A description of the Native American/Alaska Native/Native Hawaiian community needs, problems, or challenges that the proposed project will address along with a description of the project Native American/Alaska Native/Native Hawaiian beneficiaries, including information about demographics and service areas;
- e. A description of the specific activities to be funded by the grant and the eligible uses of the funding;
- f. A project plan describing all major project activities and timelines for implementation, including key milestones and when each major project activity will start and end. Describe how progress will be tracked;
- g. A description of the project's outcomes and the performance measures that will be used to evaluate the project's success and the benefits delivered to Native American/Alaska Native/Native Hawaiian project beneficiaries. Include proposed metrics, data planned for collection and other evaluation methodologies (e.g., case studies, focus groups, surveys). Describe any planned tangible products from your project (such as curricula, guides, publications, reports relating to broadband adoption and digital inclusion programs). Describe how the benefits of the project will be sustained.

iv. **Status as Eligible Entity.** Applicants should provide information to demonstrate that they are in the category of eligible entities as defined in section 905(a)(8) of the Act.

v. **Budget Narrative and Detailed Budget Justification**

Applicants must submit a Detailed Budget Justification in the form of a spreadsheet, as well as a Budget Narrative in the form of a Word document. All budget information must support the dollar amounts identified in the SF-424 and SF-424A and demonstrate that the project or activity meets the eligible use requirements in the Act and in this NOFO.

The Detailed Budget Justification spreadsheet must reflect the cost categories that appear in the SF-424A and include itemized calculations for each cost placed under those categories. The spreadsheet must be formatted to fit letter-sized paper (8.5" x 11").

The Budget Narrative must explain the necessity and basis for all costs, clearly correspond to the information included in the Detailed Budget Justification spreadsheet, and reflect only allowable costs that are consistent with the project scope. Information on cost allowability is available in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at [2 C.F.R. § 200](#), which apply to awards in this program.

vi. Indirect Cost Rate

Section 905(c)(6) of the Act prohibits an eligible entity from using more than two percent (2%) of grants funds received under the Tribal Broadband Connectivity Program for administrative expenses. For this purpose, the two percent limitation on administrative expenses includes the combined total of indirect costs and direct administrative costs charged to an award.

If indirect costs are included in the proposed budget, the applicant must ensure that the budgeted amounts for indirect costs, plus the budgeted amounts for direct administrative costs, does not exceed two percent of the requested grant amount, regardless of any previously approved indirect cost rate it may have negotiated with a cognizant federal agency. If indirect costs are included in the proposed budget, the applicant must provide a copy of the approved negotiated agreement if this rate was negotiated with a cognizant federal audit agency. If the rate was not established by a cognizant federal audit agency, provide a statement to this effect. If the successful applicant includes indirect costs in the budget and has not established an indirect cost rate with a cognizant federal audit agency, the applicant will be required to obtain such a rate in accordance with Section B.06 of the Department of Commerce Financial Assistance Standard Terms and Conditions Dated November 12, 2020.

Alternatively, consistent with 2 C.F.R. § 200.414(f), applicants that do not have a current negotiated indirect cost rate may elect to charge indirect costs to an award pursuant to a de minimis rate of up to 2 percent of modified total direct costs (MTDC), in which case a negotiated indirect cost rate agreement is not required. Applicants proposing an up to 2 percent de minimis rate pursuant to 2 C.F.R. § 200.414(f) should note this election as part of the budget portion of the application.

As described in 2 C.F.R. § 200.403, costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both. Applicants are reminded that the two 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 2 percent limitation of administrative and indirect costs.

c. Required Forms and Documentation for Broadband Infrastructure Deployment Projects

i. Standard Form 424C: Budget Information for Construction Programs (SF-424C)

Applicants must complete this form and provide a detailed budget narrative that adequately describes all costs for their proposed construction projects and associated activities that will be funded by the grant funds.

ii. Standard Form 424D: Assurances for Construction Programs (SF-424D)

The SF-424D is required for all applicants that have not updated their System for Award Management (SAM.gov) entity registration since February 2, 2019 to include the federal

financial assistance Certifications and Representations (Certs and Reps). If an applicant has updated their SAM.gov entity registration since February 2, 2019 to include the certifications and representations, then the SF-424D is not required.

iii. Project Narrative for Broadband Infrastructure Deployment Projects

The Project Narrative is a word-processed document of not more than 20 single- or 40 double-spaced pages responsive to the program description, statutory purposes, funding priorities, and the evaluation criteria set forth in this NOFO. The project narrative must identify specific tasks, measurable milestones and performance outcomes resulting for Native American/Alaska Native/Native Hawaiian communities from the proposed project activities. The Project Narrative shall include:

- a. An executive summary of the project not to exceed two (2) pages. Please note, if an applicant's proposal is selected for funding, 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 cultural, commercial, or financial information as part of the Executive Summary. *See also* 15 C.F.R. § 4.9(c) concerning the designation of business information by the applicant;
- b. A description of the eligible entity and the qualifications and experience of key personnel responsible for implementing the proposed project;
 - o **Table of Funded Project Participants and Unfunded Informal Collaborators.** (Does not count toward the page limit). Provide a table that identifies all organizations that will participate in and contribute to the proposed activities, if funded, known at the time of the application submission. The table should consist of an alphabetically ordered list, by organization, of all Funded Project Participants and all Unfunded Informal Collaborators. The table should include the organization's name, address, administrative role, scope of work (funded participants only) and proposed funding amount (funded participants only). Administrative roles are: applicant, subrecipient, or contractor for funded participants; or collaborator if they will not receive funding.
 - o **Resumes of Key Personnel.** (Does not count toward page limit but are limited to one-page each). One-page resumes of no more than five key personnel from applicant (not subrecipients) may be included. Any information beyond one page for each resume and any additional resumes submitted will not be considered.
- c. A description of the activities to be funded by the grant, the eligible uses of the funding, and the proposed objectives and outcomes for Native American/Alaska Native/Native Hawaiian communities from the project;

- d. A description of the area to be served by the project, including how the area meets the definition of Tribal Land as enumerated in section 905(a)(13) of the Act, and the number of unserved Native American/Alaska Native/Native Hawaiian households, businesses or community anchor institutions that the project has the potential to serve;
- In accordance with Section 905(c)(8) of the Act, applicants proposing to use grant funds for the construction of new broadband infrastructure must prioritize projects that deploy broadband infrastructure to unserved Native American/Alaska Native/Native Hawaiian households. The applicant should define the proposed service area and the total number of Native American/Alaska Native/Native Hawaiian households, businesses and community anchor institutions located therein. The applicant should describe the total number of Native American/Alaska Native/Native Hawaiian households, businesses, and community anchor institutions lacking access to the Internet and to qualifying broadband service (*i.e.* those not currently receiving Internet service with speeds of 25/3 Mbps or greater with latency considerations).
 - The applicant should identify the total number of Native American/Alaska Native/Native Hawaiian households, businesses, and community anchor institutions that it plans to connect to qualifying broadband service and the number that will be connected at speeds higher than qualifying broadband service, specifying the speed level.
- e. A description of the number of total Native American/Alaska Native/Native Hawaiian households in the proposed service area at or below 150% of the poverty line (provide percentage as it compares to all households on the Tribal land) applicable to the average family size represented on the particular Tribal land covered by the project in the lower 48 states, Alaska and Hawaii (utilizing HHS Poverty Guidelines).
- f. Provide an estimate of the total number of jobs, including a subset for Native American/Alaska Native/Native Hawaiian jobs, and subset of those jobs that will comply with the Tribal Employment Rights Ordinance of the Tribe (TERO). Describe a plan for workforce training and development, including in broadband deployment-related occupations, as well as plans to address any anticipated labor shortages in these fields.
- g. A description of whether and, if so, how the project will incorporate strong labor standards, consistent with Tribal law, including project labor agreements and community benefit agreements that offer wages at or above the prevailing rate and include local hire provisions, and a description of the applicant's workforce plans and practices.
- h. A project plan describing all major project activities and timelines for implementation, including key deployment milestones. Describe the overall project plan, including: cost effectiveness (*e.g.* costs for single network and

economies of scale for consortium); service capacity; timeframes for construction; and scalability;

- i. Describe a plan for long-term network sustainability including revenue, operating expenses, working capital, and equipment replacement funding.
- j. For projects including construction and/or ground disturbing activities, a brief description of the physical project area and its surroundings (*e.g.*, disturbed or developed land vs. open space; adjacent natural resources, such as rivers, wetlands, or forestlands; and any protected lands or resources in or near the project area), including site photographs and aerial (*e.g.*, Google Maps images) photographs. This description should also describe how the applicant intends to comply with the environmental and historic preservation and cultural requirements applicable to an award received under the Tribal Broadband Connectivity Program (including, but not limited to, the National Environmental Policy Act and the National Historic Preservation Act) and, if applicable, a copy of any environmental and historic preservation review documentation that has been prepared in connection with obtaining permits or approvals from State, Tribal, local or other federal entities. It is the applicant's responsibility to obtain all necessary federal, State, Tribal, and local governmental permits and approvals necessary for the proposed work to be conducted. Applicants are expected to design their projects so that they minimize the potential for adverse impacts on the environment. Applicants also will be required to cooperate with NTIA in identifying feasible measures to reduce or avoid any identified adverse environmental or cultural impacts of their proposed projects. The failure to do so may be grounds for not making an award. Environmental and historic preservation review documentation, if provided, is not included in the 20-page limit of the project narrative.

iv. **Maps of Proposed Service Areas.** (preferably in shapefiles, .kmz, .kml formats).

v. **Tribal Resolution** (preferred, but a Letter of Consent by the Governing Body of the Tribe will be accepted if the Tribal Council is not meeting due to COVID-19 closures or restrictions).

vi. **Status as Eligible Entity.** Applicants should provide information to demonstrate that they are in the category of eligible entities as defined in this NOFO.

vii. **Certification of Unserved Areas (optional).** A Tribal Government may certify whether an area within its own "Tribal Lands" is "unserved," in lieu of using a non-tribal coverage/speed data set such as FCC 477 carrier sourced data. Any other Eligible Entity may also request a Tribal certification of "unserved." Any such Tribal Government certification of "unserved" must certify that the areas where last mile service is proposed is unserved and provide a statement on Tribal Letterhead, and additional supporting information if available, explaining how that determination of unserved was made. The Department of Hawaiian Home Lands may also certify whether Tribal Lands as described in Subsection D of this NOFO are "unserved." A Tribal Government may not certify

Tribal Lands covered under an Enforceable Buildout Commitment, as defined in Section A.2.g of this NOFO, as unserved. 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 Tribal Broadband Connectivity Program.

viii. **Community Economic Development Strategy (optional).** An eligible entity may submit a copy of its or a regional or State Community Economic Development Strategy if applicable to its project proposal.

ix. **Request for Extension of Award Period (optional).**

x. **Budget Narrative and Detailed Budget Justification**

Applicants must submit a Detailed Budget Justification in the form of a spreadsheet, as well as a Budget Narrative in the form of a Word document. All budget information must support the dollar amounts identified in the SF-424 and SF-424C and demonstrate that the project or activity meets the eligible use requirements in the Act and in this NOFO.

The Detailed Budget Justification spreadsheet must reflect the cost categories that appear in the SF-424C and include itemized calculations for each cost placed under those categories. The spreadsheet must be formatted to fit letter-sized paper (8.5" x 11").

The Budget Narrative must explain the necessity and basis for all costs, clearly correspond to the information included in the Detailed Budget Justification spreadsheet, and reflect only allowable costs that are consistent with the project scope. Information on cost allowability is available in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at [2 C.F.R. § 200](#), which apply to awards in this program.

xi. **Indirect Cost Rate**

Section 905(c)(6) of the Act prohibits an eligible entity from using more than two percent (2%) of grants funds received under the Tribal Broadband Connectivity Program for administrative expenses. For this purpose, the two percent limitation on administrative expenses includes the combined total of indirect costs and direct administrative costs charged to an award.

If indirect costs are included in the proposed budget, the applicant must ensure that the budgeted amounts for indirect costs, plus the budgeted amounts for direct administrative costs, does not exceed two percent of the requested grant amount, regardless of any previously approved indirect cost rate it may have negotiated with a cognizant federal agency. If indirect costs are included in the proposed budget, the applicant must provide a copy of the approved negotiated agreement if this rate was negotiated with a cognizant federal audit agency. If the rate was not established by a cognizant federal audit agency, provide a statement to this effect. If the successful applicant includes indirect costs in the budget and has not established an indirect cost rate with a cognizant federal audit agency, the applicant will be required to obtain such a rate in accordance with Section B.06 of the Department of Commerce Financial Assistance Standard Terms and Conditions Dated November 12, 2020.

Alternatively, consistent with 2 C.F.R. § 200.414(f), applicants that do not have a current negotiated indirect cost rate may elect to charge indirect costs to an award pursuant to a de minimis rate of up to 2 percent of modified total direct costs (MTDC), in which case a negotiated indirect cost rate agreement is not required. Applicants proposing an up to 2 percent de minimis rate pursuant to 2 C.F.R. § 200.414(f) should note this election as part of the budget portion of the application.

As described in 2 C.F.R. § 200.403, costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both. Applicants are reminded that the 2 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 2 percent limitation of administrative and indirect costs.

d. Additional Application Materials

Applicants may include the following documents in support of the application submission:

1. Pro forma financial information and analyses for the proposed project(s), such as balance sheets, income statements, and statement of cash flows; and

2. Network diagram and system design for broadband deployment and construction projects.

3. Tribal Government applicants that are interested in receiving funding from the Treasury’s Coronavirus Capital Projects Fund, referenced in Section B.1 of this NOFO, should include the following short statement either in its project narrative or as a separate attachment giving permission for NTIA to share its complete application package with Treasury: “[Authorized Representative of Tribal Government] authorizes NTIA to provide its Tribal Broadband Connectivity Program application and supporting documents to Treasury for consideration in connection with an award from Treasury’s Coronavirus Capital Projects Fund.” Once NTIA receives this authorization, it will then transmit a copy of the application package to Treasury, which may use this information to assess more quickly the applicant’s eligibility for funding under the Treasury program.

e. Application Format

Applications submitted by mail may be in hard copy (paper) or electronic (*e.g.*, CD-ROM, disk, or thumb drive). Applications submitted by email should be machine-readable and should not be copy-protected.

i. Facsimile (fax) submissions

Facsimile submissions will not be accepted for the complete application packets.

ii. Figures, graphs, images, and pictures

Should be of a size that is easily readable or viewable and may be landscape orientation.

iii. Font

Easy to read font (10-point minimum). Smaller type may be used in figures and tables but must be clearly legible.

iv. Line spacing

Applicants may use single spacing or double spacing.

v. Margins

One inch top, bottom, left, and right.

vi. Page layout

Portrait orientation except for figures, graphs, images, and pictures. Paragraphs are to be clearly separated from each other by double spacing, paragraph formatting or equivalent.

vii. Page limit

The Project Narrative for either Broadband Infrastructure Deployment Project or Broadband Use and Adoption Projects is limited to 20 pages single spaced (40 pages double spaced), noting the limit of two (2) pages for the Executive Summary. Resumes and environmental and historic preservation review documentation, if applicable, are not included in the page count of the Project Narrative. However, if resumes are included, resumes must be a maximum of one (1) page each.

viii. Page numbering

Number pages sequentially.

ix. Page size

8½ inches by 11 inches, excluding maps or network or system diagrams.

x. Application language

English.

xi. Typed document

All applications, including forms, must be typed.

f. Attachment of Required Documents

Items in Section D.2.a, Section D.2.b.i and D.2.b.ii and Section D.2.c.i and D.2.c.ii above are part of the standard application package in Grants.gov and can be completed through the download application process. Items in Section D.2.b.iii through D.2.b.xi and Section D.2.c.iii through D.2.c.vii above, plus the additional application materials in Section D.2.c above, must be completed and attached by clicking on “Add Attachments” found in item 15 of the SF-424, Application for Federal Assistance. This will create a zip file that allows for transmittal of the documents electronically via Grants.gov.

Applicants should carefully follow specific Grants.gov instructions at www.grants.gov to ensure the attachments will be accepted by the Grants.gov system. A receipt from Grants.gov indicates only that an application was transferred to a system. It does not provide details concerning whether all attachments (or how many attachments) transferred successfully. Applicants will receive a series of e-mail messages over a period of up to two business days before learning whether a federal agency’s electronic system has received its application.

g. Certifications Regarding Federal Felony and Federal Criminal Tax Convictions, Unpaid Federal Tax Assessments and Delinquent Federal Tax Returns

In accordance with federal appropriations law, an authorized representative of the selected applicant(s) may be required to provide certain pre-award certifications regarding federal felony and federal criminal tax convictions, unpaid federal tax assessments, and delinquent federal tax returns.

h. Certifications Regarding Debarment and Suspension (applies to primary recipients and to subrecipients)

By signing and submitting an application for funding pursuant to the Tribal Broadband Connectivity Program, the applicant is making the following certifications (*see* Line 21 on the SF-424):

1. Instructions for Primary Tier Participant Certification (eligible entities):

- a. By signing and submitting this proposal, the prospective primary tier participant is providing the certification set out below and agrees to comply with the requirements of 2 C.F.R. Parts 180, 1200 and 1326.
- b. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective primary tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency’s determination whether to enter into this transaction. However, failure of the prospective primary tier participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this

transaction. If it is later determined that the prospective primary tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency may terminate this transaction for cause or default or may pursue suspension or debarment.

- d. The prospective primary tier participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary tier participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- e. The terms *covered transaction*, *civil judgment*, *debarment*, *suspension*, *ineligible*, *participant*, *person*, *principal*, and *voluntarily excluded*, as used in this clause, are defined in 2 C.F.R. Parts 180, 1200 and 1326. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
- f. The prospective primary tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. Part 9, Subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
- g. The prospective primary tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 C.F.R. Parts 180, 1200 and 1326.
- h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 C.F.R. Part 9, Subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (<https://www.sam.gov>).
- i. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- j. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. Part 9, Subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from

participation in this transaction, in addition to other remedies available to the federal government, the department or agency may terminate the transaction for cause or default.

2. *Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Tier Covered Transactions:*

- a. The prospective primary tier participant certifies to the best of its knowledge and belief, that it and its principals:
 - i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any federal department or agency;
 - ii. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - iv. Have not within a three-year period preceding this application/proposal had one or more public transactions (federal, state, or local) terminated for cause or default.
- b. Where the prospective primary tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

3. *Instructions for Lower Tier Participant Certification (applies to all subrecipients):*

- a. By signing and submitting this proposal and accepting federal funding, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of 2 C.F.R. Parts 180, 1200 and 1326.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

- d. The terms *covered transaction, civil judgment, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded*, as used in this clause, are defined in 2 C.F.R. Parts 180, 1200 and 1326. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
 - e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. Part 9, Subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
 - f. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion- Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 C.F.R. Parts 180 and 1200.
 - g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 C.F.R. Part 9, Subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (<https://www.sam.gov>).
 - h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
 - i. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. Part 9, Subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.
4. *Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:*

- a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any federal department or agency.
- b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

3. Dun & Bradstreet Number and System for Award Management

Pursuant to 2 C.F.R. Part 25, an applicant or recipient (as the case may be) is required to: (i) be registered in the System for Award Management (SAM) before submitting its complete application packet; (ii) provide a valid unique entity identifier in its application; and (iii) continue to maintain an active SAM registration with current information at all times during which it has an active federal award or an application or plan under consideration by a federal awarding agency, unless otherwise excepted from these requirements pursuant to 2 C.F.R. § 25.110. NTIA will not make a federal award to an applicant until the applicant has complied with all applicable unique entity identifier and SAM requirements and, if an applicant has not fully complied with the requirements by the time that NTIA is ready to make a federal award pursuant to this NOFO, NTIA may determine that the applicant is not qualified to receive a federal award.

(a) DUNS Number

All applicants must supply a Dun and Bradstreet Data Universal Numbering System (DUNS) number. Applicants can receive a DUNS number at no cost by calling the dedicated toll-free DUNS number request line at 1-866-705-5711 or via the Internet at <http://fedgov.dnb.com/webform>.

(b) System for Award Management

All applicants must register in the SAM before submitting a complete application packet. Additionally, the applicant must maintain an active SAM registration with current information at all times during which it has an active federal award or an application or plan under consideration by a federal awarding agency. Applicants can register for the SAM at <https://www.sam.gov/>.

4. Submission Dates and Times

Applications for funding pursuant to the Tribal Broadband Connectivity Program must adhere to the following submission deadlines:

- Applications submitted online through the Grants.gov system must be received no later than 11:59 p.m. Pacific Daylight Time (PDT) on **September 1, 2021**;
- Applications submitted by postal mail or by courier service must be postmarked (for postal mail) or show clear evidence of mailing (for courier submissions) no later than 11:59 p.m. Pacific Daylight Time (PDT) on **September 1, 2021**; and

- Applications submitted by electronic mail must be received no later than 11:59 p.m. Pacific Daylight Time (PDT) on **September 1, 2021**.

Eligible entities must submit a single application by the application deadline to be eligible for program funding. The Tribal Broadband Connectivity Program is not a formula or block grant program and a single application for funding must be timely submitted by an eligible entity to receive funding consideration from NTIA.

5. Application Submission Address

Complete application packages may be submitted:

- Electronically through www.grants.gov (see Section D.10 of this NOFO for additional information on registration requirements for Grants.gov);
- Through electronic mail (email) to: broadbandusa@ntia.gov. Applications submitted by email should be machine-readable and should not be copy-protected; or by
- Postal mail or courier mail to the following address: National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Room 4887, Attn: Douglas Kinkoph, Associate Administrator, Washington, DC 20230. Applications submitted by mail may be in hard copy (paper) or electronic (*e.g.*, CD-ROM, disk, or thumb drive).

Applicants must submit complete application packages using only one of these methods and may not submit partial or duplicate applications using multiple methods of transmission. Applications submitted by facsimile or by any method not described in this subsection will not be accepted by NTIA.

6. Intergovernmental Review

Applications under this Program are not subject to Executive Order 12372.

7. Funding Restrictions

Grant recipients may only use federal award funds to pay for allowable costs under the Tribal Broadband Connectivity Program. Allowable costs are determined in accordance with the cost principles identified in 2 C.F.R. Part 200, including Subpart E of such regulations⁹ 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

⁹ The government has established a set of principles for determining eligible or allowable costs. Allowable costs are determined in accordance with the cost principles applicable to the entity incurring the costs. For example, the allowability of costs incurred by state, local or Federally Recognized Indian Tribal governments is determined in accordance with the provisions of 2 C.F.R. Part 200, Subpart E.

incurred by the recipient during the period of performance, and for allowable costs incurred by the recipient during the grant closeout process.

a. Eligible Uses for the Tribal Broadband Connectivity Grant Program

Section 905(c)(5) of the Act states that an eligible entity may use grant funds made available under the Tribal Broadband Connectivity Program for:

- (A) broadband infrastructure deployment, including support for the establishment of carrier-neutral submarine cable landing stations;
- (B) affordable broadband programs, including— (i) providing free or reduced-cost broadband service; and (ii) preventing disconnection of existing broadband service;
- (C) distance learning;
- (D) telehealth;
- (E) digital inclusion efforts; and
- (F) broadband adoption activities.

Based on the broad parameters of eligible uses of the Tribal Broadband Connectivity Grant Program, eligible costs will generally include the following categories of expenses:

- Personnel costs, including salaries and fringe benefits for staff and consultants providing services directly connected to the implementation of the Tribal Broadband Connectivity Program grants (such as project managers, program directors, and subject matter experts).
- Subawards and contractual costs associated with carrying out programmatic activities of the Tribal Broadband Connectivity Grants, including for program implementation and consulting services. Recipients are responsible for monitoring the activities and expenditures of subrecipients (sometimes referred to as “subawards” or as “subgrants”) and vendors, and are responsible for ensuring that all solicitation documents reflect activities within the scope of the Tribal Broadband Connectivity Grant Program.
- Administrative costs, including indirect costs, are limited to no more than two percent of the grant funds received by an eligible entity pursuant to section 905(c)(6) of the Act.
- Reimbursement of reasonable costs associated with preparing the grant application not to exceed five (5) percent of the award. Allowable pre-application expenses, which include expenses related to preparing an application, may be reimbursed if they are incurred after the publication date of this NOFO and prior to the date of issuance of the grant award from NTIA, except that lobbying costs and contingency fees are not reimbursable from grant funds. 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.
- Fund other allowable costs necessary to carrying out programmatic activities of an award, not to include ineligible costs described below.

b. Eligible Costs Specific to Broadband Infrastructure Deployment Activities.

This category is for projects that expand the availability of broadband services by deploying new or upgraded broadband infrastructure on Tribal Lands. Section 905(c)(8) of the Act requires that, in using grant funds received under the Tribal Broadband Connectivity Program for new construction of broadband infrastructure, an eligible entity must prioritize projects that deploy broadband infrastructure to unserved households. Recipients may generally use grant funds to:

- i. fund the costs of construction, improvement, replacement, extension or acquisition of facilities and telecommunications equipment required to provide qualifying broadband service, including infrastructure for backhaul, middle and last mile networks, as well as for submarine cable landing stations;
- ii. fund the cost of long-term leases (for terms greater than one year) of facilities required to provide qualifying broadband service, including infeasible right-of-use (IRU) agreements;
- iii. fund the costs of planning, feasibility, and sustainability studies not to exceed one percent of the total project cost;
- iv. fund the costs of engineering and network design, including route mapping for broadband infrastructure, permitting and work related to environmental, historical and cultural reviews;
- v. fund the costs of performance bonds or irrevocable Letters of Credit or other surety;
- vi. workforce training; and
- vii. fund other allowable costs necessary to carrying out programmatic activities of an award, not to include ineligible costs described below.

c. Eligible Costs Specific to Broadband Adoption and Use Activities

This category is for projects that expand the adoption of broadband services by Native American/Alaska Native/Native Hawaiian communities; enable Tribal anchor institutions to provide affordable broadband programs, remote learning, telework, or telehealth services; and build the capacity of Native American/Alaska Native/Native Hawaiian communities to access and fully benefit from these online services. Recipients may generally use grant funds to:

- i. Acquire broadband-related equipment, instrumentation, networking capability, hardware, software, and other digital technology for broadband services, telehealth and remote education;
- ii. Provide affordable broadband programs, including providing free or reduced-cost broadband service and preventing disconnection of existing broadband service;
- iii. Provide digital training, education, technology support, outreach and awareness programs including curricula and web-based resources;
- iv. Facilitate access to broadband services including public computer centers; public WiFi networks; broadband in public housing; improvement of broadband services and equipment in schools, libraries, health centers, workforce development centers and other Tribal anchor institutions;
- v. Implement affordable broadband programs that facilitate greater access to broadband services, devices, and equipment; and prevent disconnection of existing broadband services;

- vi. Conduct needs assessment and develop plans for increasing broadband adoption, digital inclusion, online education, telehealth, and digital workforce;
- vii. Gather data and conduct evaluation of the digital inclusion and broadband adoption programs funded by the grant to determine their effectiveness and develop best practices to facilitate digital inclusion and broadband adoption on Tribal Lands; and
- viii. fund other allowable costs necessary to carrying out programmatic activities of an award, not to include ineligible costs described below.

The following non-exclusive list includes some examples of generally allowable costs for broadband use and adoption projects:

- Personnel salaries, wages, and fringe benefits for persons working directly on the grant
- Travel expenses for key project staff and consultants
- Equipment related directly to project activities
- Subaward and third-party contractor costs
- Equipment and devices to support connectivity for telehealth and remote education such as laptops, tablets, and hotspots.
- Design and printing for training and outreach materials
- Staff and volunteer training
- Stipends, internships and/or fellowships.

d. Subgrantees

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, as part of its use of grant funds under this program. An eligible entity that enters into a contract (or subaward) with a subgrantee for use of grant funds received under this program shall:

- (i) before entering into the contract, after a reasonable investigation, make a determination that the subgrantee:
 - (A) is capable of carrying out the project for which grant funds will be provided in a competent manner in compliance with all applicable laws;
 - (B) has the financial capacity to meet the obligations of the project and the requirements of Section 905(c) of the Act; and
 - (C) has the technical and operational capability to carry out the project; and
- (ii) stipulate in the contract reasonable provisions for recovery of funds for nonperformance.

Applicants are reminded that, pursuant to 2 C.F.R. 200.331, a federal award recipient must make case-by-case determinations whether each agreement it enters into for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. The above due diligence requirements apply both to contracts and subawards issued by a recipient or by a subrecipient of federal award funds received pursuant to the Tribal Broadband Connectivity Program.

e. Ineligible Costs for the Tribal Broadband Connectivity Program

Ineligible costs include those costs that are unallowable pursuant to 2 C.F.R. part 200,

including under Subpart E. Ineligible costs specific to funds awarded under the Tribal Broadband Connectivity Program also include:

- **Two percent (2%) cap on administrative expenses:** Section 905(c)(6) of the Act prohibits an eligible entity from using more than two percent (2%) of grant funds received under the Tribal Broadband Connectivity Program for administrative expenses. For this purpose, the two percent limitation on administrative expenses includes the combined total of indirect costs and direct administrative costs charged to an award.¹⁰ Examples of administrative expenses include costs attributable to: accounting, auditing, contracting, budgeting, and general legal services; facility occupancy costs, e.g., rent, utilities, insurance, taxes, and maintenance; general liability insurance that protects the organization (not directly related to a program); depreciation on buildings and equipment; general office supplies; and general and administrative salaries and wages.
- Funding for infrastructure that was completed prior to the grant award period. (Projects that were started but not completed or that deploy upgraded broadband infrastructure may be funded under this program, not to include costs associated with activities that occurred prior to the grant award period.)
- A profit, fee, or other incremental charge above actual cost is not an allowable cost under this program.
- Costs attributable to any other activities not authorized by the eligible use categories specified in the Act.
- Project costs that are otherwise covered by other federal or state funding.

f. Prohibition On Use For Covered Communications Equipment Or Services.

Pursuant to section 905(e)(4) of the Act, an eligible entity may not use grant funds received under the Tribal Broadband Connectivity Program to purchase or support any covered communications equipment or service (as defined in section 9 of the Secure and Trusted Communications Networks Act of 2019 (47 U.S.C. 1608)).

g. Impact On Other Federal Broadband Programs.—The use of grant funds received under the Tribal Broadband Connectivity Program by an eligible entity or subgrantee shall not impact the eligibility of, or otherwise disadvantage, the eligible entity or subgrantee with respect to participation in any other Federal broadband program.

8. Material Representations and Public Disclosure of Applications

All forms and supporting documents submitted as part of the complete application packet will be treated as a material representation of fact upon which NTIA will rely in awarding grants. Applicants should be aware that NTIA may make all or portions of their applications for grants

¹⁰ See Frequently Asked Questions for the Office of Management and Budget’s Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR 200, p. 10 (last updated July 2017), available at <https://www.cfo.gov/wp-content/uploads/2017/08/July2017-UniformGuidanceFrequentlyAskedQuestions.pdf>.

under the Tribal Broadband Connectivity Program publicly available as required under applicable federal laws. *See* Section H.4 of this NOFO for additional information concerning the confidentiality of information contained in an application.

9. Amendments

Any amendments to this NOFO will be announced through Grants.gov. Applicants may sign up on grants.gov to receive amendments by email or may request copies by e-mail from pscr@nist.gov.

10. Other Submission Requirements

Applications for the Tribal Broadband Connectivity Program may be submitted by any of the transmission methods described in Section D.5 of this NOFO. The below information is being provided for applicants that are submitting applications electronically through www.grants.gov.

a. How to Register to Apply through Grants.gov

Read the instructions below about registering to apply for the funds available under the Tribal Broadband Connectivity Program. Applicants should read the registration instructions carefully and prepare the information requested before beginning the registration process. Reviewing and assembling the required information before beginning the registration process will alleviate last-minute searches for required information.

Organizations must have a Data Universal Numbering System (DUNS) Number, active System for Award Management (SAM) registration, and Grants.gov account to apply for grants. If individual applicants are eligible to apply for this funding opportunity, then you may begin with step 3, Create a Grants.gov Account, listed below.

Creating a Grants.gov account can be completed online in minutes, but DUNS and SAM registrations may take several weeks. Therefore, an organization's registration should be done in sufficient time to ensure it does not impact the entity's ability to meet required application submission deadlines.

Complete organization instructions can be found on Grants.gov here:

<https://www.grants.gov/web/grants/applicants/organization-registration.html>

1) *Obtain a DUNS Number*: All entities applying for funding, including renewal funding, must have a DUNS Number from Dun & Bradstreet (D&B). Applicants must enter the DUNS Number in the data entry field labeled “Organizational DUNS” on the SF-424 form. For more detailed instructions for obtaining a DUNS Number, refer to: <https://www.grants.gov/web/grants/applicants/organization-registration/step-1-obtain-duns-number.html>

2) *Register with SAM*: All organizations applying online through Grants.gov must register with the System for Award Management (SAM). Failure to register with SAM will prevent your organization from applying through Grants.gov. SAM registration must be

renewed annually. For more detailed instructions for registering with SAM, refer to: <https://www.grants.gov/web/grants/applicants/organization-registration/step-2-register-with-sam.html>

3) *Create a Grants.gov Account:* The next step is to register an account with Grants.gov. Follow the on-screen instructions or refer to the detailed instructions here: <https://www.grants.gov/web/grants/applicants/registration.html>

4) *Add a Profile to a Grants.gov Account:* A profile in Grants.gov corresponds to a single applicant organization the user represents (*i.e.*, an applicant) or an individual applicant. If you work for or consult with multiple organizations and have a profile for each, you may log in to one Grants.gov account to access all of your grant applications. To add an organizational profile to your Grants.gov account, enter the DUNS Number for the organization in the DUNS field while adding a profile. For more detailed instructions about creating a profile on Grants.gov, refer to: <https://www.grants.gov/web/grants/applicants/registration/add-profile.html>

5) *EBiz POC Authorized Profile Roles:* After you register with Grants.gov and create an Organization Applicant Profile, the organization applicant's request for Grants.gov roles and access is sent to the EBiz POC. The EBiz POC will then log in to Grants.gov and authorize the appropriate roles, which may include the AOR role, thereby giving you permission to complete and submit applications on behalf of the organization. You will be able to submit your application online any time after you have been assigned the AOR role. For more detailed instructions about creating a profile on Grants.gov, refer to: <https://www.grants.gov/web/grants/applicants/registration/authorize-roles.html>

6) *Track Role Status:* To track your role request, refer to: <https://www.grants.gov/web/grants/applicants/registration/track-role-status.html>

Electronic Signature: When the complete application packet is submitted through Grants.gov, the name of the organization applicant with the AOR role that submitted the application is inserted into the signature line of the application, serving as the electronic signature. The EBiz POC **must** authorize people who are able to make legally binding commitments on behalf of the organization as a user with the AOR role; **this step is often missed and it is crucial for valid and timely submissions.**

b. How to Submit an Application for the Tribal Broadband Connectivity Program via Grants.gov

Grants.gov applicants can apply online using Workspace. Workspace is a shared, online environment where members of a grant team may simultaneously access and edit different webforms within an application.

Below is an overview of applying on Grants.gov. For access to complete instructions on how to apply for opportunities, refer to: <https://www.grants.gov/web/grants/applicants/workspace-overview.html>

1) *Create a Workspace*: Creating a workspace allows you to complete it online and route it through your organization for review before submitting.

2) *Complete a Workspace*: Add participants to the workspace to work on the application together, complete all the required forms online or by downloading PDF versions, and check for errors before submission. The Workspace progress bar will display the state of your application process as you apply. As you apply using Workspace, you may click the blue question mark icon near the upper-right corner of each page to access context-sensitive help.

a. *Adobe Reader*: If you decide not to apply by filling out webforms you can download individual PDF forms in Workspace. The individual PDF forms can be downloaded and saved to your local device storage, network drive(s), or external drives, then accessed through Adobe Reader.

NOTE: Visit the Adobe Software Compatibility page on Grants.gov to download the appropriate version of the software at:

<https://www.grants.gov/web/grants/applicants/adobe-software-compatibility.html>

b. *Mandatory Fields in Forms*: In the forms, you will note fields marked with an asterisk and a different background color. These fields are mandatory fields that must be completed to successfully submit your application.

c. *Complete SF-424 Fields First*: The forms are designed to fill in common required fields across other forms, such as the applicant name, address, and DUNS Number. Once it is completed, the information will transfer to the other forms.

3) *Submit a Workspace*: An application may be submitted through workspace by clicking the Sign and Submit button on the Manage Workspace page, under the Forms tab. Grants.gov recommends submitting your application package at least 24-48 hours prior to the close date to provide you with time to correct any potential technical issues that may disrupt the application submission.

4) *Track a Workspace Submission*: After successfully submitting a workspace application, a Grants.gov Tracking Number (GRANTXXXXXXXX) is automatically assigned to the application. The number will be listed on the Confirmation page that is generated after submission. Using the tracking number, access the Track My Application page under the Applicants tab or the Details tab in the submitted workspace.

For additional training resources, including video tutorials, refer to:

<https://www.grants.gov/web/grants/applicants/applicant-training.html>

Applicant Support: Grants.gov provides applicants 24/7 support via the toll-free number 1-800-518-4726 and email at support@grants.gov. For questions related to the specific grant opportunity, contact the number listed in the application package of the grant you are applying for.

If you are experiencing difficulties with your submission, it is best to call the Grants.gov Support Center and get a ticket number. The Support Center ticket number will assist NTIA with tracking your issue and understanding background information on the issue.

c. Timely Receipt Requirements and Proof of Timely Submission

Online Submission. Proof of timely submission is automatically recorded by Grants.gov. An electronic date/time stamp is generated within the system when the application is successfully received by Grants.gov. The applicant with the AOR role who submitted the application will receive an acknowledgement of receipt and a tracking number (GRANTXXXXXXXX) from Grants.gov with the successful transmission of their application. This applicant with the AOR role will also receive the official date/time stamp and Grants.gov Tracking number in an email serving as proof of their timely submission.

When NTIA successfully retrieves the application from Grants.gov, and acknowledges the download of submissions, Grants.gov will provide an electronic acknowledgment of receipt of the application to the email address of the applicant with the AOR role who submitted the application. Again, proof of timely submission shall be the official date and time that Grants.gov receives your application. Applications received by Grants.gov after the established due date for the program will be considered late and will not be considered for funding by NTIA.

Applicants using slow Internet, such as dial-up connections, should be aware that transmission can take some time before Grants.gov receives your application. Again, Grants.gov will provide either an error or a successfully received transmission in the form of an email sent to the applicant with the AOR role attempting to submit the application. The Grants.gov Support Center reports that some applicants end the transmission because they think that nothing is occurring during the transmission process. Please be patient and give the system time to process the application.

E. Application Review Information

NTIA will conduct a three-stage review process to evaluate applications received under this grant program for an award, consisting of an Initial Administrative and Eligibility Review, Merit Review and Programmatic Review.

NTIA will evaluate applications submitted by eligible entities against objective evaluation criteria to determine whether the proposal merits an award. Applications that score highly when evaluated against the objective evaluation criteria during the Merit Review will advance to the Programmatic Review. From this pool of applications, NTIA will select awardees based on the results of the Merit and Programmatic Reviews, and by applying the Selection Factors listed in this NOFO.

1. Evaluation Criteria for Broadband Use and Adoption Projects

The evaluation criteria that will be used by the Merit Reviewers to review and analyze applications for Broadband Use and Adoption Projects are grouped into three categories: (1)

Project Purpose and Benefits; (2) Project Viability; and (3) Project Budget and Sustainability. Each application will be evaluated against the following objective criteria.

a. Project Purpose and Benefits (45 points)

Level of Impact on Tribal land (45 points). Reviewers will assess the extent to which the project provides broadband education, awareness, training, access, equipment, and support to Native American/Alaska Native/Native Hawaiian serving anchor institutions including schools, libraries, medical and healthcare providers, tribal colleges, public housing, workforce facilities and other community support organizations serving Native American/Alaska Native/Native Hawaiian populations. Reviewers will consider the number of new Native American/Alaska Native/Native Hawaiian broadband subscribers that the project will generate and/or the number of existing Native American/Alaska Native/Native Hawaiian broadband subscribers the project will retain through the implementation of affordable broadband programs. Reviewers will assess the extent to which the project improves access to, and use of, broadband services by Native American/Alaska Native/Native Hawaiian anchor institutions to deliver telehealth, remote learning, digital inclusion and workforce development programs. Reviewers will also assess the extent to which the project stimulates the adoption and use of broadband services for telehealth (10 points), remote learning (10 points), telework (5 points), entrepreneurship (5 points), economic growth (5 points), job creation (5 points), and servicing community anchor institutions (5 points) for Native American/Alaska Native/Native Hawaiian communities.

b. Project Viability (30 points)

i. Operational Approach of the Proposed Project Plan (15 points). Reviewers will assess the operational aspects of the project, including the clarity and level of detail of the proposed project plan. Reviewers will examine how the project assesses the needs of Native American/Alaska Native/Native Hawaiian communities and conducts planning to facilitate online education, telehealth, digital inclusion, workforce and digital skills development for these communities.

ii. Strength of Applicant's Organizational Capability (15 points). Reviewers will assess the strength of the applicant's organizational capability necessary to undertake and complete the project. Reviewers will consider the years of experience and expertise of the project management team and the past track record of the organization and any subgrantees it proposes to use with projects of a similar size and scope, as well as the organization's and subgrantees' capacity and readiness. Reviewers will also assess the strength of the applicant's partnership and/or subrecipient strategy, including how it complements the applicant's organizational capability, as well as the project approach, feasibility, and timely completion of the proposed project. NTIA will only fund proposals where it determines that the applicant has the organizational capability necessary to carry out the project to completion.

To receive a full score in this category, the applicant must address all of the criteria in the category with distinction as well as all of the factors for which an applicant may receive additional consideration.

c. Project Budget and Sustainability (25 points)

i. Reasonableness of the Budget (10 points). This criterion evaluates whether the applicant presents a budget that is both reasonable and cost efficient, considering the nature and full scope of the project. Reviewers will consider whether the applicant has demonstrated adequate and appropriate budget resources to successfully execute the proposed project activities. Reviewers will assess whether the budget detail is consistent with the allowable programmatic activities as outlined in the project narrative. Reviewers will evaluate the reasonableness of the budget based on its clarity, level of detail, comprehensiveness, appropriateness to the proposed technical and programmatic solutions, the reasonableness of its costs, and whether the allocation of funds is sufficient to complete the tasks outlined in the project plan.

ii. Sustainability of the Project (15 points). Reviewers will assess the extent to which the project builds digital skills and workforce capacity in Native American/Alaska Native/Native Hawaiian communities to enable the work initiated by the project to continue beyond the award period. Reviewers will also assess the extent to which the project gathers data and conducts evaluation of the digital inclusion and broadband adoption programs funded by the grant to determine their effectiveness and develop best practices to facilitate digital inclusion and broadband adoption in Native American/Alaska Native/Native Hawaiian communities.

To receive a full score in this category, the applicant must address all of the criteria in the category with distinction as well as all of the factors for which an applicant may receive additional consideration.

2. Evaluation Criteria for Broadband Infrastructure Deployment Projects

The evaluation criteria that will be used by the Merit Reviewers to review and analyze applications for Broadband Infrastructure Deployment Projects are grouped into three categories: (1) Project Purpose and Benefits; (2) Project Viability; and (3) Project Budget and Sustainability. Each application will be evaluated against the following objective criteria.

a. Project Purpose and Benefits (45 points)

i. Level of Need on the Tribal Land (35 points). Applications will be evaluated based upon the level of need for the deployment of broadband infrastructure in the proposed service area on eligible lands where tribal citizens reside. Reviewers will consider several criteria to assess the level of need and the positive impact of the project on the Native American/Alaska Native/Native Hawaiian community covered by the project. Reviewers will consider the total number of Native American/Alaska Native/Native Hawaiian households, businesses, and community anchor institutions that lack access to qualifying broadband service at or above 25/3. Reviewers will consider the total number of Native American/Alaska Native/Native Hawaiian households and Community Anchor Institutions that do not have Internet access. Reviewers will consider the total number of Native American/Alaska Native/Native Hawaiian households, businesses, and Community Anchor Institutions that will be

connected to a network providing broadband service at a minimum speed of 25/3 and the number of Native American/Alaska Native/Native Hawaiian households, businesses, and Community Anchor Institutions that will be connected at speeds higher than 25/3. Applications that propose to connect 100% of unserved households, businesses and Community Anchor Institutions in the service area will receive 20 points. Projects to deploy middle mile networks must prioritize connecting with last mile networks serving unserved households and substantiate the incremental value to the last mile connection to the middle mile network, including, increased network capacity for last mile circuits, increased network performance, and lower costs that are passed onto end users, as well as identify potential or partnered last mile networks that could or would leverage the middle mile network, in the proposed service area to receive points in this category.

Reviewers will consider the percentage of total Native American/Alaska Native/Native Hawaiian households that are below 150% of the poverty line applicable to the average family size represented on the particular Tribal Land in the lower 48 states, Alaska and Hawaii (utilizing HHS Poverty Guidelines). Reviewers will assign 15 points for those applications covering 100% of Native American/Alaska Native/Native Hawaiian households that are below 150% of the poverty line applicable to the average family size represented on the particular Tribal Land covered by the project in the lower 48 states, Alaska and Hawaii (utilizing HHS Poverty Guidelines); 10 points for those applications covering 75% but less than 100% of Native American/Alaska Native/Native Hawaiian households that are below 150% of the poverty line applicable to the average family size represented on the particular Tribal Land covered by the project in the lower 48 states, Alaska and Hawaii (utilizing HHS Poverty Guidelines); and 5 points for those applications covering 50% but less than 75% of Native American/Alaska Native/Native Hawaiian households that are below 150% of the poverty line applicable to the average family size represented on the particular Tribal Land covered by the project in the lower 48 states, Alaska and Hawaii (utilizing HHS Poverty Guidelines).

Reviewers will consider the total number of jobs and subset of jobs estimated to be created for Native American/Alaska Native/Native Hawaiian individuals because of the project and those jobs and services that comply with Tribal Employment Rights Ordinances.

ii. Affordability of Services Offered (10 points). Applications will be evaluated on the pricing of the broadband services offered compared to existing broadband services in the proposed service area or based on nationwide averages. Applicants should demonstrate that this pricing is competitive and affordable to their target markets.

To receive a full score in this category, the applicant must address all of the criteria in the category with distinction as well as all of the factors for which an applicant may receive additional consideration.

b. Project Viability (30 points)

i. Technical Approach and Related Network Planning, Capacity and Performance (20 points). Reviewers will evaluate the strength, comprehensiveness and appropriateness of the project's technical approach and the clarity, level of detail, and cost-effectiveness of the network system design. Reviewers will assess the appropriateness of the technology solution, elements, and design to meet the level of infrastructure needs on Tribal Lands, including the technical

and/or capacity infrastructure requirements for last-mile deployments as well as non-last-mile network infrastructure, *e.g.*, middle mile networks, backhaul to Internet Points of Presence, submarine cable systems and access to submarine cable system elements. Reviewers will also consider the reasonableness and specificity of the overall project plan, including cost effectiveness (*e.g.*, costs for single network and economies of scale for consortiums), service capacity, timeframes for construction, and scalability. Those networks that propose a design that can be scaled to accommodate commercial grade equipment and speeds will receive 2 points. Reviewers will favorably review proposals for broadband construction projects that are capable of completion within the one-year award period set forth in the Act. In assigning weight to this factor, reviewers will, however, take into account the geographic location of the proposed project, any limitations on the time period available for construction and whether the applicant is requesting an extension of time to complete the proposed broadband infrastructure deployment project(s). Reviewers may award up to 5 points in evaluating the factors described in this section.

Applications will be evaluated on the proposed technological solution and the ability of the proposed network to provide sufficient capacity, as well as scalability, to meet the needs of the Native American/Alaska Native/Native Hawaiian businesses, households, and community anchor institutions on the Tribal Land covered by the project. Proposed networks delivering end-user speeds at 25/3 will receive 3 points. Networks delivering end-user speeds at speeds higher than 25/3 and below 100/20 will receive 7 points. Networks delivering end-user speeds of 100 Mbps download and 20 Mbps upload will receive 9 points. Networks delivering end-user speeds of 1000 Mbps speeds will receive 10 points. Proposed networks with high latency will be viewed less favorably. However, reviewers will consider the extent to which a proposed technological solution with or without higher latency offers the only viable service option given the characteristics of the proposed service area.

If an applicant is not at the stage where it can submit a construction proposal, reviewers will consider eligible projects, such as engineering, planning/feasibility/sustainability studies as a part of the necessary steps to develop a technological solution. Reviewers will give additional consideration to applications that include workforce training for Native American/Alaska Native/Native Hawaiian communities as a component of the network planning project.

ii. Strength of Applicant's Organizational Capability (10 points). Reviewers will assess the strength of the applicant's organizational capability necessary to undertake and complete the project. Reviewers will consider the years of experience and expertise of the project management team and the past track record of the organization and any subgrantees it proposes to use with projects of a similar size and scope, as well as the organization's and subgrantees' capacity and readiness. Reviewers will also assess the strength of the applicant's partnership and/or subrecipient strategy, including how it complements the applicant's organizational capability, as well as the project approach, feasibility, and timely completion of the proposed project. NTIA will only fund proposals where it determines that the applicant has the organizational capability necessary to carry out the project to completion.

To receive a full score in this category, the applicant must address all of the criteria in the category with distinction as well as all of the factors for which an applicant may receive additional consideration.

c. Project Budget and Sustainability (25 points)

i. Reasonableness of the Budget (10 points). This criterion evaluates whether the applicant presents a budget that is both reasonable and cost efficient, considering the nature and full scope of the project. Reviewers will consider whether the applicant has demonstrated adequate and appropriate budget resources to successfully execute the proposed project activities. Reviewers will assess whether the budget detail is consistent with the allowable programmatic activities as outlined in the project narrative. Reviewers will evaluate the reasonableness of the budget based on its clarity, level of detail, comprehensiveness, appropriateness to the proposed technical and programmatic solutions, the reasonableness of its costs, and whether the allocation of funds is sufficient to complete the tasks outlined in the project plan.

ii. Sustainability of the Project (15 points). Applicants must convincingly demonstrate the ability of the project to be sustained beyond the award period. Reviewers will consider the reasonableness of the applicant's plan for long-term network sustainability, including revenue, operating expenses, working capital, and equipment replacement funding. Reviewers will consider business plans, market projections, third-party funding commitments and other data as may be appropriate to the nature of the applicant and the proposed project. Reviewers will consider demonstrations of community commitments or anchor tenant commitments that would help promote sustainability. Reviewers may award up to 7 points in evaluating the factors described in this section. Project plans that describe the ability to scale and integrate evolving advanced services over time (such as interoperable interfaces for fifth generation wireless (5G) or by deploying fiber) will receive up to 8 points.

To receive a full score in this category, the applicant must address all of the criteria in the category with distinction as well as all of the factors for which an applicant may receive additional consideration.

3. Review Process for the Tribal Broadband Connectivity Program

The review process will be divided into three stages as outlined below:

a. Initial Administrative and Eligibility Review of Applications

NTIA will conduct an initial review of timely received applications submitted in response to the NOFO to determine eligibility, completeness and responsiveness to the programmatic requirements of the Tribal Broadband Connectivity Program, including a review of the project narrative, project budget, supplemental project narrative, and supplemental budget. Applications submitted by anyone other than an eligible applicant will be eliminated from further review. NTIA may continue the initial administrative review process for an application that is timely submitted by an eligible applicant, but that is missing certain documentation required by this

NOFO, and will request missing or incomplete information from the applicant as needed. The applicant will have seven (7) calendar days to submit materials responsive to the feedback provided by NTIA, unless this period is extended by NTIA. Pursuant to section 905(e)(2)(B) of the Act, an eligible applicant's failure to remedy deficiencies in a timely manner may result in NTIA's denial of an application.

b. Merit Review

Applications satisfying the Initial Administrative and Eligibility Review will be reviewed by at least two objective reviewers who have demonstrated expertise in the programmatic aspects of the Tribal Broadband Connectivity Program. They may be federal employees or non-federal persons. During the review process, the reviewers may discuss the applications with each other, but scores will be determined on an individual basis. As applicable, reviewers will be required to sign and submit a nondisclosure and confidentiality form pertaining to the dissemination of confidential information and to potential financial and other conflicts of interest.

Reviewers will evaluate applications according to the evaluation criteria provided in Section E.1 of this NOFO and independently score each application based on a scale of 0-100. Reviewers will evaluate applications for Broadband Infrastructure Deployment Projects and Broadband Use and Adoption projects submitted by the same applicant under the criteria applicable to each type of project and independently score each application based on a scale of 0-100.

In response to reviewer feedback, NTIA may seek additional clarifying information or corroborating documentation from an applicant during the course of a merit review and may suggest revisions be made to an application to resolve perceived material programmatic or financial weaknesses or deficiencies. In such cases, NTIA will review the feedback from the Merit Reviewers, and will contact the applicant and provide the applicant with an opportunity to respond to the Merit Review feedback. The applicant will have fourteen (14) calendar days to respond to the reviewer feedback, unless this time period is extended by NTIA. Pursuant to section 905(e)(2)(B) of the Act, an eligible applicant's failure to remedy application deficiencies in a timely and constructive manner may result in NTIA's denial of the application.

Based on an average of the reviewers' scores, applications will be assigned adjectival ratings for each priority group in accordance with the following scale:

Qualified for Funding – (70-100 points)

Unqualified for Funding – (0-69 points)

NTIA may use its sole discretion to terminate the Merit Review revision process for an applicant if, after multiple opportunities to respond to Merit Review feedback, NTIA determines that the applicant is not sufficiently responding to requests for additional information or remedying application deficiencies.

c. Programmatic Review

NTIA Program Staff will review applications determined to be qualified for funding during the Merit Review process for conformity with programmatic objectives, requirements, and priorities. During Programmatic Review, NTIA may ask applicants to submit additional information, as appropriate, to clarify or to further substantiate the representations made in their applications. Applicants will have ten (10) calendar days to submit information responsive to the feedback provided by NTIA, unless this time period is extended by NTIA. NTIA Program Staff will review the supplemental information, along with all information submitted with the application, to confirm eligibility and evaluate the applications with respect to the requirements and priorities of the Tribal Broadband Connectivity Program.

NTIA will consult with the Commission (as defined in Section A.2 of this NOFO) to avoid any duplication of funding. NTIA may give favorable consideration to certification by Tribes regarding coverage when Commission 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 Tribal Broadband Connectivity Program.

Applicants whose supporting documents are not complete, accurate and timely submitted or who do not adequately substantiate the representations in their applications may be denied.

NTIA reserves the right at any time during the Merit and Programmatic Review processes to negotiate with the applicant relative to specific modifications to the application, including but not limited to the resolution of any differences that may exist between the applicant's original request and NTIA's determination of eligible service areas and eligible costs. Upon completion of the Programmatic Review, NTIA Program Staff will summarize their analysis for each application reviewed.

4. Selection Factors and Selection Process

The Assistant Secretary of Commerce for Communications and Information, or their designee, will serve as the Selecting Official for the Tribal Broadband Connectivity Program.

As set forth in section 905(e)(2)(B)(ii) of the Act, the Assistant Secretary may deny an application submitted under the Tribal Broadband Connectivity Program only if the Assistant Secretary provides the applicant an opportunity to cure any defects in the application; and after receiving the opportunity to cure any defects in the application, the applicant still fails to meet the requirements of these grant programs. The multiple opportunities described in Section E.3 of this NOFO for an applicant to remedy any deficiencies with its application satisfy this requirement.

The Associate Administrator for the Office of Telecommunications and Information Applications (OTIA Associate Administrator) will prepare and present a package or packages of recommended grant awards to the Selecting Official for review and approval. The OTIA Associate Administrator's recommendations will consider the following selection factors:

1. The scores and technical comments of the objective expert reviewers during Merit Review;
2. The analysis of NTIA Program Staff during Programmatic Review;
3. Satisfaction of the statutory purposes and the overall goals and objectives of the Tribal Broadband Connectivity Program;
4. Whether, and the extent to which, the applicant proposes to incorporate strong labor protections, consistent with Tribal law into the performance of the construction project, including paying prevailing wages;
5. The extent to which the infrastructure investment is necessary to provide qualifying broadband service in the proposed service area and is unlikely to be made using private sources of funds;
6. Avoidance of duplication with the initiatives of other federal agencies, including Department of Agriculture loan and grant programs for broadband services, applicable universal service programs authorized by the Federal Communications Commission; and
7. The availability of funds and the equitable distribution of funds as required by section 905(c)(3)(A) of the Act.

The Assistant Secretary will generally select and recommend applications for funding based on the recommendations from the OTIA Associate Administrator. As the Selecting Official, the Assistant Secretary retains discretion to select and recommend an application for funding that was not recommended by the OTIA Associate Administrator based on one of the selection factors enumerated above and/or not to select an application that was recommended for funding by the Associate Administrator. The Assistant Secretary will submit the applications recommended for funding, along with the bases for the selection decisions, to the National Oceanic and Atmospheric Administration (NOAA) Grants Officer, who serves as the Grants Officer for the Tribal Broadband Connectivity Program. The final approval of selected applications and the issuance of awards will be made by the NOAA Grants Officer. The award decisions of the NOAA Grants Officer are final.

Awards will be made on a rolling basis subject to the availability of funds. Unsuccessful applicants will be notified in writing.

5. Federal Awarding Agency Review of Risk Posed by Applicants

After applications are proposed for funding by the Selecting Official, the National Oceanic and Atmospheric Administration (NOAA) Grants Management Division will perform pre-award risk assessments in accordance with 2 C.F.R. § 200.206, which may include a review of the financial stability of an applicant, the quality of the applicant's management systems, the history of performance, reports and findings from audits, and/or the applicant's ability to effectively implement statutory, regulatory, or other requirements imposed on non-federal entities. In

addition, prior to making an award where the total federal share is expected to exceed the simplified acquisition threshold (currently \$250,000), the NOAA Grants Management Division will review and consider the non-publicly available information about that applicant in the Federal Awardee Performance and Integrity Information System (FAPIIS). Upon completion of the pre-award risk assessment, the NOAA Grants Management Division will determine whether the applicant is qualified to receive the award and, if so, whether appropriate specific award conditions that correspond to the degree of risk posed by the applicant should be applied to the award.

6. Anticipated Announcement and Award Dates

NTIA expects to complete its review, selection of successful applicants, and award processing by **November 29, 2021**. NTIA expects the earliest start date for awards under this NOFO to be **December 13, 2021**.

F. Federal Award Administration Information

1. Federal Award Notices

A grants officer from the NOAA Grants Office will serve as the Grants Officer for awards issued pursuant to this NOFO. Applicants will be notified in writing by the NOAA Grants Officer if their application is selected for an award. If the application is selected for funding, the NOAA Grants Officer will issue the grant award (Form CD-450), which is the authorizing financial assistance award document. By signing the Form CD-450, the recipient agrees to comply with all award provisions, terms, and conditions.

If an applicant is awarded funding, neither NTIA nor NOAA is under any obligation to provide any additional future funding in connection with that award or to make any future award(s). Amendment of an award to extend the period of performance is at the discretion of NTIA and the NOAA Grants Officer in accordance with the requirements and limitations contained in the Act.

2. Notification to Unsuccessful Applicants.

Unsuccessful applicants will be notified by e-mail and will have the opportunity to receive a debriefing after the opportunity is officially closed. Applicants must request within 10 business days of the email notification to receive a debrief from NTIA. NTIA will then work with the unsuccessful applicant in arranging a date and time of the debrief.

3. Retention of Unsuccessful Applications.

Unsuccessful applications will be retained in accordance with NTIA record keeping requirements.

4. Administrative and National Policy Requirements

Grant recipients will comply with applicable statutes and regulations, including but not limited to:

- **Uniform Administrative Requirements, Cost Principles and Audit Requirements.** Through 2 C.F.R. § 1327.101, the Department of Commerce adopted Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. Part 200, which apply to awards in this program. Refer to <http://go.usa.gov/SBYh> and <http://go.usa.gov/SBg4>.
- **Department of Commerce Financial Assistance Standard Terms and Conditions.** The Department of Commerce will apply to each award in this program, the Financial Assistance Standard Terms and Conditions in effect on the date of award. The current version, dated November 12, 2020, is accessible at [Department of Commerce Financial Assistance Standard Terms and Conditions](#). Refer to Section VII of this NOFO, Federal Awarding Agency Contacts, Grant Rules and Regulations, if you need more information.
- **Pre-Award Notification Requirements.** The Department of Commerce will apply the Pre-Award Notification Requirements for Grants and Cooperative Agreements dated December 30, 2014 (79 FR 78390), accessible at <http://go.usa.gov/hKkR>. Refer to Section G. of this NOFO, Federal Awarding Agency Contacts, Grant Rules and Regulations, for more information.
- **Environmental and National Historical Preservation Requirements.** Awarding agencies are required to analyze the potential environmental impacts, as required by the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) and the National Historic Preservation Act (NHPA) (54 U.S.C. 300101 *et seq.*) for applicant proposals and awardee projects seeking funding under the Tribal Broadband Connectivity Program. Applicants with projects containing construction and/or ground disturbing activities are required to submit all required environmental documentation with their application package or describe in their project narrative the physical project location and include photographs, as described above, and how they will comply with applicable environmental and national historical preservation requirements. It is the applicant's responsibility to obtain all necessary federal, state, and local governmental permits and approvals necessary for the proposed work to be conducted. Applicants are expected to design their projects so that they minimize the potential for adverse impacts on the environment. Applicants also will be required to cooperate with NTIA in identifying feasible measures to reduce or avoid any identified adverse environmental impacts of their proposed projects. The failure to do so may be grounds for not making an award. Applications will be reviewed to ensure that they contain sufficient information to allow agency staff to conduct a NEPA analysis so that appropriate NEPA documentation can be submitted to NTIA, along with the recommendation for funding of the selected applications. If additional information is required after an application is accepted for funding, funds can be withheld by NTIA under a special award condition requiring the awardee to submit additional environmental compliance information sufficient for the agency to make an assessment of any impacts that a project may have on the environment.

- **Property Trust Relationship and Public Notice Filings for Grant-Acquired Property.** 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.
- Tribal Laws including Tribal Employment Rights Ordinance, Environmental Protections Ordinances, and other applicable Tribal laws enacted by the Tribal Government.
- The Davis Bacon Act is not applicable to the Tribal Broadband Connectivity Program; thus, Tribes may use their Tribal Force Account Wage Rates in lieu of Davis Bacon Wage Rates.
- **Open Network Requirements.** NTIA will require a recipient receiving funds to deploy broadband infrastructure under this grant program to make the network open for interconnection with other broadband service providers. The requirement to interconnect will apply to applicants that deploy middle mile networks or submarine cable landing stations and not last mile networks. Awards issued pursuant to this NOFO may contain a specific award condition imposing a requirement to comply with NTIA’s open network requirements, which allows all other carriers to interconnect with these networks on fair and non-discriminatory terms and conditions. Such specific award condition may include the following:

 - **Interconnection:** Recipients shall allow interconnection to grant-funded facilities at any technically feasible point along the network (without exceeding current or reasonably anticipated capacity limitations). This duty includes, at a minimum, the physical interconnection of the recipient’s facilities to a requesting party’s facilities for the exchange of traffic. In addition, recipients shall connect to the public Internet directly or indirectly and provide requesting parties with an ability to connect to the Internet. Rates and terms for interconnection shall be reasonable and nondiscriminatory.
 - **Negotiate in Good Faith:** Recipients shall negotiate in good faith with all requesting parties (*i.e.*, public, private, non-profit, or other parties) making a bona fide request for interconnection or wholesale services.
 - **Wholesale Broadband Service:** NTIA encourages recipients to offer wholesale broadband service at rates and terms that are reasonable and nondiscriminatory.
- **Domestic Preference for Procurements (Buy American).** Pursuant to 2 C.F.R. 200.322, a non-Federal entity should, to the greatest extent practicable under a Federal

award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products pursuant to this program.

- **Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.** Pursuant to 2 C.F.R. 200.321, a non-Federal entity must take all necessary affirmative steps (as described in 2 C.F.R. 200.321) to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

5. Reporting

a. Reporting Requirements. The following reporting requirements described in Sections A.01, Reporting Requirements, of the

[Department of Commerce Financial Assistance Standard Terms and Conditions dated November 12, 2020](#), apply to awards in this program:

- 1) **Financial Reports.** Each award recipient will be required to submit an SF-425, Federal Financial Report on a semi-annual basis for the periods ending March 31 and September 30 of each year. Reports will be due within 30 days after the end of the reporting period to the NTIA Federal Program Officer, Grants Officer and Grants Specialist named in the award documents. A final financial report is due within 120 days after the end of the project period.
- 2) **Performance (Technical) Reports.** Each award recipient will be required to submit a technical progress report to the NTIA Federal Program Officer, Grants Officer and Grants Specialist named in the award documents on a semi-annual basis for the periods ending March 31 and September 30 of each year. Reports will be due within 30 days after the end of the reporting period. Technical progress reports shall contain information as prescribed in 2 C.F.R. § 200.329 (<http://go.usa.gov/xkVgP>) and [Department of Commerce Financial Assistance Standard Terms and Conditions dated November 12, 2020](#) Section A.01.

b. Annual Report. Not later than one year after receiving grant funds under the Tribal Broadband Connectivity Program, and annually thereafter until the funds have been expended, an eligible entity shall submit to the Assistant Secretary (via email to the NTIA Federal Program Officer listed in the recipient's award documents) a report, with respect to the one-year period immediately preceding the report date, that:

- (i) describes how the eligible entity expended the funds;
- (ii) certifies that the eligible entity complied with the requirements of the Act and the Tribal Broadband Connectivity Program, including:
 - (I) a description of each service provided with the grant funds; and

(II) the number of locations or geographic areas at which broadband service was provided using the grant funds; and

(iii) identifies each subgrantee that received a subgrant from the eligible entity and a description of the specific project for which grant funds were provided.

c. Provision of Information To FCC And USDA. The Assistant Secretary will provide the information collected under Section F.5 of this NOFO to the Commission and to the Department of Agriculture to be used when determining whether to award funds for the deployment of broadband under any program administered by those agencies. *See* section 905(f)(1)(B) of the Act.

d. Transmission of Reports To Congress. Not later than five days after receiving an Annual Report from an eligible entity under the Tribal Broadband Connectivity Program, the Assistant Secretary will transmit the report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives.

e. Recipient Integrity and Performance Matters

In accordance with section 872 of Public Law 110-417 (as amended; *see* 41 U.S.C. § 2313), if the total value of a recipient's currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of an award made under this NOFO, then the recipient shall be subject to the requirements specified in Appendix XII to 2 C.F.R. Part 200,¹¹ for maintaining the currency of information reported to SAM that is made available in the Federal Awardee Performance and Integrity Information System (FAPIIS) about certain civil, criminal, or administrative proceedings involving the recipient.

f. Audit Requirements

2 C.F.R. Part 200 Subpart F, adopted by the Department of Commerce through 2 C.F.R. § 1327.101 requires any non-federal entity (*e.g.*, non-profit institutions of higher education and other non-profit organizations) that expends federal awards of \$750,000 or more in the recipient's fiscal year to conduct a single or program-specific audit in accordance with the requirements set out in the Subpart. Additionally, unless otherwise specified in the terms and conditions of the award, entities that are not subject to Subpart F of 2 C.F.R. Part 200 (*e.g.*, commercial entities) that expend \$750,000 or more in DOC funds during their fiscal year must submit to the Grants Officer either: (i) a financial related audit of each DOC award or subaward in accordance with Generally Accepted Government Auditing Standards; or (ii) a project specific audit for each award or subaward in accordance with the requirements contained in 2 C.F.R. §

¹¹ *See* 2 C.F.R. Part 200, Appendix XII, available at <http://go.usa.gov/cTBwC>.

200.507. Applicants are reminded that NTIA, the Department of Commerce Office of Inspector General, or another authorized federal agency may conduct an audit of an award at any time.

g. Federal Funding Accountability and Transparency Act of 2006

In accordance with 2 C.F.R. Part 170, all recipients of a federal award made on or after October 1, 2010, are required to comply with reporting requirements under the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. No. 109-282). In general, all recipients are responsible for reporting sub-awards of \$25,000 or more. In addition, recipients that meet certain criteria are responsible for reporting executive compensation. Applicants must ensure they have the necessary processes and systems in place to comply with the reporting requirements should they receive funding.¹²

G. Federal Awarding Agency Contact(s)

1. Please direct programmatic inquiries to:

Adam Geisler
National Tribal Government Liaison
Office of Telecommunications and Information Applications
National Telecommunications and Information Administration
U.S. Department of Commerce
1401 Constitution Avenue, NW, Room 4887
Washington, DC 20230
Phone: (202) 631-1188
Email: adam.geisler@firstnet.gov

2. Please direct grant management inquiries to:

Nicola Bell
National Oceanic and Atmospheric Administration
Grants Management Division
1325 East West Highway, Room 9340, (SSMC2)
Silver Spring, MD 20910-3282
Phone: (301) 628-1328
Email: Nicola.Bell@noaa.gov

3. Please direct media inquiries to:

Stephen F. Yusko
Public Affairs Specialist
Office of Public Affairs
National Telecommunications and Information Administration
U.S. Department of Commerce

¹² See OMB, Requirements for Federal Funding Accountability and Transparency Act Implementation, Interim final guidance to agencies with opportunity to comment, 75 FR 55663 (Sept. 14, 2010), *available at* <http://go.usa.gov/hKnQ>.

1401 Constitution Avenue NW, Room 4897
Washington, DC 20230
Phone: (202) 482-7002
Email: press@ntia.doc.gov

H. Other Information

1. Protected and Proprietary Information. The applicant acknowledges and understands that information and data contained in applications for financial assistance, as well as information and data contained in financial, performance, and other reports submitted by applicants, may be used by NTIA in conducting reviews and evaluations of its financial assistance programs. For this purpose, applicant information and data may be accessed, reviewed, and evaluated by NTIA' employees, other federal employees, federal agents and contractors, and/or by non-federal personnel, all of whom enter into appropriate confidentiality and nondisclosure agreements covering the use of such information. As may be provided in the terms and conditions of a specific financial assistance award, applicants are expected to support program reviews and evaluations by submitting required financial and performance information and data in an accurate and timely manner, and by cooperation with NTIA and external program evaluators. In accordance with 2 C.F.R. § 200.303(e), applicants are reminded that they must take reasonable measures to safeguard protected personally identifiable information and other confidential, cultural, or sensitive personal or business information created or obtained in connection with a Department of Commerce financial assistance award.

NTIA will protect confidential and proprietary information from public disclosure to the extent authorized by applicable law, including the Freedom of Information Act (FOIA), as amended (5 U.S.C. 552), the Trade Secrets Act, as amended (18 U.S.C. 1905), and the Economic Espionage Act of 1996 (18 U.S.C. 1831 *et seq.*). Applications submitted in response to this NOFO may be subject to requests for release under the FOIA. In the event that an application contains information or data that the applicant deems to be confidential cultural or commercial information that is exempt from disclosure under FOIA, that information should be identified, bracketed, and marked as Privileged, Confidential, Cultural, Commercial or Financial Information. Based on these markings, the confidentiality of the contents of those pages will be protected to the extent permitted by law.

Additionally, some of the information submitted in the course of applying for funding under this program, or provided in the course of its grant management activities, may be considered law enforcement sensitive or otherwise important to national security interests. This may include threat, risk, and needs assessment information, and discussions of demographics, transportation, public works, and industrial and public health infrastructures. While this information under federal control is subject to request made pursuant to the FOIA, 5 U.S.C. 552, all determinations concerning the release of information of this nature are made on a case-by-case basis and may fall within one or more of the available exemptions under the FOIA. The applicant is encouraged to consult its own state and local laws and regulations regarding the release of information, which should be considered when reporting sensitive matters in the grant application. The applicant may consult with NTIA regarding concerns or questions about the

release of information under state and local laws. The applicant should be familiar with the regulations governing Protected Critical Infrastructure Information (6 C.F.R. Part 29) and Sensitive Security Information (49 C.F.R. Part 1520), as these designations may provide additional protection to certain classes of homeland security information.

2. Funding Availability and Limitation of Liability. Funding for the program listed in this NOFO is contingent upon the availability of appropriations. In no event will NTIA, NOAA or the Department of Commerce be responsible for application preparation costs, including, but not limited to, if the program fails to receive funding or is cancelled because of agency priorities. Publication of this NOFO does not obligate NTIA, NOAA or the Department of Commerce to award any specific project or to obligate any available funds. NTIA will fund only projects that are deemed likely to achieve the Tribal Broadband Connectivity Program's goals and for which funds are available.

3. Third Party Beneficiaries. The Tribal Broadband Connectivity Program is a discretionary grant program that is not intended to and does not create any rights enforceable by third party beneficiaries.


4. Waiver Authority. It is the general intent of NTIA not to waive any of the provisions set forth in this NOFO. However, under extraordinary circumstances and when it is in the best interest of the federal government, NTIA, upon its own initiative or when requested, may waive the provisions in this NOFO. Waivers may only be granted for requirements that are discretionary and not mandated by statute or other applicable law. Any request for a waiver must set forth the extraordinary circumstances for the request.

5. Paperwork Reduction Act. This NOFO contains an information collection requirement subject to the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*). The PRA requires each federal agency to seek and obtain OMB approval before collecting information from the public. Federal agencies may not collect information unless it displays a currently valid OMB control number. NTIA will use Standard Forms 424 (Application for Federal Assistance), 424A (Budget Information for Non-Construction Programs), 424B (Assurances for Non-Construction Programs), 424C (Budget Information for Construction Programs), 424D (Assurances for Construction Programs), 425 (Federal Financial Report), and SF-LLL (Disclosure for Lobbying Activities) under the respective control numbers 4040-0004, 4040-0006, 4040-0007, 4040-0008, 4040-0009, 4040-0014, and 4040-0013.

6. Transparency, Accountability, And Oversight Required. The Assistant Secretary has adopted measures, including audit requirements, to implement the Tribal Broadband Connectivity Program that:

- a. ensure sufficient transparency, accountability, and oversight to provide the public with information regarding the award and use of grant funds under the Tribal Broadband Connectivity Program;
- b. ensure that a recipient of a grant under the Tribal Broadband Connectivity Program uses the grant funds in compliance with the requirements of Section 905 of the Act, this NOFO and the overall purpose of the Tribal Broadband Connectivity Program; and
- c. deter waste, fraud, and abuse of grant funds.

7. Unauthorized Use Of Funds. To the extent that the Assistant Secretary or the Inspector General of the Department determines that an eligible entity has expended grant funds received under the Tribal Broadband Connectivity Program in violation of Section 905 of the Act, the Assistant Secretary will recover the amount of funds that were so expended. *See* Section 905(e)(5) of the Act.



**Tribal Broadband
Connectivity Grant Program**

**Hawaiian Homes Commission Meeting
August 10, 2021**



EXHIBIT B

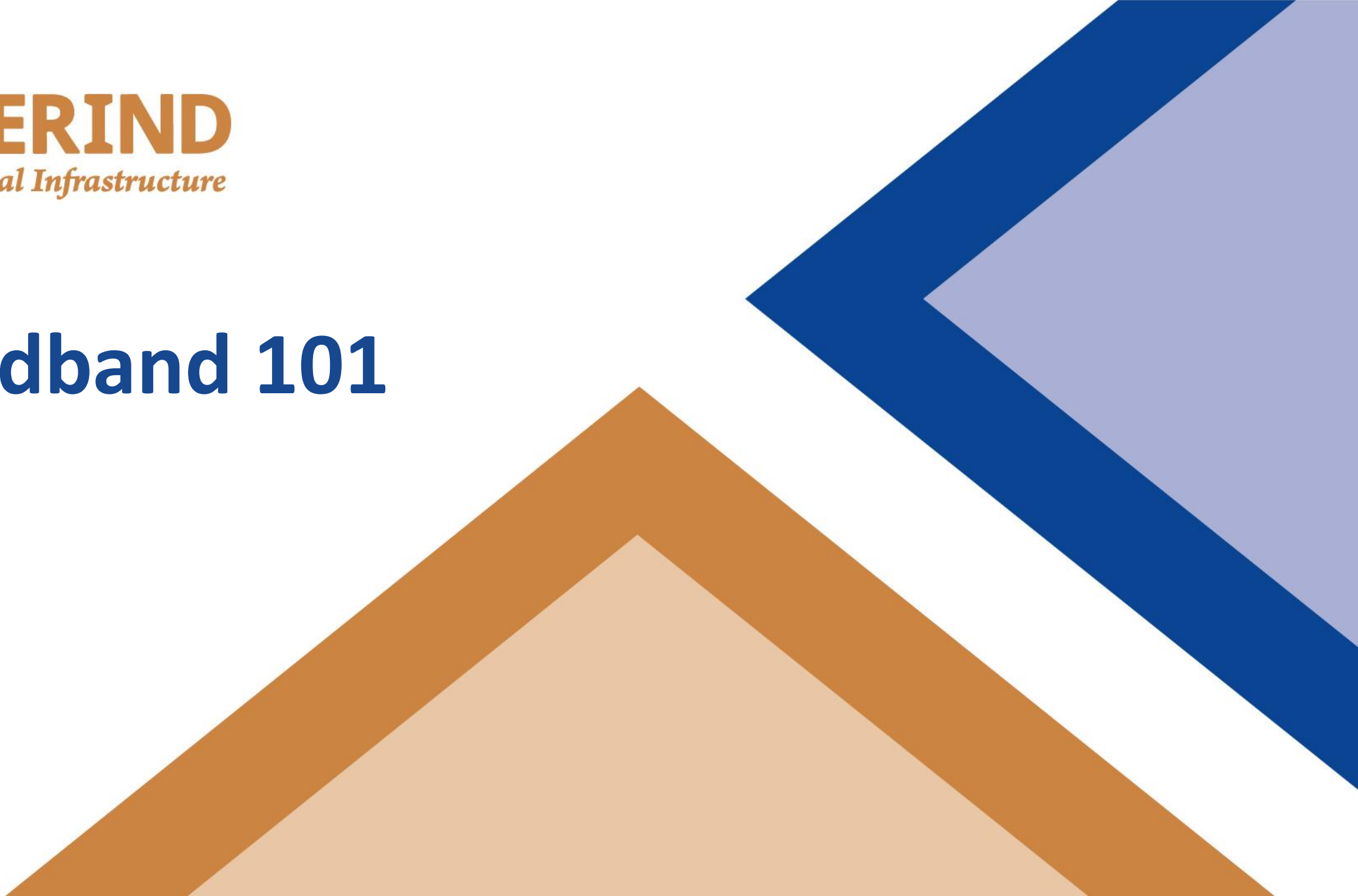


Agenda:

- **Introductions**
- **Broadband 101**
- **Tribal Broadband Connectivity Grant Program**
- **Questions**



Broadband 101



Broadband 101 – Key Concepts

Networks are a powerful tool to serve Native Hawaiian Communities and support development, education, healthcare, and/or public safety – and potentially provide revenue as an internet service provider

- **Last mile** connectivity brings Internet service, or broadband, to a home or business
- **Middle mile** connectivity brings broadband from an internet backbone to a connection point in a city or town
- **Backhaul or transport** is the side of the network that connects to the global internet
- **Broadband technologies** include fiber, cable, wireless, fixed wireless, and satellite

Broadband 101 – Networks Example



Broadband 101 – Building or Enhancing Wireless Infrastructure

Methods of Connecting Organizations for Services:

Point to Point with Backhaul link

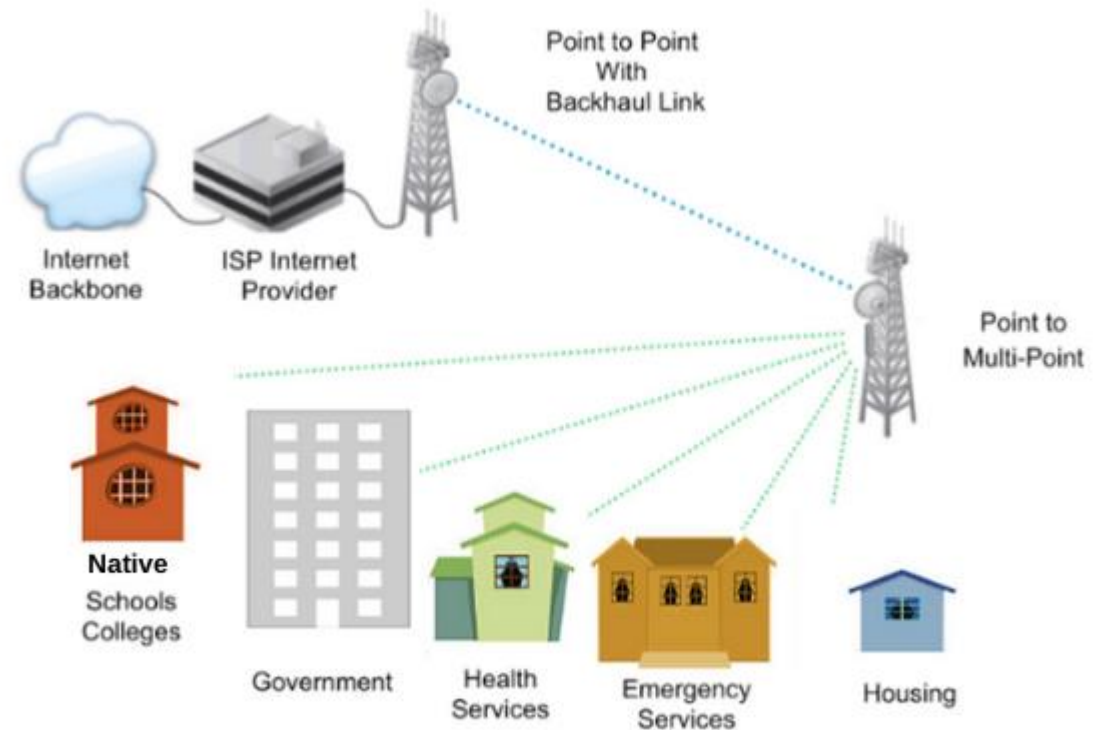
- ISP Internet Service Provider
- Internet Backbone

Point to Multi-Point

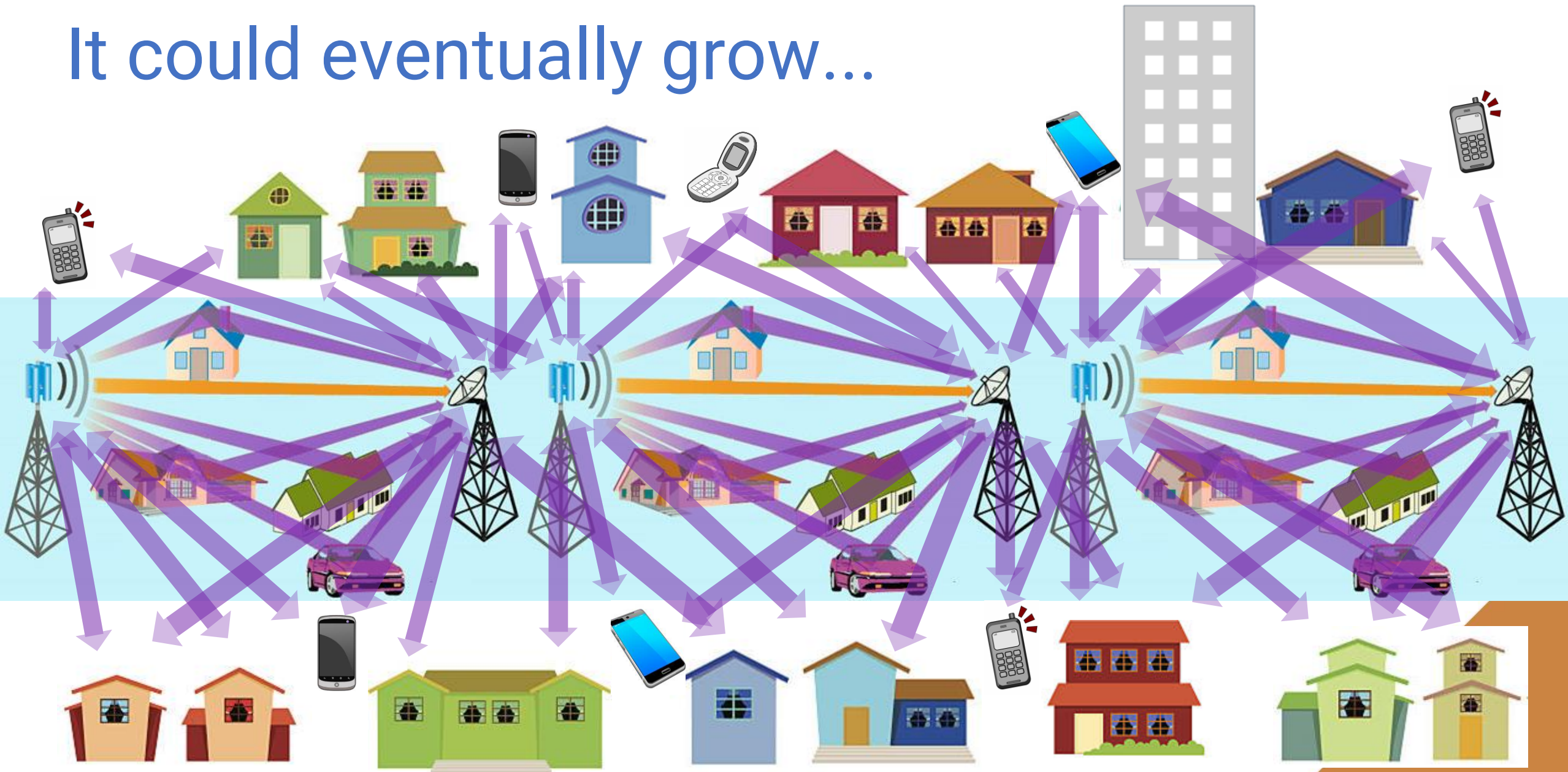
- Network Base Connecting
- Schools, Colleges
- Government
- Health Services
- Emergency Services
- Housing
- Gyms, Community Centers

Leasing of Spectrum

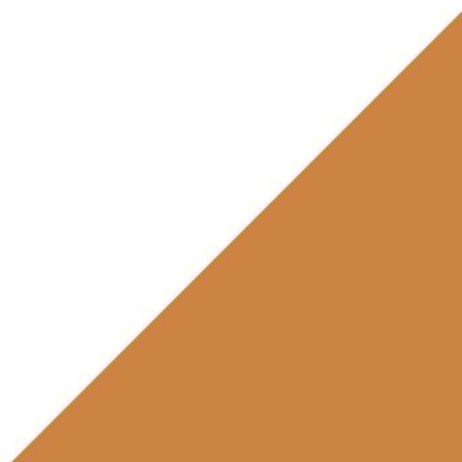
- Monies earned by leasing Spectrum



It could eventually grow...



Tribal Broadband Connectivity Grant Program



Tribal Broadband Connectivity Grant Program - Introduction

- Created as part of the Consolidated Appropriations Act of 2021
- Administered by the National Telecommunications and Information Administration (“NTIA”), part of the U.S. Department of Commerce
- NTIA released a Notice of Funding Opportunity (“NOFO”) on June 3, 2021
- ***Application deadline is September 1, 2021***

Tribal Broadband Connectivity Grant Program - Purpose

- To improve quality of life
- Spur economic development and commercial activity
- Create opportunities for remote employment and online entrepreneurship, remote learning and telehealth
- All by expanding broadband access and providing digital training and inclusion programs to Native American and Native Hawaiian communities

Tribal Broadband Connectivity Grant Program – Eligibility

- A Tribal government
- A Tribal college or university
- ***The Department of Hawaiian Home Lands on behalf of the Native Hawaiian Community, including Native Hawaiian education programs***
- A Tribal organization
- An Alaska Native Corporation

Tribal Broadband Connectivity Grant Program – Funding

- Up to \$980 million
- ***Not less than 3% of the funds, or not less than \$30 million, is set aside for the benefit of Native Hawaiians***
- Funding ranges by type of project
 - Broadband Infrastructure Deployment projects: \$1 M to \$50 M
 - Broadband Adoption and Use projects: \$50,000 to \$2.5 M
- Time frame to complete projects
 - One year, with extensions possible for Broadband Infrastructure Deployment projects

Tribal Broadband Connectivity Grant Program – Broadband Infrastructure Deployment

- Deployment of broadband infrastructure on Tribal Lands
- Includes the construction of middle mile or last mile networks, as well as interconnection
- Projects may propose the deployment of new infrastructure, replacement of antiquated and outdated infrastructure, or the upgrading or extension of existing infrastructure
 - For example, projects that utilize 2.5 GHz licenses obtained through the Federal Communications Commission’s (“FCC) Tribal Priority Window, are eligible
 - DHHL obtained and holds five (5) 2.5 GHz licenses over the Hawaiian Home Lands
- Broadband infrastructure may include cable, fiber, wireless, fixed wireless, and satellite
- Must prioritize currently unserved households
- Projects should promote such things as economic development and the creation of new jobs; expand education, telehealth, public safety, and telework access; and support smart technologies
- Focus on sustainability for the long-term

Tribal Broadband Connectivity Grant Program – Broadband Use and Adoption

- Provide broadband education, awareness, training , access, equipment and support
- Provide affordable broadband programs, including free or reduced-cost broadband service
- Improve access to, and use of, broadband services by anchor institutions to deliver telehealth, remote learning, digital inclusion, and workforce development programs
- Stimulate adoption and use of broadband services for telehealth, remote learning, telework and entrepreneurship, economic growth, and job creation
- Build digital skills and workforce capacity
- Assess community needs and conduct planning related to online education, telehealth, digital inclusion, workforce and digital skills development
- Gather data and conduct evaluation of digital inclusion and broadband adoption programs funded by the NTIA grant to determine their effectiveness and develop best practices to facilitate digital inclusion and broadband adoption
- ***All for the benefit of Native American/Alaska Native/Native Hawaiian Communities on Tribal Lands***

Questions?

We would be happy to address any questions the Chair or the Commissioners may have

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STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

August 10, 2021

TO: Members, Hawaiian Homes Commission

FROM: William J. Aila, Jr. Chairman

SUBJECT: Appointment of Investment Committee Permitted Interaction Group pursuant to Hawaii Revised Statutes section 92-2.5 and Hawaii Administrative Rules section 10-2-16 (b) (1)

RECOMMENDED MOTION/ACTION

None. For information only.

DISCUSSION:

An investigative committee of the Hawaiian Homes Commission is appointed effective July 20, 2021. The purpose of the committee is to research and recommend to the Commission a course of action to effectively implement the Investment Policy adopted by the Commission in August 2018 (attached). The committee may also review the selection criteria, potential candidates, and other issues related to securing outside expertise that may assist the Commission in implementing the Investment Policy, consistent with the Commission's fiduciary duties.

The members of the Committee include David Kaapu, Russell Kaapu, Pauline Namuo and the Chair. The Committee's work is expected to be completed by the end of December 2021 with a report to the Hawaiian Homes Commission of the Committee's findings and recommendations to follow at the January 2022 regular meeting.

August 10, 2021 For Information Only

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

August 21, 2018

TO: Chairman and Members, Hawaiian Homes Commission
FROM: Rodney K. M. Lau, Administrative Services Officer *Rodney Lau*
SUBJECT: Adoption of the HHC Investment and Spending Policies
relating to DHHL Trust Funds.

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission (HHC) adopt the HHC Investment and Spending Policies relating to DHHL Trust Funds.

DISCUSSION

In March 2018, the Department of Hawaiian Home Lands expressed interest in investing monies of the Hawaiian Home Lands Trust Fund (HHLTF) and the Native Hawaiian Rehabilitation Fund (NHRF) in securities and other investment vehicles as authorized by their respective statutes.

The HHLTF and NHRF are currently in the State Treasury and invested in the State's cash pool by the Department of Budget and Finance. DHHL has never exercised the provision of managing and investing cash from these two funds outside of the State Treasury. DHHL is looking for investments that will produce higher yields than the cash pool investments.

DHHL asked that an ad-hoc committee titled "Investigative Committee on Investment and Spending Policies relating to DHHL Trust Funds", comprised of Hawaiian Homes Commissioners familiar with investment industry practices and standards, join together to initiate a recommended plan on how DHHL should proceed. The Committee, comprised of Chair Jobie Masagatani and Commissioners David Kaapu, Wally Ishibashi, and Wren Westcoatt, participated in four (4) thought provoking meetings to put together investment and spending policies. Over a period of March to July 2018, the investment policies of the Office of Hawaiian Affairs (OHA), the Hawaii State Employees' Retirement System, the University of Hawaii Board of Regents, and the Hawaii Prep Academy were reviewed to pull out the best policies from each of

those institutions. A telephone conference call was held with the Mayo Clinic chief investment officer who described the best investment and spending management practices they adopted that made their endowment investment program successful in supporting their programs.

Spending policies of the University of California Berkeley Foundation, the University of California General Endowment Pool, the Virginia State University, and the Mayo Clinic Endowment Fund were also reviewed. With earnings from investments that would get a higher return than the payout, a spending policy is necessary to minimize invading the principal but would allow the fund to grow. The best policies from each of these institutions were pulled together to develop a cohesive spending policy statement.

On July 17, 2018, the "Investigative Committee on Investment and Spending Policies relating to DHHL Trust Funds" presented their report to the full HHC at their regular meeting. The Investment and Spending Policy report provides a framework of policies recommended to the Department to promote a permanent stream of income in perpetuity with the overarching link of prudent financial management.

The Investment and Spending Policies presented to the HHC in the July 2017 HHC meeting has been reformatted to improve readability and is shown as Exhibit I.

The adopted Hawaiian Homes Commission Investment and Spending Policies is a valuable tool that will be used to begin discussions with the Attorney General Office and the Department of Budget and Finance to facilitate investing from the respective DHHL Trust Funds.

We respectfully request that the HHC Investment and Spending Policies be adopted.

Department of Hawaiian Home Lands

Investment Policy

Purpose

To set forth an investment policy that ensures the sustainability of DHHL's financial resources, meets DHHL's investment objectives and provides guidelines for management and implementation.

Definitions:

"Fund" – the DHHL financial account(s) listed in [Schedule A]

"Sustainability" - As used in this policy, sustainability means serving the needs of the present beneficiaries without jeopardizing the needs of the future beneficiaries.

"DHHL Trust Funds" – DHHL Trust Funds listed in [Schedule D]

Policy:

General

The investment of funds and the purchases and sales of bonds, stocks, and other securities and assets from DHHL trust or investment funds is the responsibility of the Commission and shall be made with the approval or direction of the Commission. The Chair or Chair's designee is authorized to take any action and to execute and deliver on behalf of the Commission such documents and certificates as may be necessary or desirable in connection with the acceptance, sale or transfer of investment securities, and is authorized to implement the procedures and guidelines for the day-to-day administration of all DHHL investment activities.

Management

The Commission has the fiduciary responsibility of preserving institutional resources, including the Fund in perpetuity. The Commission oversees DHHL policies and processes concerning investments and asset management and is subject to certain legal duties including acting prudently and in the interest of the beneficiaries, and the duty to correct or report improprieties of other fiduciaries. Periodically, the Commission shall review comprehensive reports on the performance of the Fund's investments.

The Commission's committee on working investment ("Committee") may be established from time to time pursuant to chapter 92, Hawaii Revised Statutes to review matters related to investment policy, management and implementation. The Committee shall

As Approved by the Hawaiian Homes Commission on _____

recommend to the Commission, changes to investment policies, objectives, guidelines, performance targets, goals for the investment consultant, rebalancing of asset allocations, and any other aspects of this policy and its implementation. The Committee shall also recommend to the Commission the engagement, evaluation and termination of an investment consultant ("Investment Consultant").

The Investment Consultant shall be a qualified, experienced investment professional retained by DHHL to assist the Commission in optimizing long term financial returns for the Fund, consistent with the investment objectives and guidelines outlined this policy. Procurement shall be conducted by the DHHL. The Investment Consultant shall be selected through a formal competitive process by the DHHL, in consultation with the Committee. The Investment Consultant shall:

- Assist in defining the investment objectives of the Fund and in establishing investment policy guidelines;
- Assist in the selection of the appropriate asset classes and percentages to invest in each class based on return expectations and risk;
- Implement short-term asset allocation shifts;
- Select, appoint, and replace fund advisors or managers;
- Provide quarterly reports on Fund performance; and
- Provide other services as specified by the Commission and/or Committee.

Investment Goals and Guidelines

General Objectives

Prioritized Investment Objectives. The overall objectives of the Fund are in the following order of priority:

1. To grow the Fund's assets consistently by at least inflation plus five percent annually (Consistent Capital Growth);
2. To invest in a manner that seeks to ensure the continuous preservation of purchasing power of the overall portfolio, in excess of inflation (Capital Preservation);
3. To achieve a portfolio return that meets or exceeds the return of the Fund's Policy Portfolio Benchmark on a net of fee basis over a long-time horizon (Benchmark Outperformance); and

As Approved by the Hawaiian Homes Commission on _____

4. To diversify the portfolio b) asset type, security (issuer) and Investment Manager to reduce the volatility of returns (Adequate Diversification).

Long-Term Objective. Consistent capital growth is the primary objective of the Fund. The investment portfolio shall be designed with the objective of protecting principal while earning a rate of return that is targeted to meet or exceed the real spending rate and the strategic benchmark index of the Fund over the long term in order to preserve the Fund's assets and ensure that sufficient liquidity will be available to cover future cash requirements. Consistent capital growth is achieved by investing prudently in a wide range of asset classes to achieve proper diversification, thereby reducing volatility. Since the Investment Consultant will focus on long-term capital appreciation, the Fund may experience a drawdown of principal, although over a full market cycle, the financial advisors in aggregate are expected to produce a total annual return that will exceed inflation as measured by the Consumer Price Index (CPI) by five percent.

Volatility Objective. It is anticipated that the Fund will experience an annualized average volatility of approximately 13% annually with a maximum rolling 12-month annualized volatility of roughly 20% over a market cycle.

Compliance & Liquidity. All parties named in this Statement shall carry out their business in compliance to all existing and future applicable state and federal regulations (Regulatory Compliance Requirement) and for assets subject to their discretion maintain adequate liquidity to meet all anticipated expenditures after sufficient notice (Adequate Liquidity Requirement).

Definition of Market Cycle. Throughout this Statement the term "market cycle" is used. Market cycles include both a rising and a declining market. Generally, a rising market will be defined as a period of at least two consecutive quarters of rising stock prices and a declining market will be defined as a period of at least two consecutive quarters of declining stock prices. Therefore, a Market Cycle (the minimum period of evaluation) shall be at least one year and more typically three to six years.

Definition of Investment Consultant, Investment Advisor, and Investment Manager. Throughout this policy, the terms "Investment Consultant," "Investment Advisor" and "Investment Manager" are used. "Consultant" shall refer to the single entity selected by the Commission and hired by DHHL to assist the Commission in optimizing long term financial returns for the Fund and to monitor and evaluate the Advisors and Managers. "Advisor" shall refer to each fiduciary (typically utilizing the "manager-of-managers" approach) selected by the Consultant to exercise investment discretion over a portion of the Fund's assets within the parameters specified in this policy and as directed by the Consultant. "Manager" shall refer to any portfolio manager selected by the Advisors, or by the Consultant directly, to invest the Fund's assets. The Consultant's compensation shall not include commissions or fees associated with the purchase or sale of any particular investment, while Advisors and Managers may earn commissions and fees.

As Approved by the Hawaiian Homes Commission on _____

Guidelines

Standards of Care

The Commissioners and DHHL Staff. The standard of care applied to the Commission and DHHL staff assigned to the Fund shall be the "prudent person" standard, defined as follows: "Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived." The Commission may rely upon the expert advice and counsel of its external providers to satisfy the prudent person" standard provided the Commission has established adequate controls and fulfills its oversight responsibilities regarding the external providers as outlined in this policy.

External Providers. The standard of care applied to all external providers (i.e., Consultant, Advisors, Managers) shall be similar in effect to the "prudent expert" standard, defined as: "Investments shall be managed with the care, skill, prudence, and diligence, under the circumstances then prevailing, that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims".

Equity investments

Equity investments shall be made in quality common stocks, convertible preferred stocks and convertible bonds, with an emphasis on total return. Investment Managers should generally invest for the longer term; however, this should not preclude the Investment Manager from making interim changes to meet the investment goals of the Fund.

Cash and cash equivalent investments

All cash, wherever and whenever possible, should be invested in liquid interest-bearing accounts or securities, including shares of money market funds.

Asset Allocation

This guideline is intended to manage risk by ensuring that the portfolio will not be overly skewed towards one type of investment. The principle of prudence requires that the portfolio be well balanced with respect to fixed income investments and equity investments.

The portfolio will be invested among different asset classes within the minimum and maximum allocations specified in the attached **Schedule A: Asset Allocation**

As Approved by the Hawaiian Homes Commission on _____

Guidelines.

Within the allocation guidelines the Investment Consultant may affect the purchase and sale of the Fund's investments to achieve the objectives of this policy and will provide an update on the actual allocation of investments in the Fund in periodic reports to the Commission.

From time to time, the Investment Consultant may recommend changing the minimum or allocation guidelines temporarily, during adverse market conditions if such action is prudent and protects the principal of the Fund. Any changes to the allocation guidelines shall be approved by the Committee or the Commission, and permanent changes to the allocation guidelines shall require an amendment to Schedule A.

The Committee will review the Fund's asset allocation and the Investment Consultant's performance at least annually and shall determine whether the amounts invested should be rebalanced among asset classes, types of investments or Investment Advisors or Managers to achieve the objectives of this policy.

Preservation of principal

The Investment Advisors and Managers shall make reasonable efforts to preserve the principal of funds provided them, with the understanding that risk and potential return vary according to the type of asset.

Liquidity

As a matter of course, the Commission intends to spend to a portion of the Fund balance regularly on DHHL activities to serve Beneficiaries. The DHHL Chair or the Committee will provide guidance to the Investment Consultant about the amount and timing of withdrawals from the Fund, with as much advance notice as possible, so that assets may be liquidated without negatively impacting the overall performance of investments. At least 50% of the total Fund 's assets must be liquid on at least a monthly basis at market value without restriction or advance notice longer than five business days under normal conditions.

Diversification

To maintain a diverse portfolio, the Investment Consultant shall avoid the concentration of assets, by limiting each individual stock investment or bond position, other than obligations of the U.S. government, to no more than 5% of the Fund's portfolio.

Permitted and prohibited investments

Subject to the "prudent man" rule, a list of permitted and prohibited investments is included in the attached as **Schedule B: Permitted and Prohibited Investments**.

As Approved by the Hawaiian Homes Commission on _____

Investment Consultant, Advisor, Manager Performance Monitoring.

The Committee or the Commission shall monitor the performance reports of the Investment Consultant. The Investment Consultant shall monitor monthly statements and quarterly performance reports from the Advisors or Managers. Performance of the Fund returns will be evaluated as specified in the attached **Schedule C: Fund Performance Evaluation**.

Alerts

Investment Consultant, Advisors and Managers are expected to keep the Commission and DHHL staff informed of any material changes in their respective firms (i.e. change in personnel, ownership, policy, etc.).

Termination

If at any time the standard required is not being met by an Investment Consultant, Advisor or Manager, the Commission will determine what action will be taken. The decision to terminate an Investment Consultant shall be by majority vote of the Commission present at the meeting subject to the contractual agreement. The Investment Consultant may terminate engagement with an Advisor or Manager and will advise the Commission in periodic reports.

Errors & Omissions

The Investment Consultant is to correct any material violation of the provisions of this Statement within a reasonable time period upon discovery. The Advisor will reimburse the Fund for a realized loss resulting from a material violation as agreed in the contract between the Commission and the Advisor.

Fund Performance Evaluation

Performance of the Fund returns will be evaluated as specified in the attached **Schedule C: Fund Performance Evaluation**.

Risk Management

The Commission recognizes that the undertaking of risks is generally unavoidable in investment management. The purpose of this policy is not to eliminate risks, but to understand the risks through the implementation of disciplined processes and procedures. Risk control measures include continuous monitoring and timely reporting by DHHL staff and/or Investment Consultant to ensure the effectiveness of DHHL's investment risk management through the guidelines and implementation of this policy.

As Approved by the Hawaiian Homes Commission on _____

Schedule A: Asset Allocation Guidelines

	Minimum	Maximum
Equities	30%	70%
Fixed Income	30%	70%
Floating Rate Securities	0%	20%
Municipal Bonds	0%	10%
High Yield Bonds	0%	20%
Cash	0%	40%

As Approved by the Hawaiian Homes Commission on _____

Schedule B: Permitted and Prohibited Investments.

The use of the following investment vehicles is permitted:¹

- Savings accounts
- Commercial paper with A-1 or P-1 rating
- Certificate of deposit
- Floating rate securities High yield bonds Municipal bonds
- Money market funds/common trust cash equivalent funds
- U.S. government, its agencies, or its instrumentalities Securities guaranteed by or collateralized by securities guaranteed by the U.S. government, its agencies, or its instrumentalities
- Debt securities and convertible securities of U.S. corporations and supranational organizations
- Preferred stocks Common stocks
- Publicly- trade foreign securities
- Mutual funds exchange traded funds and common trust or commingled funds
- American depository receipts/shares
- Global depository receipts/shares
- The writing (selling) of covered call options
- Real estate, real estate investment trusts, and real estate mortgages
- Forward foreign exchange contracts, and bond/currency options and futures may be used for the defensive hedging of foreign currency exposure
- Limited partnerships

All investment vehicles selected for the portfolio must have a readily ascertainable market value.

Prohibited investments/transactions

Investments in companies which, including predecessors, have a record of less than three years of continuous operation

Commodities

Lettered stock and private placements Selling "naked" puts and/or calls

Derivative securities not covered under permitted investments Adjustable rate issues with coupons which move inversely to an index

Securities issues by the managers, their parents or subsidiaries Assets of the Fund in their own interest or for their own account Transactions involving fund assets on behalf of a party whose interests are adverse to the interests of the Fund or its beneficiaries

Transactions involving third party compensation for their own account from any party in connection with a transaction involving Fund assets

As Approved by the Hawaiian Homes Commission on _____

Schedule C: Fund Performance Evaluation

Investment performance and management of the Fund and the separately managed portfolio will be evaluated over a three-year investment horizon. Evaluation will be conducted based on the quantitative and qualitative standards which are applicable to the Fund and the separately managed portfolios, as applicable.

Quantitative standards

The extent to which the compounded annual rate of return of the total Fund equals or exceeds the Fund's performance objective.

Performance will be measured on a time-weighted basis which recognizes the changes in market value, as well as income received; any appreciation or depreciation that occurs during the period examined, whether realized through the sale of securities or left unrealized by holding the securities; and eliminates the influence of cash flow or asset transfers that are essentially beyond the control of the investment manager.

Qualitative standards

The investment manager's adherence to the investment policies and guidelines of the Fund.

The investment manager's consistency in the application of their own investment philosophy.

As Approved by the Hawaiian Homes Commission on _____

Schedule D: DHHL Trust Funds:

1. Hawaiian Home Lands Trust Fund (§213.6, HHCA)
2. Native Hawaiian Rehabilitation Fund (§213(i), HHCA)

As Approved by the Hawaiian Homes Commission on _____

Department of Hawaiian Home Lands

Spending Policy

Purpose:

The investment and spending policies are intended to manage the DHHL Trust Fund assets listed in Schedule A ("the Fund") to provide a predictable stream of funding to the DHHL beneficiary programs while seeking to maintain and increase purchasing power of the Fund, in perpetuity. Under the investment policy, the Fund assets are invested in a manner that is intended to produce a real return, net of inflation and management costs ("Net Earnings"), of at least 5% percent over the long term. Actual returns in any given year may vary from this amount. The spending policy provides guidance on how earnings from investments are to be spent on beneficiary programs and/or reinvested in order to grow the Fund.

- A. The general spending policy is to appropriate Fund earnings annually, between expenditures on DHHL programs and reinvestment for the continued growth of the Fund, as follows:
- If the annual Net Earnings are less than or equal to 5%, then the full amount of the Net Earnings is to be allocated to beneficiary programs; or
 - If the annual Net Earnings are greater than 5% and less than or equal to 8%, then the first 5% is to be allocated to beneficiary programs and the remaining amount is to be reinvested in the Fund; or
 - If the annual Net Earnings are greater than 8%, then the first 5% is to be allocated to beneficiary programs, and the next 3% is to be reinvested in the Fund, and the remaining amount (beyond 8%) is to be allocated or reinvested based on a recommendation by the Investment Committee and as determined by vote of the Commission.
- B. An ad-hoc Investment Committee comprised of Commissioners shall be responsible for reviewing the spending policy formula on an annual basis. The ad-hoc committee shall review the resultant payout dollar distribution, based on the existing formula, giving due and prudent consideration to other factors such as:
- Need to ensure stability of funding from one year to next for planning purposes;
 - Prevailing market conditions and their potential impact;
 - Realized gains reserve;
 - Other Trust Fund sources of funding; and

As Approved by the Hawaiian Homes Commission on _____

- Overall funding environment for the Hawaiian Home Lands program
- C. The ad-hoc committee may, at its discretion, recommend an alternate payout percentage for a specific fiscal year, and shall submit its recommendation to the Hawaiian Homes Commission for decision-making. Such temporary deviations from the investment and/or spending policies require an affirmative vote of no less than seven (7) of the sitting Commissioners.
- D. While the purpose of the spending policy is to protect and grow the Fund for the benefit of beneficiaries in perpetuity, future circumstances may require the Commission to make amend the spending policy. Amendments to the spending policy require an affirmative vote of no less than seven (7) of the sitting Commissioners.

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