

# Alaska Native Health Board

THE VOICE OF ALASKA TRIBAL HEALTH SINCE 1968

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ALASKA NATIVE TRIBAL  
HEALTH CONSORTIUM

ALEUTIAN PRIBILOF  
ISLANDS ASSOCIATION

ARCTIC SLOPE  
NATIVE ASSOCIATION

BRISTOL BAY AREA  
HEALTH CORPORATION

CHICKALOON VILLAGE  
TRADITIONAL COUNCIL

CHUGACHMIUT

COPPER RIVER  
NATIVE ASSOCIATION

COUNCIL OF ATHABASCAN  
TRIBAL GOVERNMENTS

EASTERN ALEUTIAN TRIBES

KARLUK IRA  
TRIBAL COUNCIL

KENAITZE INDIAN TRIBE

KETCHIKAN  
INDIAN COMMUNITY

KODIAK AREA  
NATIVE ASSOCIATION

MANILLAQ ASSOCIATION

METLAKATLA INDIAN  
COMMUNITY

MT. SANFORD  
TRIBAL CONSORTIUM

NATIVE VILLAGE  
OF EKLUKNA

NATIVE VILLAGE OF EYAK

NATIVE VILLAGE  
OF TYONEK

NINILCHIK  
TRADITIONAL COUNCIL

NORTON SOUND  
HEALTH CORPORATION

SELDOVIA VILLAGE TRIBE

SOUTHCENTRAL  
FOUNDATION

SOUTHEAST ALASKA REGIONAL  
HEALTH CONSORTIUM

TANANA CHIEFS CONFERENCE

YAKUTAT TLINGIT TRIBE

YUKON-KUSKOKWIM  
HEALTH CORPORATION

VALDEZ NATIVE TRIBE

February 11, 2021

Douglas W. Kinkoph, Associate Administrator  
Office of Telecommunications and Information Applications  
U.S. Department of Commerce  
1401 Constitution Avenue, N.W.  
Washington, D.C.20230  
Via email: [broadbandusa@ntia.gov](mailto:broadbandusa@ntia.gov)

RE: Tribal Broadband Grant Program

Dear Mr. Kinkoph,

The Alaska Native Health Board (ANHB) is writing in support of comments and recommendations provided by the Alaska Native Tribal Health Consortium (ANTHC) on funding to support the Tribal Broadband Connectivity Program (TBCP) that Congress included in the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260 (Act). ANHB is the statewide voice on Alaska Native health issues and is the advocacy organization for the Alaska Tribal Health System (ATHS), which is comprised of tribal health programs that serve all of the 229 tribes and over 177,000 Alaska Native and American Indian (AN/AI) people throughout the state. As the statewide tribal health advocacy organization, ANHB helps Alaska's tribes and tribal programs achieve effective consultation and communication with state and federal agencies on matters of concern.

The Act provides \$1 billion in new funding to support broadband assistance that can assist in mitigating the effects of the COVID-19 pandemic exacerbating the digital divide across tribal communities throughout the United States. While NTIA has requested feedback on a number of questions on development of the program, our comments and recommendations are focused on the issues associated with eligibility, equitable distribution, and eligible uses of funds.

## Program Eligibility

The Act specifies that before a grant is awarded to an eligible entity that the Assistant Secretary consult with the Federal Communications Commission (FCC) to prevent duplication of funding. The NTIA Dear Tribal Leader Letter (DTLL) requested input on implementing a program with such broad eligibility, and specifically how to ensure that the priorities of tribal nations are represented. We make the following recommendations:

- The definitions regarding “Eligible Service Areas”, “Eligible Entities”, “Native Corporations”, “Native Hawaiians”, and “Tribal Governments” are clear in the statute. We concur with these definitions and recommend the Office of Telecommunications and Information Applications (OTIP) implement these definitions as intended by Congress. While the definition of “Tribal Organization” is not cited in the Act, we

- recommend that the definition from the Indian Self-Determination and Education Assistance Act (ISDEAA) at 25 U.S.C. § 5304(l) be used to determine grant eligibility in this program.<sup>1</sup>
- We underscore that the Assistant Secretary is instructed in the statute to "...award a grant to each eligible entity that submits an application...", after consulting with the FCC about how to prevent duplication of funding. We understand this requirement to mean that any eligible entity that applies so long as there is no duplication of funding by the FCC will be awarded a grant. We agree with and support this requirement.

We urge the NTIA when consulting with the FCC about funding duplication to take into consideration how FCC sources of funding for broadband deployment in high-cost areas, including Tribal lands, may come with strict regulations, requirements for matching funds, and restrictions that create barriers to broadband deployment initiatives on Tribal lands. For example, one of the most significant barriers are requirements restricting federal funding to single-use deployments, such as for health care, education, libraries, law enforcement, or housing specific purposes. These are often statutory or regulatory requirements which prevent federal funds designated to support infrastructure deployment to specific types of facilities from being used to support wider community use. The funding with these endeavors is also time limited and often inadequate to meet the needs of tribal communities, not to mention Indian Country. We urge NTIA and the FCC to take these factors into consideration when determining duplication of funding issues.

We also understand from the roll out of the 2.5Ghz program in Indian Country that there can be confusion at the FCC on overlap of tribal territories due to map submission and other data points that can be difficult to understand. We suggest that the FCC make certain it does not make findings of "funding duplication" based solely on maps and/or data submittal in areas where more than one tribe has territorial history, but that FCC work with tribal governments and tribal organizations to better understand these complex issues, while prioritizing making funding available.

### **Equitable Distribution**

The statute focuses heavily on the equitable distribution of these funds and the NTIA requests input on options to establish a funding formula, creating a competitive process, or a combination of the two methods. During the virtual tribal consultation sessions, it was recommended that the funding be divided into funding pools to be distributed on tribal population size, connectivity, and an amount set-aside for a Request for Proposal process. While we are not opposed to dividing the resources into funding pools, we feel the criteria used to allocate funds should be linked to obstacles that hinder development of broadband capacity in tribal communities. We do not believe that distributing funding on population size or reservation land-base or other measures of community size is appropriate. In Alaska, as an example, some of our remote communities can

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<sup>1</sup> "[...] (l) "Tribal organization" or "tribal organization" 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; and [...]" Indian Self-Determination and Education Assistance Act (ISDEAA) (25 U.S.C. § 5304(l)).

have populations as small as 300 residents, while the cost of infrastructure build-out to a remote community can be a severe barrier to achieving broadband connectivity. Therefore, using such measures as population would immediately be inequitable to Alaska's Tribes.

We would also caution the NTIA that if an approach to create separate pools of funding is used, that the application process(es) for funding is not divided for the pools in such a way as to create additional application burdens for eligible entities, recognizing that applications for such programs require large amounts of tribal resources to complete. In light of these considerations we recommend the following factors for equitable distribution:

- Tribes are impeded by the lack of access to essential broadband building blocks. Tribal communities historically have had less access to telephone and broadband service than other segments of the population for a number of reasons, such as the high build-out costs of the infrastructure necessary to provide ubiquitous telephone and broadband services to residents on Tribal lands and the limited financial resources of many tribal communities. The very remote, large geographic, and difficult rugged terrain are significant challenges to the development of broadband in Alaska. This deters communications service providers from investing in the development of broadband because there is not an adequate return on investment. This contributes to other social and economic factors like educational opportunities, access to telehealth care, out-migration of tribal people from rural areas, and high unemployment. We recommend NTIA use an established measure such as the percentage of population or households on tribal lands with access to fixed terrestrial 25 Mbps/3Mbps service.
- Much of Alaska and tribal communities in the lower 48 states lack adequate middle-mile connectivity. On Tribal lands, unfortunately, there is no market-based solution for this problem due to the lack of return on investment. The General Accounting Office (GAO) has recognized this as a barrier to serving Tribal lands.<sup>2</sup> While middle-mile connectivity problems are not unique in remote parts of the United States, they are uniquely high in tribal communities. Lack of funding to support infrastructure for the middle mile, which connects high-speed backbone transmission to last-mile connectivity for Tribal end users, must be overcome to resolve the barriers to broadband—especially in the very remote and rugged topologies in Alaska. We recommend that NTIA develop an equitable funding method that takes this factor into account to address the unique circumstances of places like Alaska and in other tribal communities.
- Equitable distribution should take into consideration the cost differences across the United States for developing broadband infrastructure. There are unique costs associated with geographic considerations, lack of telco providers, compliance requirements associated with the National Historic Preservation Act, Archeological Resource Protection Act (ARPA), and the Native American Graves Repatriation Act (NAGPRA), right of way issues, and other unique challenges that drive up broadband costs. Compliance with these types of requirements drive up costs in particular markets and are reflected in price. In some instances in Alaska, such requirements have been used to deny critical infrastructure to communities for the delivery of health care services; we do not want to see such requirements or cost barriers

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<sup>2</sup> U.S. Government Accountability Office, GAO-16-222, Additional Coordination and Performance Measurement Needed for High-Speed Internet Access Programs on Tribal Lands at 10 (2016).

prevent communities from accessing broadband connectivity. ANHB recommends NTIA utilize a cost of living index to guide its distribution process to ensure equity across the tribal system.

There are lessons for this approach in tribal health care, as adjusting for price variations is not new to the tribal health system. For example, the Indian Health Service (IHS) utilizes an economic index developed by the Council of Community and Economic Research<sup>3</sup> when Congress allocates program increases in the Purchased/Referred Care (PRC) program<sup>4</sup> and in the Indian Health Care Improvement Fund (IHCIF).<sup>5</sup> A similar method could be adopted by the NTIA to address the high variability of prices associated with broadband technology.

## **Eligible Uses**

One of the most significant barriers to developing and funding broadband in tribal communities are the restrictions of federal funding to single-use deployments, for example, health care, education, libraries, law enforcement, or housing. These requirements to specific types of facilities or purposes prevent federal funds designated to support infrastructure deployment from being used to support wider community use, making it difficult for Tribes to achieve synergies and efficiencies. While the Eligible Uses described in the statute are very broad, we encourage the NTIA to provide broad flexibility within the categories for Tribes to use the funding.

For example, within the category broadband adoption activities, such activities as remote monitoring of water/sewer systems might not be included. However, this helps insure efficient operation of water/sewer systems, identify operational problems before they become emergencies, and prevent emergencies. These are critical infrastructure to mitigate and suppress COVID-19. One of our members, ANTHC, developed a remote water and sanitation facilities monitoring and reporting program which was designed to complement their rural energy and utility support programs. In the last 12 years, ANTHC's rural energy program has decreased cost of energy in sanitation by nearly 50%, and its utility support program has decreased the number and cost of sanitation emergencies significantly. Remote monitoring is a critical piece of sustaining these reductions in energy and emergency costs. Remote monitoring also allows problems to be identified and repaired before they become extremely costly emergencies that deprive entire communities of water and sewer service. Remote monitoring is an inexpensive way to protect water/sewer infrastructure investments worth tens of millions of dollars in each community.

We additionally recommend that this funding be allowed to be used in conjunction with other funds, when appropriate and not duplicative, to allow tribal communities to meet the costs of larger development projects to improve broadband networks and connectivity. Limiting the use of TBCP funding so that it cannot be used in conjunction with other funding sources may limit how the funds may ultimately be used by a community and limit their overall access to connectivity.

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<sup>3</sup> Formerly referred to as the American Chamber of Commerce Research Association (ACCRA) Index. Available at: <http://www.c2er.org>.

<sup>4</sup> See: <https://www.ihs.gov/i hm/pc/part-2/chapter-3-purchased-referred-care/>

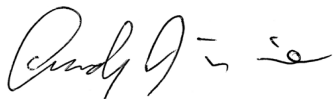
<sup>5</sup> See: <https://www.ihs.gov/i hcif/>

Further, we want to encourage the NTIA and FCC to allow the use of these funds to support the infrastructure improvements required as part of the 2.5GHz Rural Tribal Window Leasing Program, as appropriate under the requirements of the leases. The Act permits the use of these funds for “broadband infrastructure development”; by allowing this application of these funds to develop infrastructure under these lease requirements, tribal communities increase the chance of retaining these leases into the future, improving broader broadband access in their communities and increasing access to distance learning, health care, and other services.

## **Conclusion**

These are just some important examples of the many ways that broadband can support tribal communities and infrastructure through the TBCP if it is not overly constrained by regulatory and programmatic requirements. There are likely many more, and we recommend the broadest application of the criteria that are included in the Act. We thank you for the opportunity to provide our comment and recommendations on the development of this critical program. If you should have any questions concerning our comments or recommendations, do not hesitate to contact the ANHB at [anhb@anhb.org](mailto:anhb@anhb.org) or via telephone at (907) 562-6006.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew Jimmie". The signature is fluid and cursive, with a small flourish at the end.

Andrew Jimmie, Tribally-Elected Leader of the Village of Minto  
Chairman  
Alaska Native Health Board