

Office of the Governor
Pueblo of Tesuque
20 TP828
Santa Fe, New Mexico 87506

February 11, 2021

Douglas W. Kinkoph
Associate Administrator
Office of Telecommunications and Information Applications
National Telecommunications and Information Administration
U.S. Department of Commerce
1401 Constitution Ave., NW
Washington, DC 20230

Re: Comments on Implementation of the Tribal Broadband Connectivity Program

Dear Mr. Kinkoph:

On February 2, 2021, the Department of Commerce National Telecommunications and Information Administration (“NTIA”) sent a letter (the “DTL letter”) to tribal leaders, initiating consultation on the Tribal Broadband Connectivity Program (TBCP). Division N, Title IX, Section 905 of the Consolidated Appropriations Act of 2021 (“Act”) established the TBCP and provides a direct appropriation of \$1 billion for Tribal Broadband Connectivity Grants to expand broadband, remote learning, telework, and telehealth access and adoption by grants to qualifying tribal entities. The Pueblo of Tesuque (“Pueblo”) appreciates the agency’s effort to conduct consultation before finalizing the program requirements and submits this comment to provide our perspective on an equitable and efficient path forward.

Background on the Pueblo of Tesuque

The Pueblo has stood on its present location since 1200 A.D. and is listed on the National Register of Historic Places. Our reservation encompasses more than 17,000 acres, including Aspen Ranch and the Vigil Land Grant high in the Santa Fe National Forest.

We are a partner in REDINet – the high-speed, open access, community broadband network located in Northern New Mexico. REDINet is owned and operated by a consortium of local and tribal governments and was funded in part by the American Recovery and Reinvestment Act. While REDINet has been successful in bringing high-speed internet to our area, we have been unable to fully realize the potential of the service due to a lack of residential connectivity. There are approximately 80 homes that require connectivity to the REDINet system. These connections will allow students to participate in distance learning, elders to access much-needed telehealth, and help our members access employment opportunities – areas that the Covid-19 pandemic has shown are critical.

The Pueblo is excited about the recent 2.5GHz spectrum license awarded during the FCC Tribal Priority window. We are exploring options in how to efficiently deploy the resource and provide wifi to our community. While the 2.5GHz license is an important step in closing the digital divide, the Pueblo also does not want to lose sight of creating a terrestrial, broadband backbone to ensure the community has reliable access to emergency services, telemedicine, distance learning, and entrepreneurial opportunities.

TBCP Distribution Methodology

The DTL letter asks for tribal input on how NTIA can equitably distribute TBCP funds and ensure that the agency is upholding its treaty and trust responsibilities. The concept of equity is synonymous with fairness and justice. In order to achieve an equitable distribution, NTIA should develop funding criteria that look at a range of factors in order to ensure tribal projects are examined and approved objectively. These factors should be weighed appropriately to reflect the following:

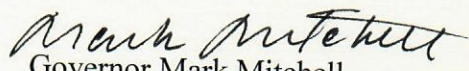
- **Need:** The primary basis for distribution should be based on need. Need is a multi-faceted determination, which should include:
 - ***Location Density:*** Indian tribes in rural areas should be given priority for these funds. Rural areas lag far behind more urban and suburban areas both in infrastructure build-out and in provider options. The FCC stated in the 2019 Broadband Deployment Report that “the gap in rural and Tribal America remains notable: over 26% of Americans in rural areas and 32% of Americans in Tribal lands lack coverage from fixed terrestrial 25 Mbps/3 Mbps broadband, as compared to only 1.7% of Americans in urban areas.” The Pueblo urges NTIA to use the definition of “rural area” used below by the U.S. Department of Agriculture in 7 CFR Part 1738:

“Rural area means any area, as confirmed by the most recent decennial Census of the United States (decennial Census), which is not located within:
(1) A city, town, or incorporated area that has a population of greater than 20,000 inhabitants; or
(2) An urbanized area contiguous and adjacent to a city or town that has a population of greater than 50,000 inhabitants. For purposes of the definition of rural area, an urbanized area means a densely populated territory as defined in the most recent decennial Census.”
 - ***Economic Considerations:*** A need determination should also factor in a tribe’s ability to fund its own broadband projects. The equitable solution is to provide the most financial support to tribes that have not been able to build a strong reservation economy in part due to the lack of broadband infrastructure.
 - ***Health and Safety:*** NTIA should prioritize tribes without terrestrial broadband infrastructure for emergency and first response capabilities. The ability to alert the community in emergency situations and allow first responders to communicate during a crisis should be a primary factor in determining need.

- **Flexibility:** As the agency has heard over the course of the consultation calls, the needs in Indian country vary greatly. Each tribal nation has its own set of circumstances that require a flexible use of funds. There is no “one size fits all” answer to closing the digital divide. The Pueblo urges NTIA to build flexibility into the TBCP to ensure the program has the greatest impact. This includes allowing last mile, middle mile, and 2.5GHz projects to be constructed under the program regulations, and include reasonable waivers to certain grant requirements to account for both lack of financial resources and other deficiencies.
- **Non-Federal Match Requirement:** Tribes have historically faced challenges in obtaining federal grant dollars due to cost-prohibitive match requirements. The Pueblo urges NTIA to consider allocating funds regardless of a non-federal match, or, include a sliding scale that eliminates the match based on the economic situation of an applicant tribe.

On behalf of the Pueblo of Tesuque, thank you again for your commitment to full and meaningful tribal government consultation and your desire to fulfill the mandate of the Act by creating an equitable and efficient program. Closing the digital divide in these uncertain times is a paramount concern for all of Indian country, and the Pueblo looks forward to working with NTIA to bring broadband to everyone in our community.

Sincerely,


Governor Mark Mitchell
Pueblo of Tesuque