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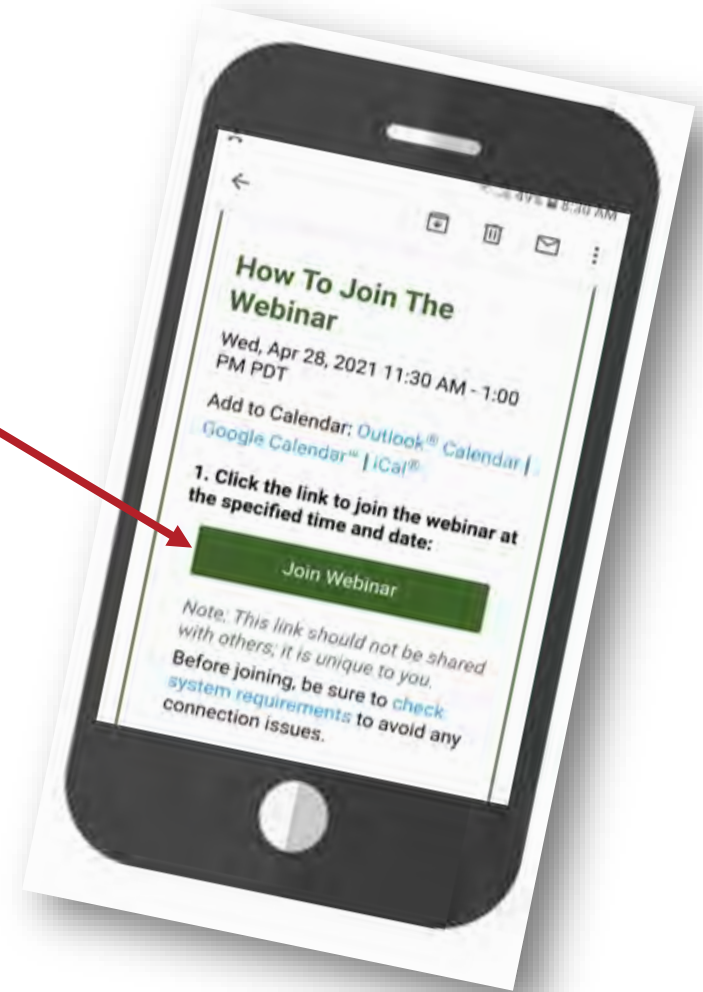
✓ Click on Join Webinar from your email confirmation.

✓ Download the app as directed.

✓ Webinar will launch automatically once the app is downloaded and opened

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The presentation along with a transcript and recording will be available on the BroadbandUSA website under Events/Past Event on or before July 28, 2021.

Tribal Broadband Connectivity Program

TBCP Application Hot Topics

July 22, 2021

Questions

- Type questions in the Q&A box on the right side of the screen. Questions and answers will be available on the FAQ section of our website.

- [Overview of Consolidated Appropriations Act, 2021 | BroadbandUSA (doc.gov)](#)

Presentation

- The presentation along with a transcript and recording will be available on the BroadbandUSA website under Events/Past Events on or before July 28, 2021.

- [BroadbandUSA Past Events](#)

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

Presenters:

- Crystal Hottowe, Broadband Program Specialist, NTIA

- Amanda Pereira, Environmental/NEPA Specialist, First Responder Network Authority

- Jana Waters, Acting Division Chief, Division of Real Estate Services, Bureau of Indian Affairs (BIA)

- Nick Courtney, Broadband Program Specialist, NTIA

- Gabe Montoya, Broadband Program Specialist, NTIA

Moderator:

- Sarah Bleau, Broadband Program Specialist, NTIA

Agenda

|	
Workforce Development & Digital Inclusion	Nick Courtney
Elements of a Thorough Feasibility Study	Crystal Hottowe
Environmental and Historical Preservation Requirements	Amanda Pereira
Rights of Way on Tribal Lands	Jana Waters
Questions and Answers	All

Nick Courtney
Broadband Program Specialist
NTIA

Digital Inclusion & Workforce Development

Broadband Planning Roadmap
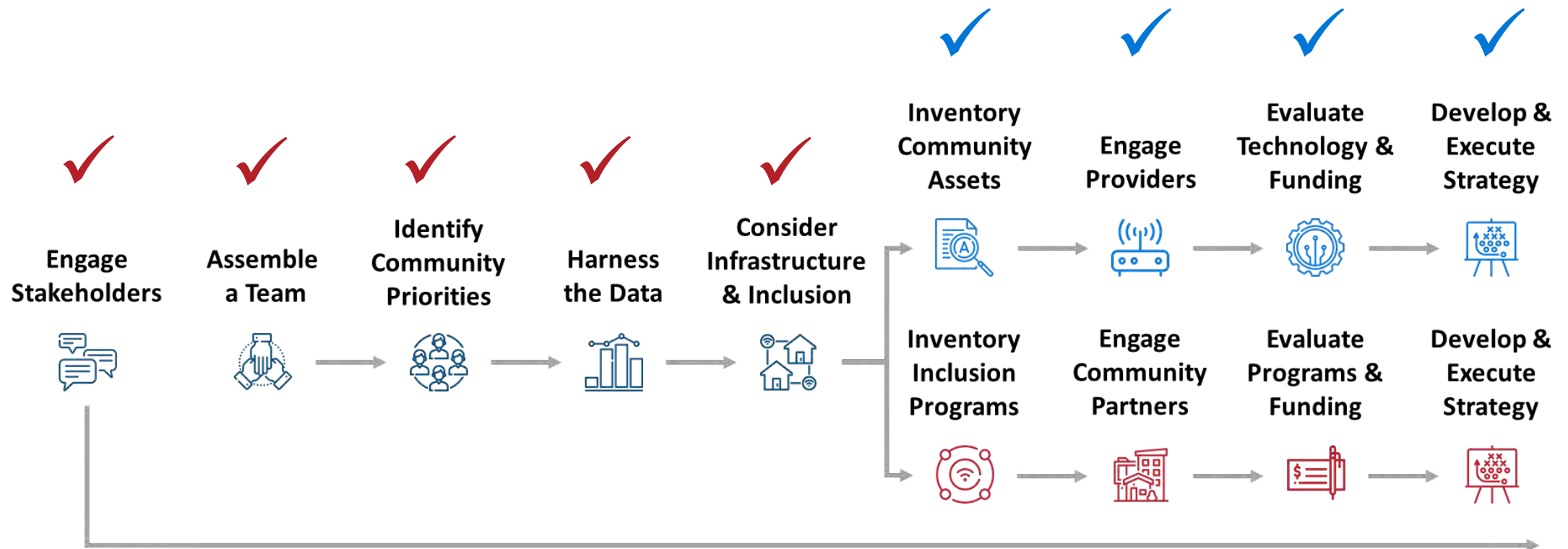
What is Digital Inclusion?

Digital Inclusion ensures that individuals and communities have **access** to robust and **affordable** broadband connections; Internet-enabled **devices** that meet their needs; and the **skills** to explore, create and collaborate in the digital world.

PEOPLE and COMMUNITY

Digital Empowerment is….

Health

Innovation

Workforce

Education
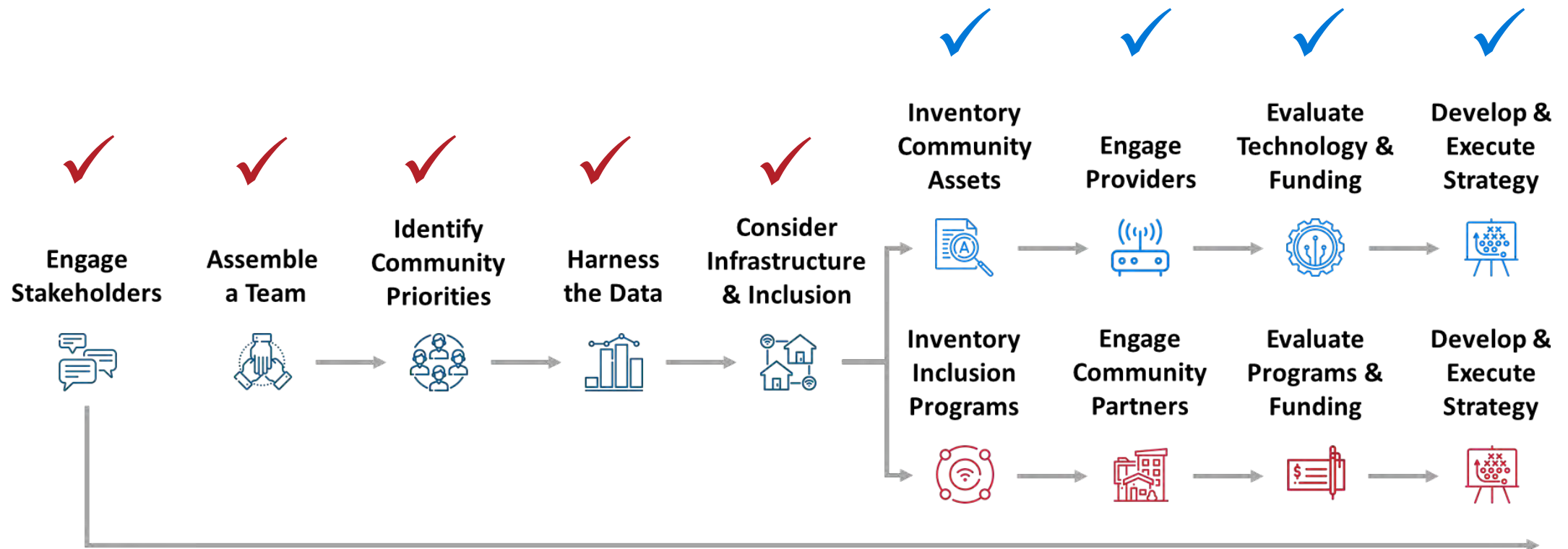
Economic Opportunity

Civic Participation

Crystal Hottowe
Broadband Program Specialist
NTIA

Broadband Planning Feasibility & Sustainability

Broadband Planning Roadmap

Assess Resources

Compare existing resources with needs to shape the plan:

Inventory of Existing Resources and Assets

Gaps

Community Needs Assessment

Initial Roadmap
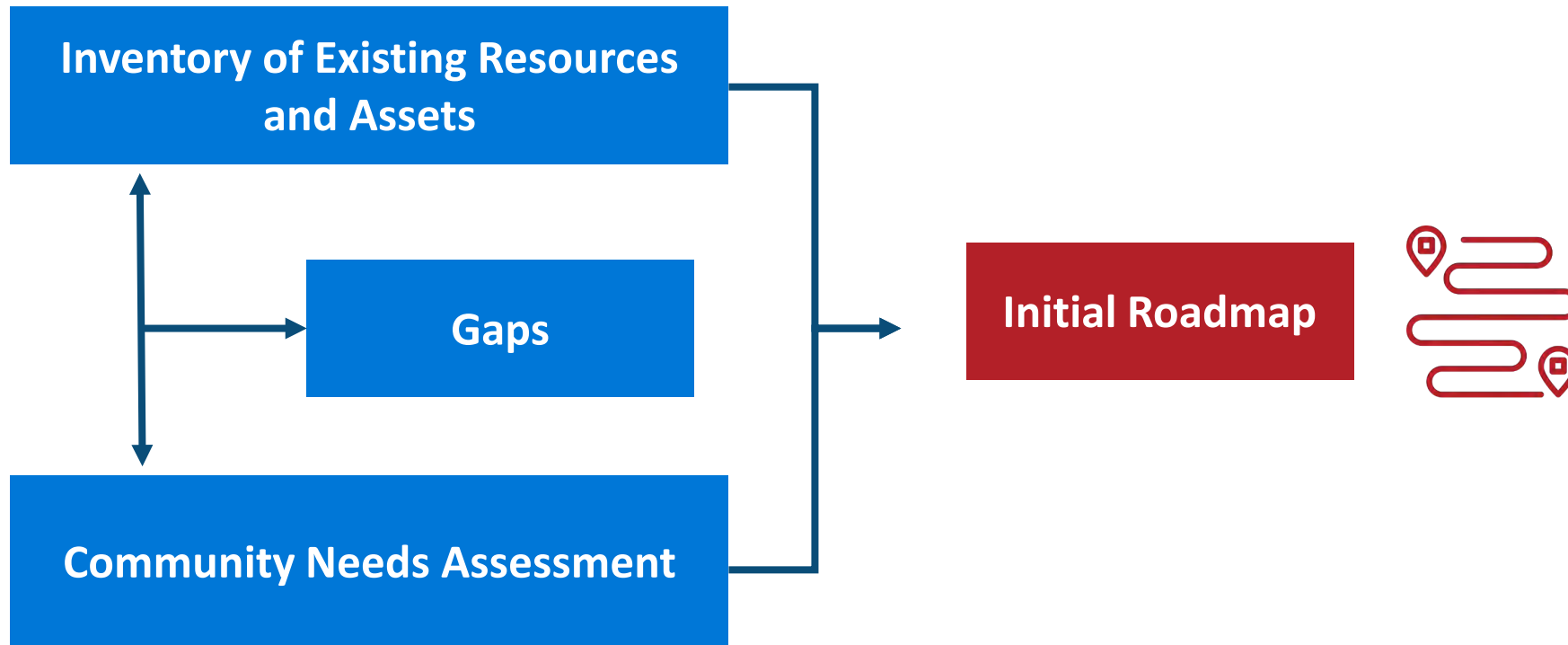
Broadband Planning Inventories

Inventory of **Physical Facilities and Community Resources** across both the private and public sector that are available to support broadband deployment

Inventory of **Projects and Processes** to facilitate lower cost for broadband deployment

Inventory of **Land and Space**

Inventory of **Service Sectors and Geographic Areas in the Community**

Base Pricing Structure on Demand and Service Offerings

Cost-Based
Price based on costs and estimated total return

Value-Based
Price based on the value customers/users place on a product

Penetration
Services priced competitively with market prices

Service-Based
Services offered to meet community goals
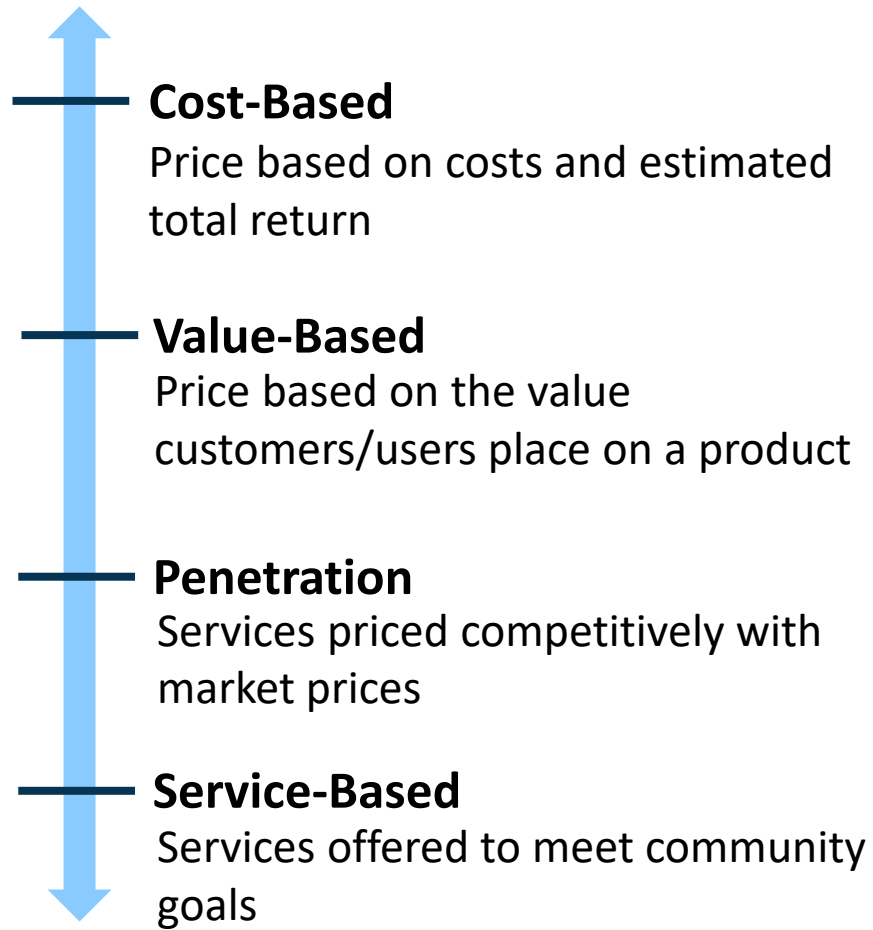
Gabe Montoya
Broadband Program Specialist
NTIA

Introductory Remarks: Environmental and Historical Preservation Requirements

Amanda Pereira
Environmental/NEPA Specialist
First Responder Network Authority

Environmental and Historical Preservation Requirements

Compliance with Environmental and Historic Preservation Requirements

Applications must contain sufficient information to allow for initial National Environmental Policy Act (NEPA) analysis.

In order to facilitate this initial analysis, applicants must submit a detailed project description, including applicable supporting documentation, with their application package.

Awardees will be required to obtain all required federal, tribal, state, and local governmental permits and approvals prior to beginning their project – *this does not need to be done pre-award*.

Funds may be withheld under a specific award condition until the Awardee develops and submits additional environmental compliance information or analysis sufficient to assess the environmental impact of the project.

EHP Overview

Passed in 1970, the National Environmental Policy Act (NEPA) is considered an "umbrella law" as it provides a framework within which all other environmental, historic, and cultural resources laws can be evaluated. This illustration identifies only a fraction of the requirements that must be met before a project can move forward.

NEPA

Resource Conservation and Recovery Act

Superfund Authorization and Recovery Act

Archeological and Historic Preservation Act

American Indian Religious Freedom Act

Floodplains and Wetlands laws and requirements

Safe Drinking Water Act

Coastal Zone Management Act

State and Local Land use requirements

Clean Water Act

Clean Air Act

Endangered Species Act

Migratory Bird Treaty Act

Bald and Golden Eagle Protection Act

Executive Orders on Environmental Justice

Toxic Substances Control Act

Comprehensive Environmental Response, Compensation, and Liability Act

Farmland Protection Policy Act

Native American Grave s Protection and Repatriation Act

EHP Overview

- NEPA and the National Historic Preservation Act (NHPA) both require the government to examine the impacts of its proposed actions before taking them

  - NEPA is triggered by, among other things, the use of federal funds, **including grant funds**

- NHPA requirements can be addressed as part of the NEPA compliance process, *however…*

- NHPA consultation requirements apply regardless of requirements under NEPA

- Both NEPA and NHPA review, including consultation, must be completed before an action can begin

Levels of NEPA Review

- **Categorical Exclusions (CEs or CATEXs)** are issued for defined actions that the agency has determined do not individually or cumulatively have a significant effect on the environment.

- **Environmental Assessment (EA)** – If CEs do not apply, an EA will be prepared for actions in which the significance of the environmental impact is not clearly established. Should environmental analysis find a project to have no significant impacts on the quality of the environment, a Finding of No Significant Impact (FONSI) is issued.

- **Environmental Impact Statement (EIS)** – Prepared for projects when the action will likely have a significant effect on the environment. This is the most comprehensive and time-consuming method of documenting NEPA compliance. The final decision relating to the proposed action shall consider the environmental information provided in the EIS and require the preparation of a Record of Decision (ROD). The ROD documents the final decision made, whether to approve the project or not, and the basis for that decision.

NEPA Process Overview
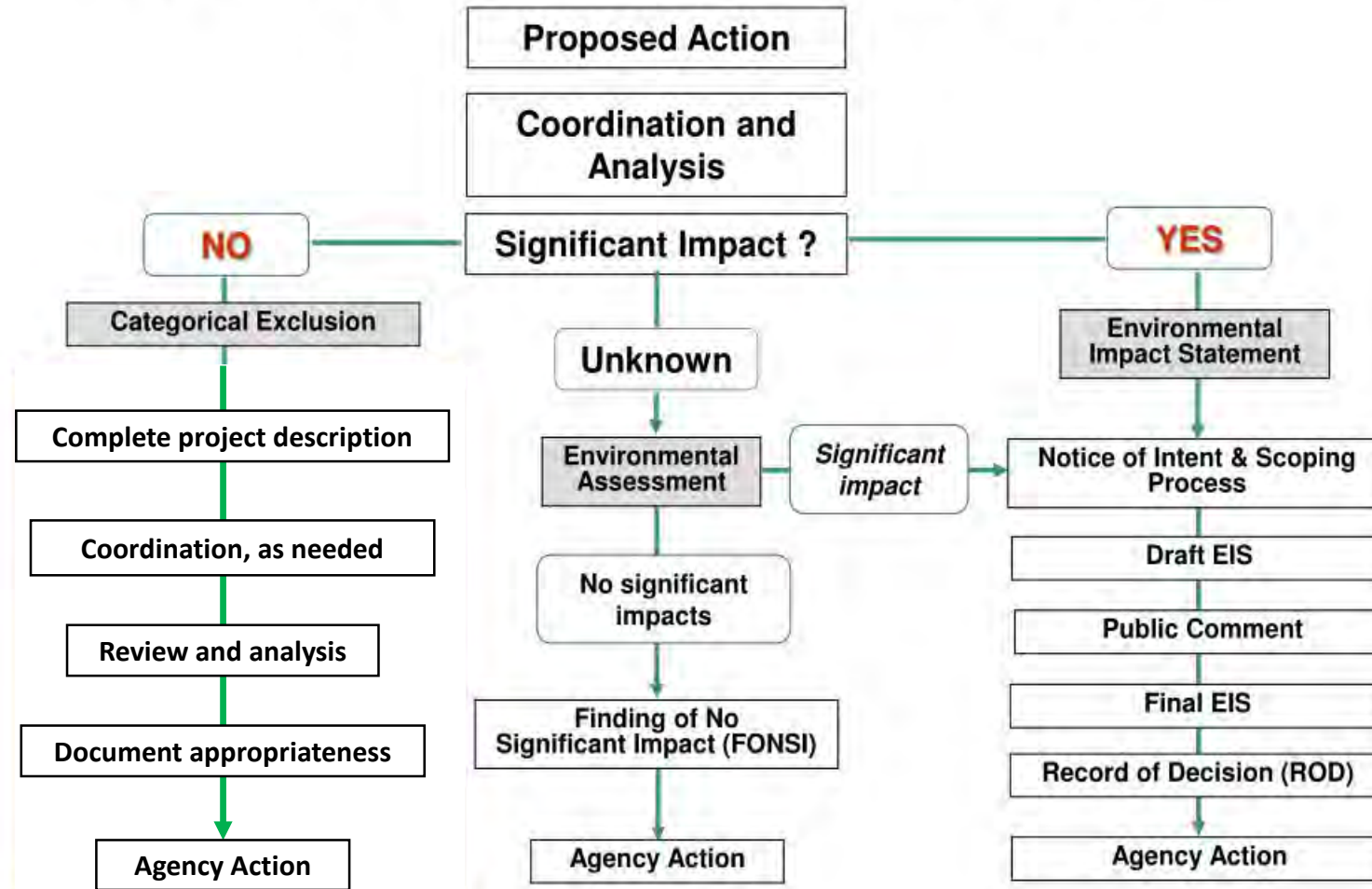
Key Elements of a Good Project Description

- **A good project description will provide enough detail about the potential impacts to the environment to make a preliminary determination about the level of NEPA review required.**

- How do you do that?
  - Describe **what** the project is (e.g., construction of a 150' monopole communication tower)
  - Describe **where** the project is proposed (e.g., 123 Main Street, Anytown, USA), **and** include a physical description of the site and surrounding area (e.g. developed land vs. open space; adjacent natural resources, such as rivers, wetlands, or forests; and any protected lands)
  - Describe **how** the project will be implemented (e.g., requiring 1-acre of ground disturbance at an approximate depth of 5 feet, and the installation of a concrete pad, an equipment shed, and an emergency generator with a 1,000-gallon above-ground fuel storage tank)
  - Include ground-level and aerial photos and project plan drawings
  - For new construction projects, include a floodplain map from the FEMA Map Service Center (free download at https://msc.fema.gov/portal/home) and a wetlands map from the US Fish and Wildlife Service's National Wetlands Inventory (free download at https://www.fws.gov/wetlands/Data/Mapper.html)

EHP Timelines

- Timelines will be affected by the complexity of the project and number of consulting parties.
- These timelines do not take into account any other outstanding agency approvals, such as NHPA or ESA consultations, USACE permitting, SWPPP review, etc.
- Environmental analysis is an allowable use of grant funds.
- Based on a complete environmental record, NTIA's review process:
  - **Categorical Exclusion** – NTIA will develop, assuming NTIA receives a sufficient project description and no extraordinary circumstances exist, approximately **30-45 days** to develop and deliver
  - **Environmental Assessment** – grant recipient will develop in coordination with NTIA, approximately **3-12 months** to develop and deliver to NTIA
  - **Environmental Impact Statement** – grant recipient will develop in coordination with NTIA, extensive public involvement requirements apply, approximately **1 year+** to develop and deliver to NTIA

Gabe Montoya
Broadband Program Specialist
NTIA

Introductory Remarks: Rights of Way on Tribal Lands

Jana Waters
Acting Division Chief
Division of Real Estate Services, Bureau of Indian Affairs

Rights of Way on Tribal Lands

BIA Jurisdiction

When is a ROW Needed?

Completing an ROW Application

Leveraging Existing ROW

ROW Application Review and Timeline

U.S. Department of the Interior
Indian Affairs

U.S. Department of the Interior
Indian Affairs

BIA Jurisdiction

Trust Responsibility

- The Bureau of Indian Affairs (BIA) is the primary federal agency charged with carrying out the United States' trust responsibility to American Indian and Alaska Native people, maintaining the federal government-to-government relationship with the federally recognized Indian tribes, and promoting and supporting tribal self-determination.

- The mission of the BIA is to enhance the quality of life, to promote economic opportunity, and to carry out the responsibility to conserve and protect the trust assets of American Indians, Indian Tribes, and Alaska Natives.

Bureau of Indian Affairs: Regional Jurisdictions

Bureau of Indian Affairs Jurisdiction

Regional Offices

12 Regional Offices

83 Agencies

Exercising trust responsibility to 574 Federally Recognized Tribes

U.S. Department of the Interior
Indian Affairs

When is a ROW Needed?

LEASE
Developing a site location (e.g. fixed wireless broadband access, tower, building, etc.

PERMIT
Installing broadband equipment on existing towers (government property).

ROW
Middle mile Broadband infrastructure by digging trenches, deploying fiber, deploying fiber optic/existing equipment on existing towers and utility poles.
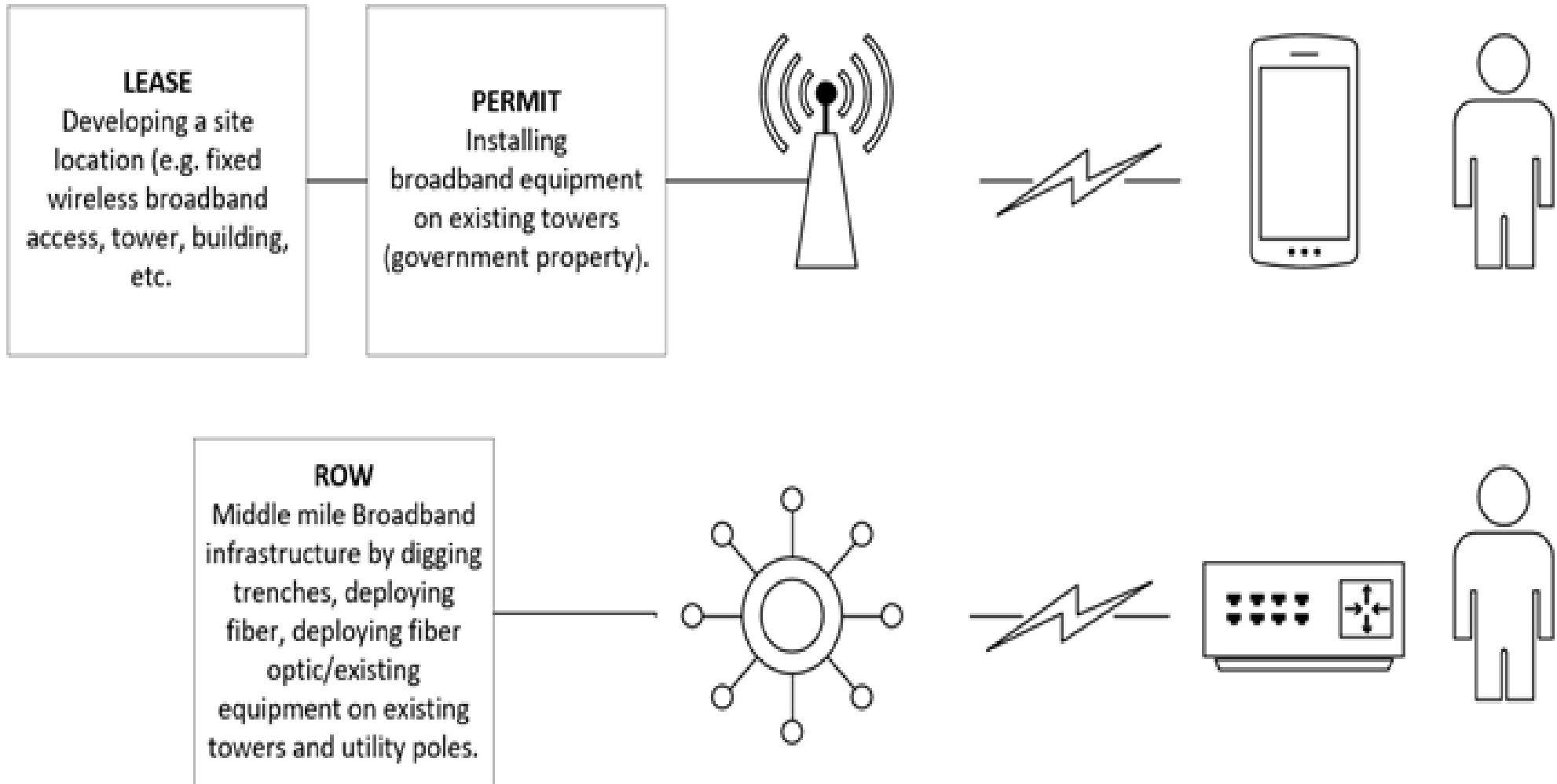
Do I need a ROW?

YES

- A person or legal entity (including Federal, State or local government entities) who is not an owner of the Indian Land
- An individual Indian landowner who owns a fractional interest in the land (even if you own a majority of the fractional interest)
- An Indian Tribe, agency, or instrumentality of the Tribe, or an independent legal entity wholly owned an operated by the tribe who owns a fractional interest in the land (even if the Tribe or entity owns a majority interest)

NO

- You are an Indian landowner who owns 100% of the trust or restricted interests in the land
- A parent or guardian of a minor child who owns 100% of the trust or restricted interests in the land
- You are authorized by a service line agreement to cross the land
- An independent legal entity wholly owned and operated by the Tribe that owns 100% of the trust or restricted interests in the land
- Otherwise authorized by law

U.S. Department of the Interior
Indian Affairs

Completing a ROW Application

Complete ROW Package (25 CFR § 169)

- Application for Rights-of-Way
  - Application information
  - Tract location(s)
  - Purpose
  - Duration
  - Ownership of permanent improvements
- Accurate legal description of tract(s) (e.g., survey)
- Map of definite location
- Bond(s), insurance, and/or other security
- Proof that notice of the ROW was provided to Indian landowners

Complete ROW Package (25 CFR § 169)

- Tribal and/or Landowner consent(s) representing majority of the ownership interests

- If applicant is a corporation, LLC, partnership, joint venture or other legal business entity (does not include Tribal entities):

  - Authority to execute, ROW is enforceable against applicant and is in good standing to conduct business

- Tribal authorization that ROW is in conformance with applicable tribal law

- Any waivers for bond, valuation, or others, if applicable

U.S. Department of the Interior
Indian Affairs

Complete ROW Package (25 CFR § 169)

- Fair Market Value (e.g., appraisal, market analysis, negotiations, etc.)
  - BIA may approve ROW for less than FMV if:
    - Grantee is a utility cooperative and is providing a direct benefit to the Indian land
    - Grantee is a tribal utility
    - Individual Indian landowners execute a written waiver of the right to receive FMV and we determine it is in the individual Indian landowners' best interests.

- National Environmental Policy Act (NEPA) Compliance, (Ex: Cat-x, EA, FONSI, EIS, Archaeological, biological, etc.)
  - Work closely with your regional office to determine if any Categorical Exclusions may apply. https://www.doi.gov/sites/doi.gov/files/uploads/doi_and_bureau_categorical_exclusions.pdf

Recommendations and Tips

- Host early meeting with landowners, partners, and BIA staff to educate them on the project.

- Applications may include multiple contiguous tracts under a single ROW grant.

- Landowner consent is determined on the day the application is submitted. Work with BIA Realty staff to ensure you have up-to-date landowner information when obtain consents.

- Applicant is responsible for obtaining consent from landowners of fee interests in Indian lands. BIA is not involved in this process.

- Tribal ROW: Tribe can grant an easement to an independent legal entity wholly owned and operated by the Tribe over tribal lands that is owned 100% by the Tribe without BIA approval when:

  - Tribe passes a Tribal Resolution

  - Tribal Resolution and legal description is recorded with BIA (LTRO)

  - Other documents can be submitted (e.g., tribal grant of easement, maps, etc.)

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Indian Affairs

Leveraging Existing ROW

How Existing ROW Can Help

- If the Tribe or a tribal entity has an existing ROW, using this same ROW for your broadband project may simplify the environmental assessment process if it qualifies for a CATEX

- If another entity has a ROW where the Tribe would like a ROW within the path of an existing ROW owned by another entity, that grant may be approved with the consent/notification of the other entity

U.S. Department of the Interior
Indian Affairs

Review and Timeline

Obtaining Rights-of-Way (ROW) for Broadband

PRELIMINARY MEETING →

Applicant, Tribe/Landowners, BIA
- Discuss roles of each Party to obtain and submit ROW package.

→ **IDENTIFY LAND STATUS AND LANDOWNER(S)**
- Applicant/Tribe requests Public TSR from BIA

↓

NOTICE
- Applicant submits Letter of Intent to Landowners & BIA

← **PERMISSION TO ACCESS FROM:**
- Landowners/Tribe
- BIA

Applicant Responsible for:

SURVEY
- Map of Definite Location

NEPA
- EA/EIS
- CatEx

APPRAISAL (FMV)
- USPAP
- AVSO/Third Party

Negotiation of Terms Between Applicant and Landowners

RIGHT OF WAY CONSENT
- Tribal - Resolution/Agreement
- Allotted - Consent forms

↓

PROCESS APPLICATION →

BIA has 60 days to approve a complete ROW application

BIA APPLICATION PACKAGE REVIEW
- Acknowledgement Letter - 10 days - complete/incomplete
- Incomplete - Return for correction
- Complete - 60 Days to grant ROW.
- Issue Grant of Easement for ROW

Complete Application package includes:
- Application
- Survey/Legal Description
- Landowner Consents
- NEPA
- Corporate Documents
- Valuation
- Compensation
- Bonds, Insurance or other security
- Waivers

POST GRANT PROCESS →

POST
- Payment
- Due Diligence
- Field Inspection
- Encode into TAAMS and Record

→ **Amendments**
Assignments
Mortgages
Renewals
- Go back to start

Q & A

Contact Us

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Join again for the grants webinar series!

	Broadband Infrastructure Program	Tribal Broadband Connectivity Program	Connecting Minority Communities Pilot Program
Past Events:	April 28 & 29 June 9 & 10	April 21 & 22 June 16 & 17	May 5 & 6 June 23 & 24
Upcoming Events:	July 14 & 15 August 4 & 5	July 21 & 22 August 11 & 12 August 23 & 24	July 28 & 29 August 18 & 19 September 22 & 23 October 20 & 21

Webinars start at 2:30 pm ET

Registration is required for each webinar and is limited to 1,000

BroadbandUSA Latest Events

Thank you for attending

The slides, transcript, and a recording will be posted on the BroadbandUSA website by July 28.

🌐 Broadbandusa.ntia.doc.gov

✉️ broadbandusa@ntia.doc.gov

📞 202-482-2048