

**NOTICE OF FUNDING OPPORTUNITY**  
**STATE DIGITAL EQUITY CAPACITY GRANT PROGRAM**  
**EXECUTIVE SUMMARY**

**A. Federal Awarding Agency Name**

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

**B. Funding Opportunity Title**

State Digital Equity Capacity Grant Program

**C. Announcement Type**

Initial

**D. Funding Opportunity Number**

NTIA-SDECGP-2024

**E. Assistance Listing (CFDA Number)**

11.032

**F. Key Dates**

Complete applications from States (including the 50 states, the District of Columbia, and the Commonwealth of Puerto Rico) must be received through the NTIA Grants Portal (<https://grants.ntia.gov>) no later than 11:59 p.m. Eastern Time (ET) on **May 28, 2024**. Application materials are available at <https://broadbandusa.ntia.doc.gov>.

Complete applications from U.S. Territories (other than the Commonwealth of Puerto Rico) must be received through the NTIA Grants Portal (<https://grants.ntia.gov>) no later than 11:59 p.m. Eastern Time (ET) on **July 31, 2024**.

The application window for Indian Tribes, Alaska Native entities, and Native Hawaiian organizations (“Native Entities”) will open **September 25, 2024**, and close on **February 7, 2025**. All Native Entity applications must be received through the NTIA Grants Portal (<https://grants.ntia.gov>), by email ([digitalequity@ntia.gov](mailto:digitalequity@ntia.gov)), or by mail or courier no later than 11:59 p.m. Eastern Time (ET) on **February 7, 2025**.

NTIA expects to begin issuing awards to Eligible States pursuant to this Notice of Funding Opportunity (“NOFO”) no later than August 28, 2024. NTIA expects to make additional awards on a rolling basis.

### **G. Application Submission Address**

For States and U.S. Territories, complete application packets, including the Digital Equity Plan of the State or Territory, must be submitted electronically through the NTIA Grants Portal (<https://grants.ntia.gov>). Applications or portions thereof submitted by a State or Territory through postal mail, courier, email, facsimile, or other means will not be accepted.

For Native Entities, complete applications must be submitted (1) electronically through the NTIA Grants Portal (<https://grants.ntia.gov>), (2) by email ([digitalequity@ntia.gov](mailto:digitalequity@ntia.gov)), or (3) by mail or courier.

*See* Section II.C of this NOFO for detailed information concerning application submission requirements for States and U.S. Territories. *See* Section III.C of this NOFO for detailed information concerning application submission requirements for Native Entities.

### **H. Funding Opportunity Description**

This Notice of Funding Opportunity (“NOFO”) solicits applications for the State Digital Equity Capacity Grant Program (“Capacity Grant Program” or “Program”), the second of three digital equity programs authorized by the Infrastructure Investment and Jobs Act of 2021, Division F, Title III, Public Law 117-58, 135 Stat. 429, 1209 (November 15, 2021) (“Infrastructure Act” or “IIJA”) also known as the (“Digital Equity Act” or “DE Act”). The Digital Equity Act appropriated \$2.75 billion to be awarded by the Assistant Secretary of Commerce for Communications and Information (“Assistant Secretary”) to promote digital inclusion activities and achieve digital equity.

The Digital Equity Act consists of three funding programs: (1) the \$60 million State Digital Equity Planning Grant Program; (2) the \$1.44 billion State Digital Equity Capacity Grant Program; and (3) the \$1.25 billion Competitive Grant Program. NTIA released the Notice of Funding Opportunity for the State Digital Equity Planning Grant Program (“Planning Grant Program”) on May 13, 2022, making funds available to States and Territories to develop State Digital Equity Plans (“Digital Equity Plans”). The Capacity Grant Program will provide funds to States and U.S. Territories to implement the State Digital Equity Plans developed pursuant to the State Digital Equity Planning Grant Program. The Digital Equity Plans identify the barriers to achieving digital equity faced by certain populations defined by the statute (i.e. “Covered Populations”), and include measurable objectives to promote: (1) the availability and affordability of access to broadband technology; (2) online accessibility and inclusivity of public resources and services; (3) digital literacy; (4) awareness of online privacy and cybersecurity; and (5) the availability and affordability of consumer devices and technical support for those devices.

In addition, this NOFO establishes a competitive process to make both State Digital Equity Planning Grant Program funds and State Digital Equity Capacity Grant Program funds available to Native Entities to carry out digital equity and inclusion activities consistent with the Digital Equity Act. These proposed projects must include measurable objectives and evaluation criteria as part of their program design and will likewise address barriers to digital equity and promote the availability and affordability of access to broadband technology, online accessibility and inclusivity of public resources and services, digital literacy, awareness of online privacy and cybersecurity, and the availability and affordability of consumer devices and technical support for those devices.

Because funding for States and U.S. Territories is based on a statutory allocation formula and funding for Native Entities will be determined through a separate competitive process, this NOFO is divided into sections to help clarify specific requirements applicable to different entities applying for funding. The procedures through which States and U.S. Territories can seek funding are outlined in Section II. Procedures for Native Entities to obtain funding are addressed in Section III. The remaining sections are common to both types of entities.

Recognizing that achieving digital equity for all people, including Indigenous peoples of the United States and Territories, is a matter of social and economic justice, this NOFO seeks to enable any entity that is awarded a grant under this Program to better understand, measure, and address systemic barriers to digital equity and, in collaboration with the communities most impacted, co-create the conditions necessary for long-lasting and meaningful change to ensure a sustainable future. Focusing investments on creating these conditions for change will allow entities awarded a grant under this Program to address the causes of socioeconomic disparities and will result in improved outcomes in health, education, economic stability, and quality of life among the Covered Populations.

## **I. Funding Instrument**

Grant

## **J. Eligibility**

Each State that has completed a Digital Equity Plan that meets the requirements of 47 U.S.C. §1723(c) is eligible to apply for grants under the Capacity Grant Program to implement its Digital Equity Plan and to carry out digital inclusion activities. In addition, U.S. Territories that submit a Digital Equity Plan consistent with the obligations of their State Digital Equity Planning Grant award are eligible to apply for grants under the Capacity Grant Program to implement its Digital Equity Plan and to carry out digital inclusion activities. Finally, Native Entities, or a consortium of Native Entities, with the necessary authorizations described in Section III.B.1 of this NOFO, are eligible to apply for both Capacity Grant and Planning Grant funding to promote the objectives of digital equity and inclusion. *See* Section II.B.1 of this NOFO for the eligibility requirements of States and Territories. *See* Section III.B.1 for the eligibility requirements of Native Entities.

## **K. Anticipated Amounts**

Grant awards to Eligible States will be based upon the statutory formula established in the Digital Equity Act and will depend on the number and characteristics of the States that apply. Grant awards to the U.S. Territories will be made as an equal distribution of the territorial set aside provided for in 47 U.S.C. §1723(i)(3). Grant awards to Native Entities will be awarded on a competitive basis under the criteria outlined in Section III of this NOFO and will depend upon the number of applicants and the size of the proposals submitted.

Congress has appropriated \$840,000,000 for grants under the State Digital Equity Capacity Grant Program through fiscal year 2024 (\$240,000,000 for fiscal year 2022, \$300,000,000 for fiscal year 2023, and \$300,000,000 for fiscal year 2024). As statutorily required, no less than one (1) percent of the total amount of funding will be made available to Territories (\$8,400,000) and no less than five (5) percent of the total amount of funding will be made available to Indian Tribes, Alaska Native entities, and Native Hawaiian organizations (\$42,000,000). Congress also authorizes the Assistant Secretary to set aside, from amounts made available each fiscal year, funds for salaries and expenses, administration, and oversight, \$1,000,000 of which must be transferred to the Office of Inspector General of the Department of Commerce for oversight. After eliminating administrative costs and transfers, and set asides for U.S. Territories and Native Entities, \$760,800,000 is being made available to Eligible States for federal financial assistance under the Capacity Grant Program.

In addition, \$3,000,000 that was set aside for Native Entities under the State Digital Equity Planning Grant Program, but which could not be released due to oversubscription, as well as approximately \$300,000 of unclaimed State Digital Equity Planning Grant Program funds will now be made available to Native Entities through this NOFO. In total, NTIA expects to make approximately \$45,300,000 available for Digital Equity Planning and Capacity Grants to Native Entities.<sup>1</sup> NTIA expects to make individual Digital Equity Capacity Grant Program awards to Native Entities within a range of \$500,000 to \$2,000,000. This funding range is not a required minimum or maximum, but Native Entities requesting funding for projects outside of this range must provide a reasonable explanation for the variance in their project size. Native Entities may also be included in State Digital Equity Plans.<sup>2</sup>

Future NOFOs are expected to make up to an additional \$300,000,000 available for implementation of Digital Equity Plans and digital inclusion activities in each of fiscal years 2025 and 2026.

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<sup>1</sup> This amount is in addition to the approximately \$3 billion previously made available through the Tribal Broadband Connectivity Programs which included funds for broadband use and adoption to address the digital divide on Tribal Lands. See, [Tribal Broadband Connectivity Program Notice of Funding Opportunity](#).

<sup>2</sup> See, e.g., 47 U.S.C. §1723(c)(1)(D)(iv).

### **L. Cost Sharing/Matching**

The Capacity Grant Program does not require cost sharing or matching, and NTIA will not give additional consideration during the evaluation process for applications proposing a non-federal cost-sharing contribution.

### **M. Notice of Funding Opportunity Summary**

The following table provides a summary of key provisions within Sections II and III of this NOFO.

	<b>States &amp; U.S. Territories</b> (Section II)	<b>Native Entities</b> (Section III)
<b>Program Name</b>	State Digital Equity Capacity Grant Program	State Digital Equity Capacity Grant Program
<b>Eligible Entities</b>	States (including D.C. and Puerto Rico) & U.S. Territories	Indian Tribes, Alaska Native entities, & Native Hawaiian organizations
<b>Program Purpose</b>	Implement Digital Equity Plans and carry out digital inclusion activities	Conduct digital equity planning and carry out digital equity and inclusion activities consistent with the Digital Equity Act
<b>Amount of Total Funding Available</b>	<ul style="list-style-type: none"><li>• \$760,800,000 available for States (including D.C. and Puerto Rico)</li><li>• \$8,400,000 available for U.S. Territories</li></ul>	<p>\$45,300,000, <i>of which</i></p> <ul style="list-style-type: none"><li>• \$3,300,000 is from the State Digital Equity Planning Grant Program and is for digital equity planning purposes, and</li><li>• \$42,000,000 is from the State Digital Equity Capacity Grant Program and is for digital equity and inclusion activities</li></ul>
<b>Allocation Approach</b>	Formula	Competitive

<b>Expected Award Size Per Entity</b>	<ul style="list-style-type: none"> <li>• For States (including D.C. and Puerto Rico), see “Tentative State Award Allocation” table (Sec. II.A.4.b)</li> <li>• For U.S. Territories, \$2,100,000</li> </ul>	<p>\$500,000 - \$2,000,000</p> <p>While Native Entities are not required to seek Planning Grant funding, any Planning Grant funding requests must be capped at seven and one-quarter (7.25) percent of the total funds requested.</p>
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## FULL ANNOUNCEMENT TEXT

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## **I. PROGRAM DESCRIPTION**

NTIA issues this Notice of Funding Opportunity (“NOFO”) to describe the requirements under which it will award grants for the State Digital Equity Capacity Grant Program (“Capacity Grant Program” or “Program”), authorized by § 60304(d) of the Infrastructure Investment and Jobs Act of 2021, Division F, Title III, Public Law 117-58, 135 Stat. 429, 1209 (November 15, 2021) (“Infrastructure Act” or “IIJA”), also known as the Digital Equity Act of 2021 (“Digital Equity Act” or “DE Act”).<sup>3</sup> The Capacity Grant Program provides funding for the implementation of Digital Equity Plans created pursuant to 47 U.S.C. §1723(c), including the promotion of digital inclusion activities.

### **A. Overview of the State Digital Equity Capacity Grant Program**

Broadband connections and digital literacy are increasingly critical to individual participation in the society, economy, and civic institutions of the United States.<sup>4</sup> Broadband connections expand access to health care and essential services, education, and jobs. High-speed Internet access is not a luxury, but a necessity, for all people of the United States, regardless of their age, race, or income, irrespective of where they live, what languages they speak, what resources they have at their disposal, their disability status, and what specific challenges they may face in their daily lives.

Unfortunately, not all Americans have been afforded access to broadband services on an equal basis. Many Americans live in locations where no service is available, the speed or quality of the service is unreliable, and/or the offering available is unaffordable. Even where broadband service is available, many on the wrong side of the digital divide lack the equipment, digital skills training, financial assistance, and other resources necessary to realize the Internet’s full potential. Digital exclusion carries a high societal and economic cost. Lack of accessible broadband services, digital skills, and equipment materially harms the opportunity of an individual to achieve economic success, educational advancement, positive health outcomes, social inclusion, and civic engagement. The Digital Equity Act identifies those groups most vulnerable to this digital exclusion and creates a program to address their needs (the “Covered Populations”).<sup>5</sup> The DE Act recognizes that individuals that live in households near the poverty

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<sup>3</sup> 47 U.S.C. §1701 *et seq.*

<sup>4</sup> 47 U.S.C. §1722.

<sup>5</sup> 47 U.S.C. §1721(8). The “Covered Populations” are: (a) individuals who live in covered households (defined as households with income of not more than 150% of the poverty level); (b) aging individuals; (c) incarcerated individuals (as defined by the State or Territory), other than individuals who are incarcerated in a Federal correctional facility; (d) veterans; (e) individuals with disabilities; (f) individuals with a language barrier, including individuals who are English learners and have low levels of literacy; (g) individuals who are members of a racial or ethnic minority group; and (h) individuals who primarily reside in a rural area.

level, aging individuals, incarcerated individuals, veterans, individuals with disabilities, individuals with a language barrier, members of racial or ethnic minority groups, and individuals living in rural areas all face barriers to digital inclusion that warrant additional efforts to ensure digital equity is achieved.

Achieving digital equity will strengthen the American economy. When members of the Covered Populations are excluded from the digital economy, they lose job opportunities and access to educational resources and workforce development opportunities. As the job market becomes increasingly digital, those without digital skills and access will face increasing challenges in securing well-paying employment. This lack of digital literacy can also reduce digital entrepreneurship and cost the United States significant opportunities for new business development and economic activity. Digital exclusion can also prevent individuals from accessing financial services, managing their finances efficiently, and building wealth – exacerbating existing wealth and income gaps. On an international scale, digital exclusion can reduce America’s competitiveness in the global economy.

Achieving digital equity will likewise improve personal welfare and promote civic engagement among the Covered Populations. Lack of access to telehealth services, which rely on digital technologies and have become vital in providing healthcare access, is leading to health disparities and increased healthcare costs, particularly in rural areas. The inability of members of the Covered Populations to access online services also undermines the ability of the government to provide more efficient services and share critical information and proceedings with the public. Expanding digital equity will enable members of the Covered Populations to access information and government services online and empower these individuals to engage in civic activities, such as voting, advocacy, and community involvement, contributing to a more participatory democracy.

Recognizing the devastating impact of digital exclusion, President Biden made a commitment that every household in America will have access to affordable, reliable, high-speed Internet, and the resources necessary to realize the Internet’s full potential. Passed on a bipartisan basis in both chambers of Congress, the Digital Equity Act of 2021 provides \$2.75 billion to address digital inclusion and advance digital equity. The law charges NTIA – the President’s principal advisor on telecommunications and information policy matters, housed within the United States Department of Commerce (DOC) – with administering these programs.

The Digital Equity Act creates a carefully structured process to address the core concerns of digital equity and digital inclusion for the members of the Covered Populations. The first step was the creation of detailed Digital Equity Plans. NTIA launched the State Digital Equity Planning Grant Program (“Planning Grant Program”) on May 13, 2022, awarding \$53.7 million to 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and four U.S. Territories, to develop Digital Equity Plans which identify the barriers to digital adoption for each of the eight Covered Populations identified in the statute. With this funding, all fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands have for the first time developed Digital Equity Plans designed to identify the barriers to digital equity faced

by the Covered Populations, establish measurable objectives for documenting and promoting the availability and affordability of access to fixed and wireless broadband services, online accessibility and inclusivity of public resources and services, digital literacy and skills, awareness of cybersecurity and protection of online privacy, and the availability of affordable consumer devices.

This Notice of Funding Opportunity will make funds available to begin implementation of these State<sup>6</sup> and U.S. Territory<sup>7</sup> Digital Equity Plans and will, in addition, empower Indian Tribes, Alaska Native entities, and Native Hawaiian organizations (“Native Entities”) to address digital equity and inclusion consistent with the purposes of the Digital Equity Act.

States and U.S. Territories will receive funding to adopt sustainable, long-term programs that address digital equity through defined projects and activities, consistent with their Digital Equity Plans, that will have a measurable impact on the availability, affordability, and adoption of broadband technology, the accessibility and inclusivity of public resources, digital literacy and skills, awareness of the importance of cybersecurity, online privacy, and the availability and affordability of consumer devices. Native Entities will be able to undertake both planning and implementation projects to further digital equity through a competitive grant program with performance goals similar in scope to those outlined for States and Territories, including availability, affordability, and adoption of broadband technology, the accessibility and inclusivity of public resources, digital literacy and skills, cybersecurity, online privacy, and the availability and affordability of consumer devices.

As result of these programs, the DE Act will ensure that all Americans are able to benefit from the IIJA investment in broadband infrastructure. The success of the States and Territories in meeting these goals will be tracked through the reporting requirements on the applicable performance metrics outlined in Section II.A.3 below. The success of the Native Entities in meeting these goals will be tracked through the reporting requirements on the applicable performance metrics outlined in Section III.A.3 below. Recognizing that it is essential to ensure that Digital Equity Plans remain relevant, effective, and aligned with the changing community needs and advancements in technology, this Program will also allow States and Territories to utilize up to twenty (20) percent of their funds to update and maintain their Digital Equity Plans during the period of performance of a Capacity Grant Program award.

Digital equity is a multi-faceted issue that requires a “whole of government” approach to ensure that the various federal agencies are working together to create a more inclusive and equitable landscape for all Americans. This allows for the development of holistic solutions that address

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<sup>6</sup> As defined by the Digital Equity Act, and as used in this NOFO, the term “State” means any State of the United States; the District of Columbia; and the Commonwealth of Puerto Rico. 47 U.S.C. §1721(21).

<sup>7</sup> The Digital Equity Act establishes a set aside for the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States that is not a State (“U.S. Territory(ies)” or “Territory(ies)”). 47 U.S.C. §1723(i).

the root causes of digital disparities, such as lack of Internet access, digital skills, and affordability. Recognizing that one program alone cannot address the challenges to digital equity and inclusion that face the United States, the Digital Equity Act directs NTIA to engage in a cross-government consultation process to ensure that the Program complements and enhances, and does not conflict with, other federal broadband initiatives and programs. NTIA has launched a robust interagency coordination effort, receiving input from nine (9) agencies and the Federal Communications Commission, documenting the programs available to serve members of the Covered Populations, and discussing means by which these programs can be integrated into the Digital Equity Plans of States and Territories. NTIA will use this information to enhance the value of the Capacity Grant Program and ensure the United States derives the maximum benefit from this investment in digital equity.

This NOFO is divided into sections to help clarify specific requirements applicable to different entities applying for funding. The procedures through which States and U.S. Territories can seek funding are outlined in Section II. Procedures for Native Entities to obtain funding are addressed in Section III. The remaining sections are common to both types of entities.

## **B. Connections to the Broadband Equity, Access, and Deployment (BEAD) Program**

The Digital Equity Act of 2021 is closely tied to the broader infrastructure deployment goals of the Broadband Equity, Access, and Deployment (BEAD) Program. The BEAD Program is an historic \$42.5 billion investment in grants to States and U.S. Territories for broadband planning, deployment, mapping, equity, adoption, and meaningful use projects. The BEAD Program includes a requirement that recipients submit a Five-Year Action Plan and an Initial Proposal, each of which must include descriptions of the recipient's plans to advance digital equity and inclusion.

Collaboration and coordination between the implementation of a State or Territory's Digital Equity Plan and the State or Territory's Five-Year Action Plan under BEAD are essential to maximize the impact of both initiatives, thereby ensuring that the resources devoted to each program are working in a complementary and non-duplicative manner. As noted in the DE Planning Grant NOFO, States and Territories should at a minimum establish formal and direct communications and collaboration pathways between the teams that remain in place throughout the entire implementation process. This will be particularly important to reduce the burden and confusion on community stakeholders when fulfilling the local coordination, outreach, and stakeholder engagement requirements of both programs. Similarly, Native Entities should ensure their projects are coordinated with other broadband projects, such as those funded by the Tribal Broadband Connectivity Program ("TBCP").

## **C. Definitions**

(1) Assistant Secretary: The term "Assistant Secretary" means the Assistant Secretary of Commerce for Communications and Information or the individual who holds any successor position.

(2) Administering Entity: The term “Administering Entity” refers to the entity selected by the governor (or equivalent official) of each State to administer the State Digital Equity Planning and Capacity Grant Programs. The entity selected for the purposes of the Planning Grant Program must also administer the State Capacity Grant Program, unless the governor (or equivalent official) selects a new entity to undertake all the responsibilities described below.

The administering entity shall—

1. Serve as the recipient of, and administering agent for, any grant awarded to a State under this Program;
2. Develop, implement, oversee, and, as applicable, update the State Digital Equity Plan for the State;
3. Make subgrants to any entity described in 47 U.S.C. §1723(c)(1)(D) of the Infrastructure Act that is located in the State in support of:
  - a. The State Digital Equity Plan for the State; and
  - b. Digital inclusion activities in the State generally; and
4. Serve as—
  - a. An advocate for digital equity policy and digital inclusion activities; and
  - b. A repository of best practice materials regarding the policies and activities described in clause (a).

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

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



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

(4) Aging Individual: The term “aging individual” means an individual who is 60 years of age or older.

(5) Alaska Native Entity: The term “Alaska Native entity” will refer to a tribally controlled entity in Alaska whose purpose or mission is to represent or advance the interests of one or more native Alaskan communities. This will include, but will not be limited to, subsidiary organizations of an Indian Tribe; entities that receive federal funding due to their status as an Indian or Native organization; and the Alaska Native Regional Nonprofit Organizations created to administer social, educational, and health services for Alaska Native people in their region.

(6) Commission: The term “Commission” refers to the Federal Communications Commission.

(7) Community Anchor Institution: The term “community anchor institution” means a public school, a public or multi-family housing authority, a library, a medical or healthcare provider, a community college or other institution of higher education, a State or Territory library agency, and any other nonprofit or governmental community support organization.

(8) Covered Household: The term “covered household” means a household, the income of which for the most recently completed year is not more than 150 percent of an amount equal to the poverty level, as determined by using criteria of poverty established by the Bureau of the Census.

(9) Covered Populations: The term “Covered Populations” means:

1. Individuals who live in covered households;
2. Aging individuals;
3. Incarcerated individuals (as defined by the State or Territory), other than individuals who are incarcerated in a federal correctional facility;
4. Veterans;
5. Individuals with disabilities;
6. Individuals with a language barrier, including individuals who—
  - a. Are English learners; and
  - b. Have low levels of literacy;
7. Individuals who are members of a racial or ethnic minority group; and
8. Individuals who primarily reside in a rural area.

(10) Digital Equity: The term “digital equity” means the condition in which individuals and communities have the information technology capacity that is needed for full participation in the society and economy of the United States.

(11) Digital Inclusion: The term “digital inclusion” –

1. Means the activities that are necessary to ensure that all individuals in the United States have access to, and the use of, affordable information and communication technologies, such as—

- a. Reliable fixed and wireless broadband internet service;
- b. Internet-enabled devices that meet the needs of the user; and
- c. Applications and online content designed to enable and encourage self-sufficiency, participation, and collaboration; and

2. Includes—

- a. Obtaining access to digital literacy training;
- b. The provision of quality technical support; and
- c. Obtaining basic awareness of measures to ensure online privacy and cybersecurity.

(12) Digital Literacy: The term “digital literacy” means the skills associated with using technology to enable users to find, evaluate, organize, create, and communicate information.

(13) Disability: The term “disability” means, with respect to an individual—

1. A physical or mental impairment that substantially limits one or more major life activities of such individual;
2. A record of such an impairment; or
3. Being regarded as having such an impairment.

(14) Eligible State: The term “Eligible State” means a State with respect to which the Assistant Secretary has approved an application submitted to the Assistant Secretary under this NOFO, including a State Digital Equity Plan developed by the State under 47 U.S.C. §1723(c).

(15) Indian Tribe: The term “Indian Tribe” means any Indian tribe, band, nation, or other organized group or community (i.e., Tribal Organizations), including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 et seq., which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(16) Native Hawaiian Organization (NHO): An organization that is registered with the U.S. Department of the Interior’s Office of Native Hawaiian Relations and Hawaiian Homes

Commission Act Beneficiary Associations and Homestead Associations, as defined under 43 C.F.R. §§ 47.10 and 48.6, or is the Department of Hawaiian Home Lands.

(17) Native Entity: As used in this NOFO, the term “Native Entity” refers to Indian Tribes, Alaska Native entities, and Native Hawaiian organizations as referenced in 47 U.S.C. 1723(i)(2) and that meet the eligibility criteria outlined in Section III.B.1 of this NOFO.

(18) Rural Area: The term “rural area” means any area other than –

1. A city or town that has a population of greater than 50,000 inhabitants;
2. Any urbanized area contiguous and adjacent to a city or town that has a population of greater than 50,000 inhabitants; and
3. In the case of a grant or direct loan, a city, town, or incorporated area that has a population of greater than 20,000 inhabitants.

(19) State: The term “State” means:

1. any State of the United States;
2. the District of Columbia; and
3. the Commonwealth of Puerto Rico.

(20) Tribal Organization: The term “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.

(21) U.S. Territory: The term “U.S. Territory,” “U.S. Territories” or “Territory(ies)” means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States that is not a State.

(22) Veteran: The term “veteran” means a person who served in the active military, naval, air, or space service, and who was discharged or released therefrom under conditions other than dishonorable.

## **II. STATES AND U.S. TERRITORIES - APPLICATION REQUIREMENTS AND AWARD INFORMATION**

This Section provides detailed information for States and U.S. Territories regarding federal award information, eligibility, the application and submission process for the Capacity Grant Program, and the review criteria to be used for these awards. Information for Native Entities regarding these subjects can be found in Section III of this NOFO.

### **A. FEDERAL AWARD INFORMATION**

#### **1. Funding Availability**

To fund grants under the State Digital Equity Capacity Grant Program, Congress appropriated \$840,000,000 for fiscal years 2022 through 2024 (\$240,000,000 for fiscal year 2022, \$300,000,000 for fiscal year 2023, and \$300,000,000 for fiscal year 2024).<sup>8</sup>

47 U.S.C. §1723(i)(3) requires NTIA to set aside not less than one (1) percent of the total funds appropriated for each fiscal year “to award grants to, or enter into contracts or cooperative agreements with, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States that is not a State.” Accordingly, NTIA has set aside \$8,400,000 for grants to the U.S. Territories to satisfy the Territorial set aside requirement of fiscal years 2022 through 2024.

47 U.S.C. §1723(i)(2) requires NTIA to set aside not less than five (5) percent of the total funds appropriated for each fiscal year “to award grants to, or enter into contracts or cooperative agreements with, Indian Tribes, Alaska Native entities, and Native Hawaiian organizations.” Accordingly, NTIA has set aside \$42,000,000 for grants to Native Entities to satisfy the Native Entity set aside requirement for the fiscal years 2022 through 2024.<sup>9</sup> As discussed in Section III.A.1, an additional \$3,000,000 will be made available to Native Entities under the Digital Equity Planning Grant Program, as well as approximately \$300,000 in unclaimed funds from the Planning Grant Program, for a total funding opportunity of approximately \$45,300,000 under this NOFO.

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<sup>8</sup> Because both 47 U.S.C. §1721(14)(B) and 47 U.S.C. §1723(d)(2)(B) require the completion of a State Digital Equity Plan before an Eligible State may apply for a State Digital Equity Capacity Grant, the State Digital Equity Capacity Grant Program could not be made available in 2022 and 2023.

<sup>9</sup> In 2022, Congress appropriated \$60,000,000 for the State Digital Equity Planning Grant Program and \$240 million for the State Digital Equity Capacity Grant Program. The Digital Equity Planning Grant NOFO applied the required set aside of 1% for U.S. Territories and 5% for Native Entities to the \$60,000,000 Planning Grant appropriation for 2022. Through this NOFO, NTIA now sets aside the same percentages for the remaining \$240,000,000 appropriated in 2022, thus satisfying the requirement of 47 U.S.C. §1723(i) that NTIA set aside funds from the total amounts made available in a fiscal year.

Congress has also permitted the Assistant Secretary to set aside from amounts appropriated for each fiscal year, funds for salaries and expenses, administration, and oversight, \$1,000,000 of which must be transferred to the Office of Inspector General of the Department of Commerce for each fiscal year. NTIA has set aside \$28,800,000 for administrative and transfer costs of the State Digital Equity Capacity Program.

After accounting for administrative expenses, including transfers to the Department of Commerce Office of Inspector General, set asides for U.S. Territories, and set asides for Native Entities, NTIA will make available \$760,800,000 for States to be allocated as required by 47 U.S.C. §1723(d)(3)(A)(i) and Section II.A.4 of this NOFO. Subject to the availability of funding, future NOFOs are expected to make up to an additional \$300,000,000 available for implementation of Digital Equity Plans and digital inclusion activities in each of fiscal years 2025 and 2026.

## **2. Period of Performance**

As established in 47 U.S.C. §1723(d)(3)(B), Eligible States “shall expend the grant funds during the 5-year period beginning on the date on which the Eligible State is awarded grant funds.”<sup>10</sup> Under the terms of this NOFO, U.S. Territories will likewise be required to expend the grant funds during the 5-year period beginning on the date on which the entity is awarded grant funds.<sup>11</sup>

## **3. Performance Measurement and Evaluation**

Capacity Grant recipients and subrecipients are required to incorporate program measurement and evaluation activities as a part of their program design and implementation. These activities must include documentation of the State or Territory’s Digital Equity Plan implementation efforts and the progress made toward meeting the measurable objectives identified in those Digital Equity Plans, including the success of specific funded projects in meeting the performance objectives of the Program. States and Territories must protect personally identifiable information as required by 2 C.F.R. §200.303(e) and provide protection of human subjects as required by 15 C.F.R. Part 27.

Information collected must include the following data points:

- a. Number of Covered Population(s) served;
- b. Number of people served within each Covered Population;
- c. Total number of people served;

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<sup>10</sup> The five-year period begins on the first day of the period of performance identified in the grant agreement.

<sup>11</sup> Id.

- d. Number of programs implemented by type;
- e. Anecdotal/personal testimony demonstrating the positive impact of the Program;
- f. Quantifiable evidence of progress toward the measurable objectives identified in the Digital Equity Plan;
- g. Impact on the State or Territory's goals regarding:
  - i. Economic and workforce development outcomes;
  - ii. Educational outcomes;
  - iii. Health outcomes;
  - iv. Civic and social engagement; and
  - v. Delivery of essential services.

At the end of the period of performance, a State or Territory receiving funds under the Capacity Grant Program must submit an assessment of the effectiveness of the programs along with the results, protocols, and instruments used to collect the above data to NTIA. All program evaluation materials must be submitted in accordance with the terms and conditions of the subject grant award and no later than the final award closeout and may be posted publicly on NTIA's website.

#### **4. Award Amounts**

Funding amounts for Eligible States will be determined pursuant to the statutory formula set forth at 47 U.S.C. §1723(d)(3)(A)(i) and this NOFO. U.S. Territories will receive equal shares of the Capacity Grant Program funding set aside for U.S. Territories consistent with 47 U.S.C. §1723(i)(3).

##### **a. Statutory Award Formula for States**

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

- i. fifty (50) percent of the total grant amount is based on the population of the Eligible State in proportion to the total population of all Eligible States;
- ii. twenty-five (25) percent of the total grant amount is based on the number of individuals in the Eligible State who are members of the Covered Populations, in proportion to the total number of individuals in all Eligible States who are members of the Covered Populations; and
- iii. twenty-five (25) percent of the total grant amount is based on the comparative lack of availability and adoption of broadband in the Eligible State relative to all Eligible States, as determined by data collected from the annual inquiry of the Federal Communications Commission pursuant to Section 706(b) of the

Telecommunications Act of 1996,<sup>12</sup> the American Community Survey, NTIA Internet Use Survey, and any other source that the Assistant Secretary, after appropriate notice and opportunity for public comment, determines to be appropriate.

In the event that certain data on broadband availability or adoption are unavailable for the Commonwealth of Puerto Rico during a given fiscal year, the Assistant Secretary shall use the median value among all Eligible States for each affected factor in the formula and assign it to Puerto Rico for the purposes of making the calculations for that fiscal year.<sup>13</sup>

The capacity grant amount awarded to any Eligible State in a given fiscal year must not be less than one-half (0.5) percent of the total amount made available to award Capacity Grants to Eligible States during that fiscal year.<sup>14</sup> Additionally, if there are amounts remaining available to NTIA after awarding the Digital Equity Capacity Grants to States in a given fiscal year, NTIA shall distribute those amounts to Eligible States to which NTIA has awarded Digital Equity Capacity Grants in accordance with the formula described at 47 U.S.C. §1723(d)(3)(A)(i). If additional Digital Equity Capacity Grant funds remain unclaimed following this distribution (for example, if one or more States decline the extra funds), the Assistant Secretary will add the remaining balance to the funds set aside for U.S. Territories and/or Native Entities.

After reviewing applications and determining which States are eligible to receive Capacity Grants, NTIA will apply the funding formula as detailed in Appendix A. NTIA and the U.S. Census Bureau have collaborated to create the “Digital Equity Act Population Viewer,” which shows Covered Population totals calculated by the Census Bureau for each state, alongside the other factors used as inputs into the funding formula. The Digital Equity Act Population Viewer can be accessed at <https://www.census.gov/data/data-tools/digital-equity-act-population.html>.

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<sup>12</sup> 47 U.S.C. §1302(b).

<sup>13</sup> 47 U.S.C. §1723(d)(3)(A)(iv).

<sup>14</sup> 47 U.S.C. §1723(d)(3)(A)(ii).

**b. Tentative State Award Allocation Amount**

Tentative award allocation amounts per State, assuming that each State seeks and receives Digital Equity Capacity Grant funds, are as follows:

<b>State</b>	<b>Amount</b>	<b>State</b>	<b>Amount</b>
Alabama	\$13,702,566.00	Montana	\$6,938,534.64
Alaska	\$5,631,769.64	Nebraska	\$6,500,627.76
Arizona	\$16,170,760.44	Nevada	\$9,200,546.13
Arkansas	\$10,161,429.01	New Hampshire	\$4,942,018.62
California	\$70,226,453.82	New Jersey	\$18,094,857.62
Colorado	\$12,368,261.03	New Mexico	\$8,673,975.84
Connecticut	\$9,183,114.07	New York	\$36,984,641.81
Delaware	\$4,816,482.10	North Carolina	\$22,456,097.01
District of Columbia	\$3,804,000.00	North Dakota	\$4,549,772.25
Florida	\$41,748,794.74	Ohio	\$23,291,991.74
Georgia	\$22,455,639.68	Oklahoma	\$11,233,311.64
Hawaii	\$6,017,160.03	Oregon	\$9,947,586.17
Idaho	\$6,305,226.45	Pennsylvania	\$25,508,473.61
Illinois	\$23,732,912.78	Puerto Rico	\$9,807,187.39
Indiana	\$15,096,770.19	Rhode Island	\$4,540,059.53
Iowa	\$8,442,129.37	South Carolina	\$12,846,583.30
Kansas	\$8,229,246.17	South Dakota	\$5,010,234.08
Kentucky	\$12,123,531.39	Tennessee	\$15,814,288.00
Louisiana	\$12,727,887.98	Texas	\$55,641,147.86
Maine	\$5,784,349.60	Utah	\$7,795,149.91
Maryland	\$13,427,134.17	Vermont	\$5,299,150.18
Massachusetts	\$14,133,924.00	Virginia	\$18,330,732.47
Michigan	\$20,585,775.60	Washington	\$15,983,291.58
Minnesota	\$12,033,288.01	West Virginia	\$9,011,588.00
Mississippi	\$10,752,090.73	Wisconsin	\$13,248,029.83
Missouri	\$14,237,940.09	Wyoming	\$5,251,485.99

NTIA emphasizes that these allocations are tentative, and that a State's final allocation could be higher or lower than the amount listed here, depending on factors including the number of States that elect to participate in the program and the results of any challenges to this allocation.



### **c. Allocation Challenge Process for State Awards**

As provided in the Digital Equity Act,<sup>15</sup> a State may challenge the amount allocated to it as determined by the funding formula outlined in this NOFO. Any State that wishes to challenge the tentative award amount listed above shall submit a letter to the Assistant Secretary, through the NTIA programmatic contact listed in Section V of this NOFO, signed by the governor or equivalent official, within fourteen (14) calendar days of the publication of this NOFO. The letter shall describe, in as much detail as practicable, the error or other defect that the State believes to have occurred in NTIA's application of the formula or statutory requirements. The Assistant Secretary will determine the validity of the challenge and respond to the State in writing within twenty-one (21) calendar days of the end of this fourteen (14) day period. If the Assistant Secretary determines that a recalculation of formula amounts is appropriate, the Assistant Secretary will promptly notify the other States of this occurrence and of the results of any amendment to award amounts for all States. Additionally, a State receiving a Capacity Grant Award may challenge the amount allocated to it as determined by the funding formula after receiving its award in accord with this subsection, although NTIA strongly encourages States that wish to challenge funding allocations to do so within fourteen (14) calendar days of publication of this NOFO.

### **d. Awards to U.S. Territories and Possessions**

47 U.S.C. §1723(i)(3) requires the Assistant Secretary to reserve not less than one (1) percent of the total funds appropriated in a given fiscal year to carry out the Program to award grants to, or enter into contracts or cooperative agreements with, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States that is not a State, to enable those entities to carry out the activities described in the statute.<sup>16</sup> Consistent with the Digital Equity Act, NTIA has reserved one (1) percent of the funds made available for fiscal years 2022, 2023, and 2024<sup>17</sup> (\$8,400,000) for this purpose. Further, the Assistant Secretary tentatively allocates \$2,100,000 to each of: (a) the United States Virgin Islands, (b) Guam, (c) American Samoa, and (d) the Commonwealth of the Northern Mariana Islands, for the purpose of implementing the Digital Equity Plans each U.S. Territory has developed pursuant to 47 U.S.C. §1723(c). This tentative funding amount may be modified if one of the named U.S. Territories does not apply, applies but fails to receive a grant under this Program, or is awarded a grant for an amount less than the tentative allocation identified in this NOFO.

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<sup>15</sup> See, 47 U.S.C. §1723(d)(3)(C).

<sup>16</sup> See, 47 U.S.C. §1723(i)(3).

<sup>17</sup> Due to the sequencing of the State Digital Equity Planning and Capacity Grant Programs mandated by the IIJA and the statute's annual release of funds, funding from fiscal years 2022 and 2023 are being included in this NOFO along with fiscal year 2024 Digital Equity Capacity funding.

## **5. Type of Funding Instrument**

The funding instrument for awards made to States pursuant to this NOFO will be a grant. NTIA also expects to award grants to U.S. Territories, although NTIA and the NIST Grants Officer<sup>18</sup> reserve the right to issue cooperative agreements or contracts to such entities in accordance with 47 U.S.C. §1723(i)(3).

### **B. ELIGIBILITY INFORMATION**

#### **1. Eligible Applicants**

Each State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, that has completed a Digital Equity Plan that meets the requirements of 47 U.S.C. §1723(c) is eligible to apply for grants under this program. The governor or equivalent official of each State that wishes to be awarded a grant must designate an Administering Entity for that State to receive and administer the grant.<sup>19</sup> The Administering Entity selected for the purposes of the Planning Grant Program must also administer the State's Capacity Grant Program, unless the governor (or equivalent official) selects a new entity to serve as the Administering Entity for both programs. *See* Section I.C.2 of this NOFO for the definition of "Administering Entity," including the list of entities eligible to serve as Administering Entities and the roles and responsibilities of an Administering Entity.

U.S. Territories that submit a Digital Equity Plan consistent with the obligations of their State Digital Equity Planning Grant award are eligible to apply for grants under this program. The Administering Organization selected by the U.S. Territory for the purposes of the State Digital Equity Planning Grant Program must also administer the State Digital Equity Capacity Grant Program, unless the governor (or equivalent official) selects a new entity to serve in this role.

#### **2. Cost Sharing or Matching**

The Digital Equity Act authorizing the establishment of this program does not contain a statutory non-federal cost sharing or matching funds requirement. Accordingly, NTIA will not require a State or U.S. Territory applying for a financial assistance award under this program to provide a non-federal cost contribution and will not give additional consideration during the evaluation process for applications proposing a non-federal cost-sharing arrangement.

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<sup>18</sup> The National Institute of Standards and Technology ("NIST") has been delegated the authority to act as the Grants Officer for the Department of Commerce and provides the business management and administrative platforms necessary to manage the Digital Equity Act grants on behalf of NTIA.

<sup>19</sup>See, 47 U.S.C. §1723(b).

## **C. APPLICATION AND SUBMISSION INFORMATION**

### **1. Address to Request Application Package**

Application forms and instructions are available on the NTIA Grants Portal at <https://grants.ntia.gov> and on its BroadbandUSA website <https://broadbandusa.ntia.gov>. Applicants should follow instructions set forth below and are encouraged to submit their applications early.

NTIA recommends that applicants participate in application technical assistance webinars and review the program and application guidance that will be posted on NTIA's BroadbandUSA website <https://broadbandusa.ntia.gov>. Applications submitted by email, paper, or facsimile will not be accepted.

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**

State and U.S. Territory applications for Capacity Grants under the State Digital Equity Capacity Grant Program must be complete, must adhere to the instructions provided in this NOFO, and must be submitted in the format requested in the NTIA Grants Portal (<https://grants.ntia.gov>).

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

- a. A description of the entity selected to serve as the Administering Entity for the State (*see* definitions set forth in Section I.C of this NOFO) or in the case of a U.S. Territory, the Administering Organization.
- b. A Digital Equity Plan for the State meeting the requirements of 47 U.S.C. §1723(c) or the Digital Equity Plan for the Territory meeting the requirements of the Digital Equity Planning Grant award of the Territory.
- c. A certification that the State or Territory, acting through the Administering Entity for the State or through the Administering Organization for the Territory, shall not later than five (5) years after the date on which the Assistant Secretary awards the Capacity Grant to the State or Territory:
  - i. Implement the Digital Equity Plan of the State or Territory; and
  - ii. Make subgrants in a manner that is consistent with the aims of the Digital Equity Plan.

- d. The assurances required under 47 U.S.C. §1723(e) and set forth in Appendix C to this NOFO.
- e. Project Narrative. The Project Narrative should provide an overall implementation strategy that is consistent with the Digital Equity Plan and that promotes the purposes of the Digital Equity Act and this NOFO. The Project Narrative must describe the details of each specific project and activity to be funded by the State Digital Equity Capacity Grant Program that has been identified at the time of application submission (*see* Section II.C.3 of this NOFO for examples of permissible projects and activities). If at the time of application, a State or Territory has not yet identified all of the projects to be used for Digital Equity Plan implementation, or is unable to provide all of the project details listed below, this information must be submitted to NTIA via the NTIA Grants Portal as soon as practicable, but **no later than nine (9) months from the award start date**, unless extended in writing by the Grants Officer, and will be subject to review and written approval by the Grants Officer before a State may draw down funds to implement the project(s) at issue. The Project Narrative must include:
  - i. An Executive Summary of the overall implementation strategy and the project(s) to be funded (approximately 500 words). Please note, NTIA may use all or a portion of the Executive Summary as part of a press release issued by NTIA, or for other public information and outreach purposes. Applicants are advised not to incorporate information that concerns business trade secrets or other confidential commercial or financial information as part of the Executive Summary. *See* 15 C.F.R. §4.9(b) concerning the designation of business information by the applicant.
  - ii. Identification of the elements of the Digital Equity Plan to be implemented in this initial allocation of Capacity Grant Program funding, whether specific elements of the plan or specific Covered Populations are being prioritized, and the rationale for prioritizing those elements or Covered Populations consistent with the needs assessment within the Digital Equity Plan.
  - iii. For each of the specific implementation projects or activities to be funded by the State Digital Equity Capacity Grant Program, include:<sup>20</sup>
    - 1) A brief summary of the specific activity or set of activities the project intends to complete or implement;
    - 2) The barrier(s) to digital equity the project will address;

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<sup>20</sup> If the information requested below is not available at the time the application is submitted, it must be submitted to NTIA via the NTIA Grants Portal within nine (9) months of award date.

- 3) The measurable objectives to be pursued and the data to be collected to demonstrate success in meeting these objectives including quantitative baseline data;
  - 4) The Covered Populations to be served and the estimated number of individuals within those Covered Populations to be served;
  - 5) The specific geographies to be served (if not State-or Territory-wide);
  - 6) Whether the State or Territory acting through its Administering Entity or Administering Organization (as applicable) will implement the activity directly or subgrant funds to implement the activity;
  - 7) If the State or Territory will subgrant the funds, the entity implementing the proposed project (if known at the time of application) including a description of its capacity to manage the project;
  - 8) How the proposed project or activity will be evaluated to determine successful implementation of the Digital Equity Plan of the State or Territory, including specific references to the Digital Equity Plan and quantitative baseline data; and
  - 9) Estimates of the anticipated outputs of each activity or project. (For example, the number of hours of training to be provided, the curricula to be developed, or the number of certifications to be awarded).
- iv. Confirmation that the State or Territory will not use more than twenty (20) percent of the award amount to update its Digital Equity Plan, the activities it intends to conduct to update the Plan, and a timeline for updates, including publication for public comment;
  - v. A description of the ongoing collaboration efforts the State or Territory will conduct with key stakeholders in the State or Territory as listed at 47 U.S.C. §1723(c)(1)(D);
  - vi. To the extent the applicant intends to use subgrantees to implement grant projects and activities, a description of the process by which subgrantees will be selected and the safeguards in place to ensure the selection process fosters a sense of fairness and accountability by being open, transparent, equitable, and inclusive;
  - vii. A description of the overall plan to evaluate how the proposed projects and activities will achieve the goals of the Digital Equity Plan;
  - viii. A description of how the project's success will be measured across the digital equity outcomes identified at 47 U.S.C. §1723(c)(1)(C):
    - 1) economic and workforce development,
    - 2) education,

- 3) health,
  - 4) civic and social engagement,
  - 5) delivery of other essential services, and
  - 6) any other digital equity outcomes specified in the Digital Equity Plan.
- ix. A description of how the benefits delivered to the Covered Populations will be measured to the extent not addressed above, and a description of any other proposed research activities, as applicable.
  - x. A Project Plan including:
    - 1) A description of all major project activities and timelines, including key milestones and when each major project activity will start and end; and
    - 2) A description of how progress on measurable objectives will be tracked and recorded alongside key milestones.
  - xi. A description of the safeguards the applicant will put in place to prevent waste, fraud, and abuse in the implementation of the program.
- f. A detailed description of how the State or Territory's implementation of the Digital Equity Plan, through Digital Equity Capacity Grant Program funding, will benefit each of the Covered Populations located within that State or Territory.
  - g. A certification that the Capacity Grant funds will be used to supplement, not supplant, other federal or State funds that have been made available to carry out the activities in the Digital Equity Plan and this NOFO.
  - h. A description of all other funding sources (including funding applied for) the State or Territory intends to use to implement its Digital Equity Plan, the amount allocated, and the specific Digital Equity Plan elements they will fund. Applicants should include in this funding description other federal programs, State or local government programs, and any private for-profit or not-for-profit funding. This description should include an explanation as to how this alternative funding is being used in a way that does not supplant, conflict with, or duplicate the activities for which the Capacity Grant Funds will be used.
  - i. A Consolidated Budget Form: All budget information in the Consolidated Budget Form must support the dollar amounts identified in the SF-424 and demonstrate that the project or activity meets the eligible use requirements in the Digital Equity Act and this NOFO. The Consolidated Budget Form consists of a budget narrative and a detailed budget spreadsheet. The budget narrative must explain the necessity and basis for all costs, clearly correspond to the information included in the detailed budget spreadsheet and reflect only allowable costs that are consistent with the project scope. Allowable costs are determined in accordance with the cost principles identified in 2 C.F.R. Part 200,

including Subpart E of such regulations and in 48 C.F.R. Part 31 for commercial organizations, as well as the Digital Equity Act. The detailed budget spreadsheet must reflect the cost categories that appear on the SF-424 and include itemized calculations for each cost placed under those categories.

The budget should account for the State or Territory's administrative costs, capped at three (3) percent of the grant amount, program evaluation costs, capped at five (5) percent of the grant amount, and Digital Equity Plan updates and maintenance, capped at twenty (20) percent of the grant amount (*see* Section II.C.3. below regarding limitations on plan updates and maintenance, program evaluation and administrative costs). For this purpose, the three (3) percent limitation on administrative costs includes the combined total of indirect and direct administrative costs charged to an award. **The applicant must clearly describe in the budget narrative how it applied or calculated the three (3) percent limitation on administrative costs.** If indirect costs are included in the proposed budget, the applicant must provide a copy of the approved negotiated indirect cost rate agreement if this rate was negotiated with a cognizant federal agency or otherwise document those indirect costs consistent with 2 C.F.R. 200.414.

- j. The following standard federal financial assistance forms and documentation:
  - i. Standard Form 424: Application for Federal Assistance;
  - ii. CD-511 Certification Regarding Lobbying;
  - iii. Standard Form LLL, Disclosure of Lobbying Activities (if applicable); and
  - iv. Negotiated Indirect Cost Rate Agreement (as applicable).

States and Territories that comply with the application requirements and that are deemed eligible to receive Capacity Grant funds will be informed of their final award amounts once NTIA reviews applications and makes determinations with respect to any challenges. If a final award amount differs from the tentative amount listed in this NOFO, NTIA may amend the award amount for the affected State or Territory. Applicants should bear in mind that the funding allocations listed in Section II.A.4.b of this NOFO could change based on the number of applicants that apply for funding or challenges to funding allocations, and that changes to the funding allocations could occur prior to or after an award has been made, depending upon when the initial application is submitted, reviewed, and when the revised formula allocations are determined by NTIA. If the allocation amount for an award changes from the tentative amounts listed in Section II.A.4.b of this NOFO, NTIA will provide instructions to the applicant regarding the revised application materials that must be submitted for review and the associated award process for their application.

### **3. Funding Restrictions**

#### **a. Allowable Uses of State Digital Equity Capacity Grant Funds**

Grant recipients may only use federal award funds to pay for allowable costs under the Digital Equity Capacity Grant Program. Allowable costs are determined in accordance with the cost principles identified in 2 C.F.R. Part 200, including Subpart E of such regulations and in the grant program's authorizing legislation. In addition, costs must be reasonable, necessary, allocable, and allowable for the proposed project, and conform to generally accepted accounting principles. Grant funds may be used to cover only eligible costs incurred by the recipient during the period of performance, and for allowable costs incurred by the recipient during the grant closeout process.

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

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

Before an Administering Entity or Administering Organization may award a subgrant, the Administering Entity or Administering Organization must require that the entity to which a subgrant is to be awarded certify that:

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



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

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

#### **b. Focus of Programs and Permitted Activities**

NTIA recognizes that Digital Equity Plans will contain a wide variety of potential programs, activities, and interventions, and encourages the development of new and innovative strategies to address the barriers to digital equity. These programs must focus on creating the necessary conditions to empower individuals and communities with the technological capacity to fully participate in society and the economy. In examining whether a proposed strategy or intervention furthers the goals of the State Digital Equity Capacity Grant Program and the State or Territory's Digital Equity Plan, grant recipients must consider the following criteria and focal points:

- i. **Focus on Covered Populations:** The project should align with the Digital Equity Plan's goals and objectives, and the priorities of the Covered Populations being served, including subgroups within each Covered Population. Priority should be given to projects with the greatest potential impact, such as targeting Covered Households (i.e., low-income individuals) within other Covered Populations.
- ii. **Long-lasting and Meaningful Change:** Digital Equity Plans are intended to address the systemic barriers and gaps to digital access. Projects/activities should reflect this goal and consider the sustainability of initiatives created through this funding.
- iii. **Measurable Implementation Strategies:** Proposed programs and activities should be based on objectives that are measurable, achievable, sustainable, timebound, and are designed to address identified disparities directly and logically.
- iv. **Stakeholder Engagement:** Stakeholders who are directly affected by the proposed strategies and interventions should be involved to encourage ongoing feedback regarding the effectiveness of the interventions and to seek input on potential solutions and improvements.

The following are examples of potential programs, activities, and interventions States and Territories may consider adopting consistent with the objectives identified for Digital Equity Plans in 47 U.S.C. §1723 (c)(1)(B) and with the purposes of the Digital Equity Act. This list is not considered exhaustive, and as noted above, States and Territories are encouraged to develop new and innovative strategies.

- **Digital Literacy and Skills Training:** Develop and implement digital literacy and skills programs that provide training and education to members of the Covered Populations on the use of digital tools, accessing online resources, and practicing safe and responsible online behavior, including programs that focus on youth training. The program may address issues such as online safety, prevention of online harassment and abuse (“cyberbullying”), privacy, and digital financial literacy, and may include the development of digital opportunity centers where individuals can access technology, receive training, and receive assistance with digital tasks.
- **E-Government and Civic Engagement:** Develop digital tools that enable online community engagement and empower individuals to participate in the democratic process, including digital tools that make it easier for individuals to register to vote and participate in civic activities. Develop online resources for legal assistance, government aid programs, and access to justice services for those in need. Enable access to social services, benefits, and government resources through digital platforms, simplifying processes and reducing barriers, including accessibility for people with disabilities.
- **Device Distribution Programs:** Provide devices such as laptops, smartphones, tablets, or other internet-enabled devices that are both practical and responsive to the digital inclusion needs of the Covered Populations, prioritizing individuals, or groups, with the greatest need. Eligibility criteria should be clearly defined and include appropriate safeguards, such as periodic financial audits and asset management systems. Digital literacy and skills training must be an integral part of any device distribution program to ensure that the beneficiaries receive training on how to use the devices effectively, access online resources, navigate digital platforms, use accessibility features, and employ best practices to protect their personal information and data.
- **Economic Development:** Support digital entrepreneurship, online job training, and remote work opportunities, fostering economic empowerment and reducing disparities. Create and/or promote programs and platforms that offer job training and remote work opportunities, helping members of the Covered Populations secure employment and gain economic self-sufficiency. Engage young people within the Covered Populations in digital economic activities that involve digital skills development that will lead to a constructive path to financial independence, a sense of purpose, and shared responsibility to positively contribute to their communities.
- **Online Access to Health and Mental Wellness Services:** Provide tools that directly help patients and end users within the Covered Populations to access healthcare services online, particularly in remote or underserved areas, to reduce health disparities. Expand mental

health crisis training to Covered Population youth through digital channels utilizing interactive and multimedia elements to make the online training more engaging and effective. Promote patient use and adoption of digital health records, access to medical and health services, and improved healthcare coordination. Such programs should focus on the Covered Populations and not health or wellness providers or institutions.

- **Online Accessibility**: Programs to ensure that websites and applications are designed with accessibility in mind, making them usable by individuals with disabilities. In addition, projects that provide improved digital access to emergency communications that enhance the ability of emergency response personnel to provide timely, effective, and life-saving interventions that can ensure the health and safety of individuals with disabilities, particularly those who are deaf, hard of hearing, blind, low vision, deafblind, deafdisabled or speech-disabled. To address concerns for individuals with a language barrier, ensure that online services are available in multiple languages, including culturally responsive American Sign Language, to enhance accessibility to education, employment, healthcare, housing, essential services, civic engagement, and critical life-saving interventions.
- **Access to Affordable Broadband Service**: Promotion of programs to provide low-cost services administered by the Federal Communications Commission, as well as any other relevant local, State, or federal programs, should take precedence. While an Eligible Entity may establish a new affordable access program, it must first conduct a thorough assessment and inventory of existing subsidy programs, grants, or other resources available, leverage those existing resources, and use them as the primary source of funding while using the funding from this Program as a last resort. Any affordable access program shall provide digital literacy and skills training to empower program participants on how to use digital resources effectively and may not exceed ten (10) percent of the total amount of the grant award.

The Assistant Secretary reserves the right not to award State Digital Capacity Grant Program funding with respect to projects or activities NTIA deems to be inconsistent with the Digital Equity Act or with the purposes of the Digital Equity Plan.

### **c. Prohibited Uses of State Digital Equity Capacity Grant Funds**

#### **i. Twenty (20) Percent Cap on Digital Equity Plan Updates**

No more than twenty (20) percent of the amount of the grant may be used to update or maintain the Digital Equity Plan of the State or of the Territory (as applicable).

#### **ii. Five (5) Percent Cap on the Evaluation of Program Efficacy**

No more than five (5) percent of the amount of the grant may be used to evaluate the efficacy of the efforts funded by grants made to subgrantees to: (a) assist in the implementation of the Digital Equity Plan of the State or Territory; (b) pursue digital inclusion activities in the State or

Territory consistent with the Digital Equity Plan of the State or Territory; and (c) report to the State or Territory regarding the digital inclusion activities of the entity.

**iii. Three (3) Percent Cap on Administrative Costs**

No more than three (3) percent of the amount of the grant may be used for administrative costs (exclusive of costs for program evaluation and updating the Digital Equity plan) in carrying out allowable activities under this Program and described in a State Digital Equity Capacity Grant Program (“SDECGP”) award. For this purpose, the three (3) percent limitation on administrative expenses includes the combined total of indirect and direct administrative costs charged to an award. The applicant must clearly describe in the budget narrative how it applied or calculated the three (3) percent limitation on administrative costs.

**iv. Ten (10) Percent Cap on Affordable Broadband Programs**

No more than ten (10) percent of the amount of the grant may be used to fund subsidies for the provision of broadband services through affordable broadband programs.

**v. Prohibition on Supplanting and on Certain Website Upgrades**

Pursuant to 47 U.S.C. §1723(h), a grant or subgrant awarded under the State Digital Equity Capacity Grant Program shall supplement, not supplant, other federal or State funds that have been made available to carry out activities described at 47 U.S.C. §1723 and in this NOFO. Broadband Equity, Access, and Deployment Program funds, including funds used for non-deployment expenditures, are subject to separate financial assistance award terms and conditions and must not be supplanted by State Digital Equity Capacity Grant Program funding. In addition, grantees are prohibited from using Capacity Grant funds to conduct website upgrades or other accessibility projects that are otherwise required by law.

**vi. Prohibition on Broadband Deployment Funding**

In general, deployment of broadband infrastructure to connect broadband serviceable locations should be accomplished through other programs, including the Broadband Equity, Access, and Deployment program. However, to the extent that installation of broadband infrastructure is necessary to accomplish an eligible program, activity, or intervention (e.g., installing fixed equipment on a building as part of a strategy to promote access to affordable broadband service), additional information will be required to determine the potential for environmental impacts under the National Environmental Policy Act (42 U.S.C. §4321 *et seq.*) and potential impacts to historic properties under the National Historic Preservation Act of 1966 (54 U.S.C. 300101 *et seq.*). Additionally, any portion of a State Digital Equity Capacity Grant Program award that will be used for an “infrastructure project” (as defined in 2 C.F.R. 184.3) is subject to the Build America, Buy America Act (Pub. L. No. 117-58, §§ 70901-52) and to the regulations promulgated thereunder at 2 C.F.R. part 184). *See* Section IV.D.4. of this NOFO for additional information concerning the Build America, Buy America requirements for this program. In accordance with section 60506 of the Infrastructure Act, the Federal Communications

Commission adopted rules to prevent digital discrimination of access on the basis of income level, race, ethnicity, color, religion, or national origin. 89 Fed. Reg. 4128 (Jan. 22, 2024); 47 U.S.C. 1754.

**vii. Prohibition on Profit or Fees**

A profit, fee, or other incremental charge above actual cost is not an allowable cost under this Program.

**viii. Prohibition on Use of Grant Funds to Support or Oppose Collective Bargaining**

Grant funds awarded pursuant to this program may not be used, whether directly or indirectly as an offset for other funds, to support or oppose collective bargaining.

**4. Subgrantee Selection Process**

Each State or U.S. Territory applying for Capacity Grant funds must establish, through its Administering Entity or Administering Organization, a fair, transparent, equitable, and inclusive process, consistent with applicable State or Territory laws and administrative requirements, for selecting and conducting risk assessments (*see*, 2 C.F.R. §200.332(b)) of subgrantees if they intend to subgrant all or a portion of their award funds to other entities to implement digital equity projects. The applicant's selection processes must be made clear to potential subgrantees before subawards are made. NTIA strongly encourages States and Territories to take deliberate steps to ensure that subgrant opportunities are accessible to a diverse range of organizations, particularly those owned, led and/or managed by members of the Covered Populations.

**5. Alternative Funding**

Implementation of the State Digital Equity Plan need not be wholly funded by the State Digital Equity Capacity Grant Program. In many cases, State Digital Equity Plans are designed to leverage multiple funding sources and partnerships to achieve their objectives, including other federal grants (such as the Broadband Equity, Access, and Deployment Program), private sector partnerships, philanthropic organizations, and local government investments. To maintain financial transparency and ensure the effective use of funds, any State or Territory that plans to use multiple funding sources in the implementation of its Digital Equity Plan must submit with its application a description of all other funding sources the State or Territory intends to use, the amounts to be allocated, and the specific Digital Equity Plan elements to be funded using alternative sources. Please note that provision of this information to NTIA will not impact the amount of Capacity Grant Program funding allocated to a particular State or Territory, which is determined by formula for States. *See* Section II.A.4. of this NOFO for the funding allocations for States and Territories.

As part of the final award close out process, the State or Territory, through its Administering Entity or Administering Organization, must submit to NTIA a list of the alternative funding

sources used and the elements of the Digital Equity Plan implemented using alternative funds. If no other funds are used to implement the DE Plan a statement indicating that no other funds were used to implement the Digital Equity Plan will suffice.

## **6. Certifications Regarding Debarment and Suspension**

By signing and submitting an application for funding pursuant to the State Digital Equity Capacity Grant Program, the applicant is making the certifications outlined in Appendix B to this NOFO (*see* Line 21 on the SF-424, Application for Federal Assistance).

## **7. System for Award Management (SAM)**

Pursuant to 2 C.F.R. Part 25, an applicant or recipient (as the case may be) is required to: (i) be registered in SAM before submitting its complete application packet; (ii) provide a valid unique entity identifier (UEI) 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. 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. SAM Unique Entity Identifier**

All applicants must supply a SAM Unique Entity Identifier (UEI) number. As of April 4, 2022, the U.S. government stopped using the Dun and Bradstreet (D&B) Data Universal Numbering System (D-U-N-S) nine-digit number as the unique identifier for entities throughout the federal awarding cycle, in [SAM.gov](https://sam.gov), Integrated Award Environment (IAE) systems, required forms, or in downstream government systems. Now, entities doing business with the federal government must use the Unique Entity ID created in [SAM.gov](https://sam.gov). Applicants who are new to [SAM.gov](https://sam.gov) may register their entity or receive a UEI by signing into [SAM.gov](https://sam.gov) and selecting “Get Started,” then “Register Entity.” If you are a sub-awardee who just needs a UEI for subaward reporting, choose “Get Unique Entity ID.”

For more information on the retirement of the DUNS, as well as the establishment of an entity’s UEI, please visit <https://www.sam.gov>.

### **b. SAM Registration**

All applicants must register with SAM before submitting an application pursuant to this program. 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/>. Entities without an active [SAM.gov](https://www.sam.gov/) registration and/or UEI at the time of application submission and award may be deemed ineligible for a grant award.

## 8. Submission Dates and Times

Applications for the State Digital Equity Capacity Grant Program must be complete and must adhere to the instructions provided in this NOFO and be submitted in the format required by the NTIA Grants Portal ([www.grants.ntia.gov](https://www.grants.ntia.gov/)). For States, complete applications must be received by the NTIA application portal **no later than 11:59 p.m. Eastern Time (ET) on May 28, 2024**. For Territories, complete applications must be received by the NTIA application portal **no later than 11:59 p.m. Eastern Time (ET) on July 31, 2024**.

When developing the submission timeline, each applicant should keep in mind that: (a) all applicants are required to have current registrations in the electronic System for Award Management ([SAM.gov](https://www.sam.gov/)) and (b) the free annual registration process in [SAM.gov](https://www.sam.gov/) generally takes between three (3) and five (5) business days but can take more than three (3) weeks.

NTIA expects to complete its review, select successful applicants, and begin award processing for States by **August 28, 2024**. NTIA may, subject to NIST Grants Office Approval, announce awards made under the State Digital Equity Capacity Grant Program on a rolling basis.

## 9. Intergovernmental Review

Applications from a State or a political subdivision of the State under this program are subject to Executive Order 12372, “Intergovernmental Review of Federal Programs,” which requires intergovernmental consultation with state and local officials. All applicants are required to submit a copy of their applications to their designated state Single Point of Contact (SPOC) offices.<sup>21</sup>

## 10. Material Representations and Public Disclosure

All forms and supporting documents submitted as part of the application packet will be treated as a material representation of fact upon which NTIA and NIST’s Grant Management Division will rely in awarding grants. Applicants acknowledge and understand that any false, fictitious, or fraudulent statements (or concealment or omission of a material fact) in the forms and supporting documents, including any required certifications or disclosures, submitted to NTIA may subject applicants to criminal prosecution (including under 18 U.S.C. § 1001 and/or 1621), and may subject applicants to civil and administrative penalties and other remedies. Applicants should be aware that NTIA, in coordination with the NIST Grants Officer, may make all or portions of their applications for grants under the State Digital Equity Capacity Grant Program publicly

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<sup>21</sup> The current Intergovernmental Review Listing (SPOC List) is accessible at: <https://www.whitehouse.gov/wp-content/uploads/2023/06/SPOC-list-as-of-2023.pdf>

available as required under applicable federal laws. *See* Section VI.B of this NOFO for additional information concerning the confidentiality of information contained in an application.

## **11. Other Submission Requirements**

States and U.S. Territories must submit complete application packets electronically through the NTIA Grants Portal (<https://grants.ntia.gov>). Complete applications or portions thereof submitted by a State or U.S. Territory by postal mail, courier, email, facsimile, or other means will not be accepted.

### **a. Timely Receipt Requirements and Proof of Timely Submission**

*Online Submission.* Proof of timely submission is automatically recorded by the NTIA Grants Portal. An electronic date/time stamp is generated within the system when the application is successfully submitted in the NTIA application portal. The applicant with the Authorized Organizational Representative (AOR) role who submitted the application will receive an email acknowledgement of receipt from the NTIA application portal with the successful transmission of their application. Applications received in the NTIA application portal after the established due date for the program will be considered late and will not be considered for funding by NTIA.

### **b. Amendments**

Any amendments to this NOFO or additional program guidance will be announced on [NTIA.gov](https://www.ntia.gov), [Internetforall.gov](https://www.internetforall.gov), and [BroadbandUSA.NTIA.gov](https://www.broadbandusa.ntia.gov).

## **D. APPLICATION REVIEW INFORMATION**

### **1. Overview**

All States and Territories that meet the requirements set forth at 47 U.S.C. §1723(d) and in this NOFO, including but not limited to the application requirements set forth in Section II.C of this NOFO, will be eligible to receive an award in the amount calculated pursuant to Section II.A.4 of this NOFO. NTIA reserves the right at any time during the application review processes to negotiate with the applicant relative to specific modifications to the application.

### **2. Initial Eligibility and Administrative Review**

NTIA's Program Office staff will conduct an initial eligibility and administrative screening of submitted applications to ensure that the applicant is eligible to receive funding under the program and has submitted a complete application. Applications not submitted by an Eligible State or by an eligible U.S. Territory will be eliminated from further review. NTIA may continue the review process for an application that is timely submitted by an eligible applicant but that is missing certain information or documentation required by this NOFO. In such cases, NTIA may ask the applicant to provide any missing or incomplete materials during this initial review.



### **3. Merit Review**

Once an application is deemed eligible and complete, NTIA's program office will initiate a merit review, to be conducted by at least one merit reviewer who is technically and professionally qualified to conduct the review. Merit reviewers may be federal employees or non-federal persons. As applicable, merit 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. The merit reviewer(s) will review the application to ensure conformity with the program objectives, eligible activities, and related costs/budget as provided in 47 U.S.C. §1723(d) and in this NOFO. The purpose of this review is to provide advice to the Selecting Official as to the technical soundness and merits of the application. During the merit review, NTIA may ask applicants to submit additional information to clarify or to further substantiate the representations made in their applications. In addition, if deficiencies are identified during the merit review, the applicant may be contacted by NTIA and asked to revise the application accordingly.

### **4. Award Process**

The Assistant Secretary or his designee will recommend applications for funding based on the results of the review process in Section II.D of this NOFO. The final approval of applications and the issuance of awards pursuant to this NOFO will be made by the NIST Grants Officer, who serves as the Grants Officer for the State Digital Equity Capacity Grant Program. The award decisions of the NIST Grants Officer are final.

### **5. Federal Awarding Agency Review of Risk Posed by Applicant**

After applications are proposed for funding, the NIST Grants Management Division (GMD) 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), NIST GMD will review and consider the non-publicly available information about that applicant in the Federal Awardee Performance and Integrity Information System (FAPIIS), which now resides in [SAM.gov](https://sam.gov) as the responsibility/qualifications (R/Q) reports. Upon completion of the pre-award risk assessment, NIST GMD 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 the earliest start date for awards under this NOFO to be **August 28, 2024**, and NTIA may issue State Digital Equity Capacity Grant Program awards on a rolling basis.

### **III. NATIVE ENTITIES – APPLICATION REQUIREMENTS AND AWARD INFORMATION**

This Section provides detailed information for Native Entities regarding the competitive process for obtaining Digital Equity Capacity Grants, including award amounts, eligibility, the application and submission process, and review criteria. Information for States and U.S. Territories regarding Digital Equity Capacity Grant funding can be found in Section II above.

#### **A. FEDERAL AWARD INFORMATION**

##### **1. Funding Availability**

47 U.S.C. §1723(i)(2) requires NTIA to set aside not less than five (5) percent of the total funds appropriated for the State Digital Equity Capacity Grant Program each fiscal year “to award grants to, or enter into contracts or cooperative agreements with, Indian Tribes, Alaska Native entities, and Native Hawaiian organizations.” Congress has appropriated \$840,000,000 for grants under the Capacity Grant Program through fiscal year 2024 (\$240,000,000 for fiscal year 2022, \$300,000,000 for fiscal year 2023, and \$300,000,000 for fiscal year 2024).<sup>22</sup> Accordingly, NTIA has set aside \$42,000,000 for grants to Native Entities to satisfy the Native Entity set aside requirement for fiscal years 2022 through 2024. In addition, \$3,000,000 from the State Digital Equity Planning Grant Program will be made available to Native Entities for digital equity planning purposes, as well as approximately \$300,000 of unclaimed funds available pursuant to the State Digital Equity Planning Grant NOFO.<sup>23</sup> In total, NTIA expects to make approximately \$45,300,000 available for Digital Equity Planning and Capacity Grants to Native Entities.

##### **2. Period of Performance**

Native Entities shall expend the grant funds during the 5-year period beginning on the date on which the Native Entity is awarded grant funds.<sup>24</sup>

##### **3. Performance Measurement and Evaluation**

Recipients and sub-recipients are required to establish measurable objectives for documenting and promoting the goals of the Digital Equity Act as part of their program designs. Native

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<sup>22</sup> Because both 47 U.S.C. §1721(14)(B) and 47 U.S.C. §1723(d)(2)(B) require the completion of a State Digital Equity Plan before an Eligible State may apply for a State Digital Equity Capacity Grant, the State Digital Equity Capacity Grant Program could not be made available in 2022 and 2023.

<sup>23</sup> SDEPG NOFO, Section II.C.1, ft. n. 7, available at: <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/DE%20PLANNING%20GRANT%20NOFO.pdf>

<sup>24</sup> The five-year period begins on the first day of the period of performance identified in the grant agreement.

Entities must document and measure their implementation progress, and upon program completion, assess the effectiveness of the funded projects in meeting the identified performance objectives. Native Entities must also protect personally identifiable information as required by 2 C.F.R. §200.303(e) and provide protection of human subjects as required by 15 C.F.R. Part 27.

Information collected must include the following data points:

**a. Documentation of Program Activities**

Recipients shall be required to provide the number and types of activities and interventions implemented and describe how the activities and interventions will impact the adoption and meaningful use of broadband, as well as the longer-term impacts on income, education, employment, housing, and health of the Covered Populations.

**b. Performance Data**

Recipients shall be required to provide quantitative data that shows the progress toward achieving program goals, such as the number of members of Covered Populations served (and if the project involves multiple Covered Populations, the number for each), locations of the Covered Populations (e.g., county, city), milestones achieved, and outputs obtained as a result of the interventions.

**c. Participant Assessments & Feedback**

Recipients shall be required to collect feedback from participants on their experiences to measure changes in knowledge, skills, attitudes, or behaviors. These assessments and feedback should be used for continuous improvement to the implementation of the projects.

**d. Program Evaluation**

At the end of the period of performance, a Native Entity receiving funds under either a Digital Equity Capacity Grant or a Digital Equity Planning Grant must submit an assessment of the effectiveness of the programs along with the results, protocols, and instruments used to collect the above data to NTIA. All program evaluation materials must be submitted as soon as practicable and no later than the final award closeout and may be posted publicly on NTIA's website.

**4. Award Amounts**

As outlined in Section III.A.1 above, NTIA has reserved \$42,000,000 for awards to Native Entities under the State Digital Equity Capacity Grant Program ("Capacity Grants"). In addition, \$3,000,000 previously set aside for Native Entities under the State Digital Equity Planning Grant Program, as well as approximately \$300,000 of unclaimed funds under the Planning Grant Program, will be made available through this NOFO ("Planning Grants"). Because of the limited

amount of funds available, and the significant amount of Native Entity interest expressed through Letters of Intent submitted in response to the State Digital Equity Planning Grant NOFO, the Assistant Secretary has determined that the most effective means of distributing this amount will be through a competitive application review process as described in Section III.D.

Because of the relatively small amount of funds available for Planning Grants, and the previous issues of oversubscription, Planning Grant funds will not be made available on a standalone basis. Instead, Planning Grant funds will only be awarded in conjunction with a Capacity Grant application (*see*, Section III.C.2.c.iii and Section III.C.2.c.iv of this NOFO for additional detail regarding specific application requirements for these funds). Accordingly, Native Entities may submit an application that seeks both Planning Grant funds and Capacity Grant funds, or Capacity Grant funds only. Planning Grant activities and Capacity Grant activities may be conducted simultaneously. Native Entities are not required to seek Planning Grant funding, but to the extent Planning Grant funding is requested, it will be capped at seven and one-quarter (7.25) percent of the total funds requested.<sup>25</sup> NTIA expects to make awards to Native Entities on a competitive basis and in accordance with the application review process and criteria discussed in Section III.D. of this NOFO.

NTIA expects to make individual Digital Capacity Grant Program awards within a range of \$500,000 to \$2,000,000. This funding range is not a required minimum or maximum, but Native Entities requesting funding for projects outside of this range must provide a reasonable explanation for the variance in their project size. Applications for funding must include the total amount of funding being requested and must account for all projects that will utilize the requested funding.

## **5. Type of Funding Instrument**

The funding instrument for awards made to Native Entities pursuant to this NOFO will be a grant; although, NTIA and the NIST Grants Officer reserve the right to enter into cooperative agreements or contracts with such entities in accordance with 47 U.S.C. 1723(i)(2) of the Digital Equity Act.

## **B. ELIGIBILITY INFORMATION**

### **1. Eligible Applicants**

Indian Tribes, Alaska Native entities, and Native Hawaiian organizations (collectively, “Native Entities”) are eligible to enter into grants with NTIA to carry out activities contemplated in this Program. To demonstrate eligibility, applicants must obtain a Tribal Government Resolution or equivalent formal authorization from the governing body of the Native Entity providing express

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<sup>25</sup> To ensure the more limited Planning Grant Program funds are equitably distributed, NTIA is releasing these funds on a proportional basis.

authority to file an application for (1) Digital Equity Capacity Grant funds or (2) Digital Equity Planning Grant funds and Digital Equity Capacity Grant funds on behalf of the Native Entity. A Native Entity may apply as part of a consortium but may only make a single application as outlined below. If applying as a consortium, the lead applicant must submit a Memorandum of Understanding (“MOU”) with each Native Entity participating in the consortium demonstrating approval of the proposed projects and clearly articulating the specific benefits and responsibilities of each member.

Indian Tribes, Alaska Native entities, and Native Hawaiian organizations that appear on one of the following lists prior to the closing of the application window, or that meet the criteria set forth below, satisfy the definition of a Native Entity for purposes of this NOFO:

- U.S. 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, 88 Fed. Reg. 2112 (Jan. 12, 2023), available at: <https://www.federalregister.gov/documents/2023/01/12/2023-00504/indian-entities-recognized-by-and-eligible-to-receive-services-from-the-united-states-bureau-of->
- Alaska Department of Natural Resources, Division of Mining, Land and Water, Index of Regional Native Corporations, available at: <https://dnr.alaska.gov/mlw/paad/17b-easements/search/>;
- U.S. Department of the Interior, Office of Native Hawaiian Relations, Native Hawaiian Organization Notification List, available at: <https://www.doi.gov/hawaiian/nhol>;
- U.S. Department of the Interior, Office of Native Hawaiian Relations, Homestead & Beneficiary Associations List, available at: <https://doi.gov/hawaiian/homestead-beneficiary-associations>; and
- The Department of Hawaiian Home Lands.

A Native Entity on one of the lists identified above may appoint a non-profit corporation authorized by the governing body of the Native Entity to administer Digital Equity Capacity Grant Program funds and Digital Equity Planning Grant Program funds on behalf of the eligible Native Entity. If a Native Entity intends to utilize an authorized non-profit organization for this purpose, the Native Entity should identify the organization in its application and discuss the role and activities of such organization.

#### **a. Single Application**

Given the high demand for funding under this Program, NTIA will allow only one application from each Native Entity. Each Native Entity must coordinate internally (which includes all departments, subsidiaries, etc.) in submitting its single application. A Native Entity’s single application must include the total amount of funding being requested and must account for all Capacity Grant and Planning Grant Programs that will utilize the requested funding. Applicants

that submit an individual application cannot also be part of a consortium application. Additionally, a Native Entity may only participate in one consortium. If NTIA determines that a Native Entity is participating in multiple applications, this may significantly delay NTIA's review of such applications and may result in NTIA removing that entity from consideration for funding for both their individual application and any consortium applications to which they are a party.

#### **b. Encouragement of Consortium Applications**

NTIA encourages coordination and collaboration in achieving digital equity through the submission of an application on behalf of a consortium of multiple Native Entities (each of which must be eligible) in the most cost-effective manner. Applicants are not permitted to submit both an individual application and apply as part of a consortium application. In addition, Native Entities that choose to apply as part of a consortium application may only be part of one consortium application.

#### **c. Authorization by Governing Authority**

Each Native Entity applying for State Digital Equity Capacity Grant Program funds, whether as an individual application or as part of a consortium, is required to submit documentation demonstrating it is authorized by the governing authority of the Native Entity to apply for Planning and/or Capacity Grant funds.

Documentation of authorization to apply on behalf of a Native Entity should be in the form of a Tribal Resolution of Consent for Indian Tribes and for Alaska Native entities, or, for other Native Entity organizations, an equivalent formal authorization from the governing authority of the Native Entity. In the case of consortium applications, each member of the consortium application is required to submit documentation of an appropriate authorization from the applicable governing authority. Consortium applications submitted without authorizations from each Native Entity named in the application will be considered incomplete.

Additionally, if applying as a consortium, the lead applicant must submit an MOU with each Native Entity participating in the consortium demonstrating approval of the proposed projects and clearly articulating the specific benefits and responsibilities of each member. This MOU must include a commitment from the lead applicant to stay in regular communication with each member of the consortium regarding the status of awards and the progress of the proposed projects described.

NTIA will consider application(s) submitted without the appropriate authorizations and agreements as incomplete and may remove them from consideration for funding.

### **2. Cost Sharing or Matching**

The Digital Equity Act authorizing the establishment of this Program does not contain a statutory non-federal cost sharing or matching funds requirement. Accordingly, NTIA will not require an

Eligible Native Entity applying for a financial assistance award under this Program to provide a non-federal cost contribution and will not give additional consideration during the evaluation process for applications proposing non-federal cost share.

## **C. APPLICATION AND SUBMISSION INFORMATION**

### **1. Address to Request Application Package**

Applications for Native Entities are available at the NTIA Grants Portal at <https://grants.ntia.gov/> and at [www.broadbandusa.ntia.gov](http://www.broadbandusa.ntia.gov) or may be requested by e-mail ([digitalequity@ntia.gov](mailto:digitalequity@ntia.gov)) or by postal mail addressed to:

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

Applicants should follow instructions set forth below and are encouraged to submit their applications early.

NTIA recommends that applicants participate in application technical assistance webinars and review programs and application guidance that will be posted on NTIA's BroadbandUSA website <https://www.broadbandusa.ntia.gov>. Applicants are also urged to log on to the application portal well in advance of the deadline to address any technical issues. Failure to properly apply for funds under the Capacity Grant Program by the deadlines established in this NOFO may result in losing this grant opportunity.

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 State Digital Equity Capacity Grant Program must be complete, must adhere to the instructions provided in this NOFO, and must be submitted in the format required by the NTIA Grants Portal (<https://grants.ntia.gov>) and/or the required application templates. While Native Entities are highly encouraged to submit their applications through the NTIA Grants Portal, applications may be received through alternative means as specified below. Native Entities will be able to apply for both Planning Grant funds and Capacity Grant funds or apply for Capacity Grant funds alone. Digital Equity Planning Grant funds will not be made available on a standalone basis.

Native Entities applying for a State Digital Equity Capacity Grant (including Planning Grant funds) must submit an application that includes the following information:

- a. Documentation from the governing body of the Native Entity demonstrating the authority to make an application on behalf of the Native Entity, or each Native Entity in the case of a consortium application.
- b. The lead applicant for a consortium application must include a list of each Native Entity participating in the consortium and a Memorandum of Understanding with each Native Entity demonstrating approval of the proposed projects and clearly articulating the specific benefits and responsibilities of each consortium member.
- c. A Project Narrative. The Project Narrative should address both requests for Digital Equity Planning Grants (as applicable) and Digital Equity Capacity Grants and provide an overall implementation strategy that describes how the proposed projects will serve the Covered Populations, be responsive to the program description, statutory purposes set forth in 47 U.S.C. § 1723(d), funding priorities, and the evaluation criteria set forth in this NOFO. This section should include the following:
  - i. An Executive Summary of the proposed project(s), (approximately 500 words), including a statement on whether Digital Equity Planning Funds are being requested. Please note that 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 commercial or financial information as part of the Executive Summary. See also 15 C.F.R. § 4.9(b) concerning the designation of business information by the applicant.
  - ii. To the greatest extent possible, data demonstrating the needs and barriers faced by the Native Entity's Covered Populations, including but not limited to:
    - 1) The poverty rate of the Native Entity (*i.e.*, the percentage of members of the Native Entity's population that live in Covered Households as defined at 47 U.S.C. §1721(7)).
    - 2) The number of Covered Populations to be served and the number of individuals within each Covered Population.
    - 3) The number of individuals in the Covered Populations lacking access to a computer, tablet, smartphone, or other device that enables Internet access.
    - 4) The number of individuals within the Covered Populations not using or not subscribing to the Internet.
    - 5) Other data that demonstrates need.



- iii. **Digital Equity Planning Grant Funds:** If the Native Entity seeks Digital Equity Planning Grant funds, a description of the specific planning activities the Native Entity intends to undertake and the manner in which these activities are consistent with 47 U.S.C. §1723(c), including a description of the outputs of these activities, a timeline for completing those activities, and a strategy to share the outputs of its planning activities, e.g., a Digital Equity Plan, with its respective community and the broader public. The Digital Equity Plan may include:

- 1) A vision statement;
- 2) Outreach and engagement with the Covered Populations for the purpose of identifying barriers to digital equity and conducting a needs assessment;
- 3) Identification of the barriers to digital equity faced by the members of the Covered Populations;
- 4) Measurable objectives that address the barriers to digital equity; and
- 5) Implementation strategies to achieve the measurable objectives identified above.

Funding requested for planning activities must not exceed seven and one-quarter (7.25) percent of the total amount of funding being requested (i.e., total of both Digital Equity Planning Grant and Digital Equity Capacity Grant funds). Importantly, Digital Equity Planning Grant funding must be tracked separately from Digital Equity Capacity Grant funding.

- iv. **Digital Equity Capacity Grant Funds:** A description of the specific grant projects and activities to be funded by the State Digital Equity Capacity Grant Program, including the number of Covered Populations the proposed project(s) will serve and how they are consistent with the goals of digital equity and digital inclusion described in 47 U.S.C. §1723(d), and to the extent applying for Planning Grant Program funds, a description of how the Capacity Grant Program funds will be used to implement projects consistent with the Digital Equity Plan. A description of how the proposed grant projects will address identified barriers to digital equity, the measurable objectives that will be used to assess progress towards overcoming these barriers, and how the proposed grant projects will promote, among the Covered Populations, the following:

- 1) The availability of, and affordability of access to, fixed and wireless broadband technology;
- 2) The online accessibility and inclusivity of public resources and services;
- 3) Digital literacy;
- 4) Awareness of, and the use of, measures to secure the online privacy of, and cybersecurity with respect to, an individual; and

- 5) The availability and affordability of consumer devices and technical support for those devices.
- v. If the amount of the requested funding is less than \$500,000 or more than \$2,000,000, provide a reasonable explanation for the variance in the project size.
  - vi. If a Native Entity intends to utilize an authorized non-profit organization to administer Digital Equity Capacity Grant Program funds or Digital Equity Planning Grant funds, identify the organization and discuss the role and activities of such organization.
  - vii. A description of the implementation team and its experience with the programmatic/technical aspects of project management, the Native Entity's organizational capacity to implement the proposed projects and meet key milestones, and a description of its proposed use of partners or other entities in implementation.
  - viii. Resumes of Key Personnel: One-page resumes of key personnel who will carry out and be responsible for the proposed activities (not subrecipients).
  - ix. A description of the sub-granting or sub-contracting process to be followed, as applicable.
  - x. A description of the proposed outcomes and anticipated long-term impact on digital equity and inclusion, including the benefits to the intended project beneficiaries, and a plan to sustain the project benefits by:
    - 1) collaborating and maintaining transparency with key stakeholders, including representatives of the Covered Populations, and
    - 2) measuring the long-term impact on digital equity within the Native Entity and its collateral benefits.
  - xi. A project plan describing all major project activities and timelines, including key milestones and when each major project activity will start and end.
  - xii. A short description of (1) the applicant's status/role in the Tribal Broadband Connectivity Program (TBCP), and the type of award received, or state if the applicant has not received a TBCP grant award or if an application for award is pending review by NTIA; (2) any other sources of federal funding awarded to the applicant to support digital equity and inclusion activities such as, broadband adoption and use, device programs, digital literacy and skills training, and internet subscription or device subsidy programs; (3) any funds received by the applicant as a sub-recipient to a State Digital Equity Planning Grant; and (4) any funds received from private philanthropic organizations for comparable activities.

- d. A certification that the Planning Grant (as applicable) and Capacity Grant funds will be used in a manner that is consistent with the purposes and requirements of 47 U.S.C. 1723 and this NOFO, and that, if the Native Entity seeks both Planning Grant and Capacity Grant funds, those funds will be budgeted and tracked separately.
- e. A certification that the Capacity Grant and Planning Grant funds will be used to supplement, not supplant, other federal or State funds that have been made available to carry out digital equity and digital inclusion activities.
- f. The assurances required under 47 U.S.C. §1723(e) (*see* Appendix C of this NOFO).
- g. **A Consolidated Budget Form:** All budget information in the Consolidated Budget Form must support the dollar amounts identified in the SF-424 and demonstrate that the project or activity meets the eligible use requirements in the Digital Equity Act and this NOFO. The Consolidated Budget Form consists of a budget narrative and a detailed budget spreadsheet. The budget narrative must explain the necessity and basis for all costs, clearly correspond to the information included in the detailed budget spreadsheet and reflect only allowable costs that are consistent with the project scope. Allowable costs are determined in accordance with the cost principles identified in 2 C.F.R. Part 200, including Subpart E of such regulations and in 48 C.F.R. Part 31 for commercial organizations, as well as in 47 U.S.C. 1723(d). The detailed budget spreadsheet must reflect the cost categories that appear on the SF-424A and include itemized calculations for each cost placed under those categories. **As applicable, the budget must also separately categorize and separately track the budgeted costs of the Digital Equity Planning Grant Program and the Digital Equity Capacity Grant Program.** The budget should account for the Native Entity's efforts to update or to maintain the Digital Equity Plan, capped at 20% of the grant amount, administrative costs, capped at 3% of the grant amount, and program evaluation costs capped at 5% of the grant amount (*See*, Section III.C.4 for restrictions on administrative and evaluation costs). If indirect costs are included in the proposed budget, the applicant must provide a copy of the approved negotiated indirect cost rate agreement if this rate was negotiated with a cognizant federal agency or otherwise document those indirect costs consistent with 2 C.F.R. 200.414.
- h. The following standard federal financial assistance forms and documentation:
  - i. Standard Form 424: Application for Federal Assistance
  - ii. CD-511 Certification Regarding Lobbying
  - iii. Standard Form LLL, Disclosure of Lobbying Activities (if applicable); and
  - iv. Negotiated Indirect Cost Rate Agreement (as applicable)

### **3. Funding Restrictions**

#### **a. Allowable Uses of State Digital Equity Capacity Grant Funds and State Digital Equity Planning Grant Funds**

Applicants must submit proposals which are consistent with the purposes and activities set forth in 47 U.S.C. 1723(c) (for Planning Grants) and 1723(d) (for Capacity Grants), and this NOFO, including the achievement of digital equity, support of digital inclusion activities, and the adoption of broadband by the Covered Populations of Native Entities. These activities include:

- i. To the extent that a Native Entity has requested State Digital Equity Planning Grant funds (not to exceed seven and one-quarter (7.25) percent of the total funds requested), the development of the elements of a Digital Equity Plan for the Native Entity that identifies the barriers to digital equity faced by the Covered Populations of the Native Entity and measurable objectives for addressing:
  - 1) The availability of, and affordability of access to, fixed and wireless broadband technology;
  - 2) The online accessibility and inclusivity of public resources and services;
  - 3) Digital literacy;
  - 4) Awareness of, and the use of, measures to secure the online privacy of, and cybersecurity with respect to, an individual; and
  - 5) The availability and affordability of consumer devices and technical support for those devices.
- ii. To support digital inclusion activities of the Native Entity.
- iii. To make subgrants to any of the eligible entities identified at 47 U.S.C. §1724(b) that are located in Native Entity's jurisdiction to: (a) assist in the implementation of the Digital Equity Plan and/or digital equity programs and activities identified above; (b) pursue digital inclusion activities consistent with the Digital Equity Plan and/or digital equity programs and activities identified above; and (c) report to the Native Entity regarding the digital inclusion activities of the entity.

Before the Native Entity may award a subgrant under this paragraph, the Native Entity must require that the entity to which a subgrant is to be awarded certify that:

- 1) The entity shall carry out the activities required under items (a), (b), and (c) of this subsection iii;
- 2) The receipt of the subgrant shall not result in unjust enrichment of the entity; and
- 3) The entity shall cooperate with any evaluation of the program as it relates to a grant awarded to the entity and that is carried out by or for the Native Entity, the Assistant Secretary, or another federal official.

- iv. To evaluate the efficacy of the efforts funded by either Capacity Grants or Planning Grants made to subgrantees, provided that the Native Entity may not use more than five (5) percent of the amount of the grant for this purpose.<sup>26</sup>
- v. For administrative costs incurred in carrying out the activities described above provided that the Native Entity may not use more than three (3) percent of the amount of the grant for this purpose.<sup>27</sup>
- vi. The other permissible uses identified in Section II.C.3.b (State and Territory Eligible Uses) above.

**b. Prohibited Uses of State Digital Equity Capacity Grant Funds**

**i. Twenty (20) Percent Cap on Digital Equity Plan Updates**

No more than twenty (20) percent of the amount of the grant may be used to update or maintain the Digital Equity Plan of the State or of the Territory (as applicable).

**ii. Five (5) Percent Cap on the Evaluation of Program Efficacy**

No more than five (5) percent of the amount of the grant may be used to evaluate the efficacy of the efforts funded by grants made to subgrantees to: (a) assist in the implementation of the Digital Equity Plan of the Native Entity; (b) pursue digital inclusion activities in the Native Entity's jurisdiction; and (c) report to the Native Entity regarding the digital inclusion activities of the entity.

**iii. Three (3) Percent Cap on Administrative Costs**

No more than three (3) percent of the amount of the grant may be used for administrative costs (exclusive of costs for program evaluation and updating the Digital Equity plan) in carrying out allowable activities under this Program and described in an SDECGP award. For this purpose, the three (3) percent limitation on administrative expenses includes the combined total of indirect and direct administrative costs charged to an award. The applicant must clearly describe in the budget narrative how it applied or calculated the three (3) percent limitation on administrative costs.

**iv. Ten (10) Percent Cap on Affordable Broadband Programs**

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<sup>26</sup> 47 U.S.C. §1723(d)(3)(D)(iv)

<sup>27</sup> 47 U.S.C. §1723(d)(3)(D)(v)

No more than ten (10) percent of the amount of the grant may be used to fund subsidies for the provision of broadband services through affordable broadband programs.

**v. Prohibition on Supplanting and on Certain Website Upgrades**

Pursuant to 47 U.S.C. §1723(h) a grant or subgrant awarded under the State Digital Equity Capacity Grant Program shall supplement, not supplant, other federal or State funds that have been made available to carry out activities described in 47 U.S.C. §1723 and in this NOFO. Funds from the Tribal Broadband Connectivity Program are subject to separate financial assistance award terms and conditions and must not be supplanted by State Digital Equity Capacity Grant Program funding. In addition, grantees are prohibited from using Capacity Grant funds to conduct website upgrades or other accessibility projects that are otherwise required by law.

**c. Prohibition on Broadband Deployment Funding**

In general, deployment of broadband infrastructure to connect broadband serviceable locations should be accomplished through other programs, including the Broadband Equity, Access, and Deployment Program and the Tribal Broadband Connectivity Program. However, to the extent that installation of broadband infrastructure is necessary to accomplish an eligible program, activity, or intervention (e.g., installing fixed equipment on a building as part of a strategy to promote access to affordable broadband service), additional information will be required to determine the potential for environmental impacts under the National Environmental Policy Act (42 U.S.C. §4321 *et seq.*) and potential impacts to historic properties under the National Historic Preservation Act of 1966 (54 U.S.C. 300101 *et seq.*). Additionally, any portion of a State Digital Equity Capacity Grant Program award that will be used for an “infrastructure project” (as defined in 2 C.F.R. 184.3) is subject to the Build America, Buy America Act (Pub. L. No. 117-58, §§ 70901-52) and to the regulations promulgated thereunder at 2 C.F.R. part 184). *See* Section IV.D.4 of this NOFO for additional information concerning the Build America, Buy America requirements for this Program. In accordance with section 60506 of the Infrastructure Act, the Federal Communications Commission adopted rules to prevent digital discrimination of access on the basis of income level, race, ethnicity, color, religion, or national origin.<sup>28</sup>

**d. Prohibition on Profit or Fees**

A profit, fee, or other incremental charge above actual cost is not an allowable cost under this Program.

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<sup>28</sup> 89 Fed. Reg. 4128 (Jan. 22, 2024); 47 U.S.C. 1754.

**e. Prohibition on Use of Grant Funds to Support or Oppose Collective Bargaining**

Grant funds awarded pursuant to this Program may not be used, whether directly or indirectly as an offset for other funds, to support or oppose collective bargaining.

**4. Certification Regarding Debarment and Suspension**

By signing and submitting an application for funding pursuant to the State Digital Equity Capacity Grant Program, the applicant is making the certifications outlined in Appendix B to this NOFO (*see* Line 21 on the SF-424, Application for Federal Assistance).

**5. System for Award Management (SAM)**

Pursuant to 2 C.F.R. Part 25, an applicant or recipient (as the case may be) is required to: (i) be registered in SAM before submitting its complete application packet; (ii) provide a valid unique entity identifier (UEI) 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. SAM Unique Entity Identifier**

All applicants must supply a SAM Unique Entity Identifier (UEI) number. As of April 4, 2022, the U.S. government stopped using the Dun and Bradstreet (D&B) Data Universal Numbering System (D-U-N-S) nine-digit number as the unique identifier for entities throughout the federal awarding cycle, in [SAM.gov](https://sam.gov), Integrated Award Environment (IAE) systems, required forms, or in downstream government systems. Now, entities doing business with the federal government must use the Unique Entity ID created in [SAM.gov](https://sam.gov). Applicants who are new to [SAM.gov](https://sam.gov) may register their entity or receive a UEI by signing into [SAM.gov](https://sam.gov) and selecting “Get Started,” then “Register Entity.” If you are a sub-awardee who just needs a UEI for subaward reporting, choose “Get Unique Entity ID.”

For more information on the retirement of the DUNS, as well as the establishment of an entity’s UEI, please visit <http://www.sam.gov>.

**b. SAM Registration**

All applicants must register with SAM before submitting an application pursuant to this program. 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/>. Entities without an active [SAM.gov](https://www.sam.gov/) registration and/or UEI at the time of application submission and award may be deemed ineligible for a grant award.

## **6. Submission Dates and Times**

Applications for the State Digital Equity Capacity Grant Program must be complete and must adhere to the instructions provided in this NOFO and be submitted in the format required by the NTIA Grants Portal (<https://grants.ntia.gov>). Applications from Native Entities must be received through the NTIA application portal or by email **no later than 11:59 p.m. Eastern Time (ET) on February 7, 2025**, or, if submitted by mail or courier, postmarked (for postal mail) or show clear evidence of mailing (for courier submissions) **no later than 11:59 p.m. Eastern Time (ET) on February 7, 2025**.

When developing the submission timeline, each applicant should keep in mind that: (a) all applicants are required to have current registrations in the electronic System for Award Management ([SAM.gov](https://www.sam.gov)) and (b) the free annual registration process in [SAM.gov](https://www.sam.gov) generally takes between three (3) and five (5) business days but can take more than three weeks.

## **7. Material Representations and Public Disclosure**

All forms and supporting documents submitted as part of the application packet will be treated as a material representation of fact upon which NTIA and NIST's Grant Management Division will rely in awarding grants. Applicants acknowledge and understand that any false, fictitious, or fraudulent statements (or concealment or omission of a material fact) in the forms and supporting documents, including any required certifications or disclosures, submitted to NTIA may subject applicants to criminal prosecution (including under 18 U.S.C. § 1001 and/or 1621), and may subject applicants to civil and administrative penalties and other remedies. Applicants should be aware that NTIA, in coordination with the NIST Grants Officer, may make all or portions of their applications for grants under the State Digital Equity Planning Grant Program and State Digital Equity Capacity Grant Program publicly available as required under applicable federal laws. *See* Section VIII.A of this NOFO for additional information concerning the confidentiality of information contained in an application.

## **8. Other Submission Requirements**

Applications must be submitted (1) electronically through the NTIA Grants Portal ([www.grants.ntia.gov](https://www.grants.ntia.gov)) portal, (2) by email ([digitalequity@ntia.gov](mailto:digitalequity@ntia.gov)), or (3) by mail or courier to:

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



#### **a. Timely Receipt Requirements and Proof of Timely Submission**

*Online Submission.* Proof of timely submission is automatically recorded by the NTIA Grants Portal. An electronic date/time stamp is generated within the system when the application is successfully submitted in the NTIA application portal. The applicant with the Authorized Organizational Representative (AOR) role who submitted the application will receive an email acknowledgement of receipt from the NTIA application portal with the successful transmission of their application. Applications received in the NTIA application portal after the established due date for the program will be considered late and will not be considered for funding by NTIA.

#### **b. Amendments**

Any amendments to this NOFO or additional program guidance will be announced on [NTIA.gov](https://BroadbandUSA.NTIA.gov) and <https://BroadbandUSA.NTIA.gov>.

### **D. APPLICATION REVIEW INFORMATION**

Capacity Grant and Planning Grant funds will be awarded to Native Entities on a competitive basis using the following stages of review and will be prioritized for funding as described in Section III.D.3.a below:

#### **1. Initial Eligibility and Administrative Review**

NTIA will conduct an initial review of submitted applications to ensure they contain all the information and documentation required under Section III.C “Application and Submission Information” of this NOFO and that this information was submitted in a timely manner as required by Section III.C.8. of this NOFO. Any entity that does not meet the definition of Indian Tribe, Alaska Native entity, or Native Hawaiian organization or does not have authorization to submit an application from the governing body described in Section III.B.1.c of this NOFO may be eliminated from review. During this review stage, NTIA also reserves the right to remove applications from consideration if submitted materials are incomplete or untimely. NTIA may continue the review process for an application that is timely submitted by an eligible Native Entity, but that is missing certain information or documentation required by this NOFO. In such cases, NTIA may ask the applicant to provide any missing or incomplete materials during this initial review. NTIA reserves the right at any time during the application review processes to negotiate with the applicant relative to specific modifications to the application.

#### **2. Merit Review**

Applications satisfying the Initial Administrative and Eligibility Review will move to Merit Review. Applications will be reviewed by at least two merit reviewers, which may be federal personnel or non-federal personnel, who have demonstrated expertise in the programmatic aspects of digital equity and inclusion. As applicable, merit 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. In accordance

with the below criteria, the Merit Reviewers will review applications for Capacity Grants (including Planning Grant funds) to ensure conformity with the program objectives, eligible activities, and related costs/budget. The evaluation criteria that will be used by the Merit Reviewers to review and analyze applications for Capacity Grant funds are grouped into four categories as outlined below. Reviewers will evaluate applications according to these evaluation criteria and independently score each application based on a scale of 0-100 points.

Based on an average of the reviewers' scores, applications will be assigned a rating of Qualified for Programmatic Review, Conditionally Qualified for Programmatic Review, or Unqualified for Funding in accordance with the following scale:

Qualified for Programmatic Review – (90-100 points)

Conditionally Qualified for Programmatic Review – (65-89 points)

Unqualified for Funding – (0-64 points)

**Evaluation Criteria for Merit Review:**

*a. Project Need, Purpose, and Benefits (40 points)*

Reviewers will assess the demonstrated need for the project considering information such as, but not limited to, the number of different identifiable Covered Populations to be served, the number of individuals within the Covered Population to be served, and any available data regarding poverty rates of the Covered Populations, the number of individuals within the Covered Populations not using or subscribing to the Internet, the number of individuals within the Covered Populations lacking access to a computer, tablet, smartphone, or other device that enables Internet access, or other evidence of need. The Reviewers will consider the direct and indirect expected benefits of the project to the Covered Populations.

*b. Strength of Applicant's Organizational Capability. (25 points)*

Reviewers will consider the direct and indirect expected benefits of the project to the Covered Reviewers will assess the strength of the applicant's organizational capability and its ability to satisfy the requirements and goals of the Capacity and Planning Grant Programs. Reviewers will consider the programmatic/technical experience of the implementation team, the organizational capacity to implement the proposed project(s), and the roles and contributions of each partner entity, including the representation of each partner in the decision-making process. Reviewers will assess the strength of the applicant's subrecipient and subcontractor strategy (as applicable).

*c. Strength of Project Implementation Plan and Budget (25 points)*

Reviewers will assess the overall soundness of the proposed project(s) plan and milestones and whether the proposed activities will support the goals of digital equity and

inclusion outlined in the Digital Equity Act and this NOFO. Reviewers will assess whether the application materials provide sufficient detail regarding the proposed project(s) and activities to demonstrate they are achievable, are consistent with the allowable programmatic activities, whether the applicant has established realistic measurable objectives, and whether the requested funds, implementation milestones, and timeline are sufficient to complete the tasks described in the Project Narrative, including the feasibility and appropriateness of the proposed project budget. Reviewers will assess the extent to which the applicant demonstrates its ability to support and sustain digital equity efforts beyond the award period of performance.

*d. Project Results and Evaluation (10 points)*

Reviewers will assess whether the project has a strategy for measuring the near term and long-term impact on digital equity within the Native Entity and its collateral benefits. Reviewers will assess whether the applicant demonstrates a commitment to continuous improvement based on evaluation results, including obtaining input from its intended project beneficiaries.

**3. Programmatic Review**

Applications which pass the Initial Administrative and Eligibility Review and score at least 65 points during the Merit Review will be considered under the below Programmatic Review process. In prioritizing the programmatic review of applications, NTIA will generally not move to applications in the next prioritization grouping unless: (i) all applications in the prior prioritization grouping are reviewed by NTIA, and either (ii)(a) the slate of proposals being recommended for funding does not utilize the entirety of the set aside funds available for Native Entities; or (ii)(b) evaluation of other applications is warranted to ensure geographic diversity, ensure diversity in the size of the funding amounts awarded, and/or to ensure funding reaches those Native Entities with the highest rates of poverty.

**a. Prioritization**

Applications will be prioritized for Programmatic Review as follows:

- i. First, NTIA will review any application that received an average score of 90 or higher during the Merit Review that is from a Native Entity or Native Entities that did not receive funding from NTIA's Tribal Broadband Connectivity Program for Sustainable Broadband Adoption and Use activities (including equitable distribution funding used for these purposes), and whose application proposes programs that address three or more of the Covered Populations as defined in Section I.C. of this NOFO. For a consortium to qualify for this prioritization, no member of the consortium may have received such Tribal Broadband Connectivity Program funding.

- ii. Second, NTIA will review applications receiving an average score of 90 or higher during the Merit Review that address three or more of the Covered Populations as defined in Section I.C. of this NOFO.
- iii. Third, NTIA will review any other application receiving an average score of 90 or higher during the Merit Review.
- iv. Applications receiving scores between 65 and 89 points may be entered into Programmatic Review after review of the prioritized applications in the event that (a) the Programmatic Review results in a slate of proposals that do not utilize the entirety of the set aside funds available for Native Entities, or (b) evaluation of other applications is deemed warranted at a later stage in the process to ensure geographic diversity, ensure diversity in the size of the funding amounts awarded, or to ensure funding reaches those Native Entities with the highest rates of poverty. At this stage of the review, applications with scores between 80 and 89 for which applicants have demonstrated that three or more of the Covered Populations (as defined in Section I.C. of this NOFO) will be served will be reviewed prior to those applications with scores between 80 and 89 points and which do not propose projects serving three or more Covered Populations, followed by merit review scores of 70 to 79 and 65-69 under the same rubric.

#### **b. Programmatic Review Process**

NTIA will assess applications that reach Programmatic Review (subject to the prioritization process outlined above) to consider the extent to which those applications meet the criteria listed below and will calculate weighted scores to reflect each application's likelihood of advancing those goals. Specifically, based on the seven factors listed below, each application's average Merit Review Score will be multiplied by an additional .1 for each of the seven factors met. So, for example, projects that do not meet any of the criteria listed below would be multiplied by 1.0, while projects that meet all seven criteria would be multiplied by 1.7.

- i. The proposed project will create a sustainable long-term impact on digital equity and inclusion.
- ii. The proposed project serves five or more Covered Populations.
- iii. The applicant has demonstrated that more than sixty-five (65) percent of the members of the Native Entity's population live in Covered Households.
- iv. The applicant has demonstrated a lack of alternative resources to address issues of digital equity and inclusion.
- v. The applicant has established a plan for ongoing collaboration with key stakeholders, including representatives of the Covered Populations.

- vi. The project has realistic timelines and assumptions which indicate implementation can be accomplished during the period of performance.
- vii. The applicant demonstrates a commitment and plan for continuous improvement of the project by obtaining input from its intended project beneficiaries.

With respect to each item above, the applicant should specify the criteria it believes its project meets and provide evidence that supports its position with respect to each criterion in the project narrative. Programmatic reviewers will consider the evidence presented on its own merit and will not seek out or consider material not included in the application except insofar as they request additional information to clarify or to further substantiate representations made in an application.

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 Digital Equity Capacity Grant 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 at this point in the review process.

Upon completion of the Programmatic Review for each priority grouping identified above in Section D.3.a., NTIA Program Staff will summarize their analysis and scoring for each application reviewed, and will provide a ranked list of proposed projects, based on each project's weighted score, to the Associate Administrator for the Office of Internet Connectivity and Growth (OICG Associate Administrator).

#### **4. OICG Associate Administrator Review**

Following the conclusion of the Programmatic Review, the OICG Associate Administrator will review the ranked list of applications developed during the Programmatic Review process and will recommend a final list of ranked applications to the NTIA Assistant Secretary, who is the Selecting Official for this program. The OICG Associate Administrator's recommendations to the Selecting Official may differ from the ranked list of applications developed during the Programmatic Review based on consideration of the following selection factors: (a) geographic diversity, (b) diversity in the size of the funding amounts of the proposed awards, (c) consideration for consortia applications, and (d) to ensure funding reaches those Native Entities with the highest rates of poverty. Based on these selection factors, the OICG Associate Administrator may recommend lower ranked applications within a particular priority grouping to the Selecting Official, as warranted, and will appropriately document the basis of this recommendation.

## **5. Final Project Selection**

After conducting the review described above, the OICG Associate Administrator shall provide a ranked package of recommended awards to the NTIA Assistant Secretary for final review. As the Selecting Official, the NTIA Assistant Secretary retains discretion to select and recommend an application for funding that was not recommended by the OICG Associate Administrator based on the selection factors list above in Section III.D.4. of this NOFO. The NTIA Assistant Secretary also retains discretion not to recommend an application for funding that was recommended by the OICG Associate Administrator and will appropriately document the basis of this decision.

The NTIA Assistant Secretary will submit the applications recommended for funding, along with the bases for the selection decisions, to the National Institute of Standards and Technology (NIST) Grants Officer, who serves as the Grants Officer for the Capacity Grant Program. The final approval of selected applications and the issuance of awards will be made by the NIST Grants Officer. The award decisions of the NIST Grants Officer are final.

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

## **6. Federal Awarding Agency Review of Risk Posed by Applicant**

After applications are proposed for funding by the Selecting Official, the NIST Grants Management Division (GMD) 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), NIST GMD will review and consider the non-publicly available information about that applicant in the Federal Awardee Performance and Integrity Information System (FAPIS), which is now located in [SAM.gov](https://sam.gov) as the responsibility/qualifications (R/Q) reports. Upon completion of the pre-award risk assessment, NIST GMD 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.

## **7. Anticipated Announcement and Award Dates**

NTIA expects to begin making awards under this NOFO in Summer 2025, NTIA may issue awards made under the State Digital Equity Capacity Grant Program on a rolling basis.

## **IV. FEDERAL AWARD ADMINISTRATION INFORMATION**

### **A. Federal Award Notices**

Applicants will be notified in writing by the NIST Grants Officer if their application is selected for an award. If the application is selected for funding, the NIST Grants Officer will issue the grant award (Form CD-450), which is the authorizing financial assistance award document. By signing and returning 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 NIST 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 NIST Grants Officer and is subject to the limitations contained in 47 U.S.C. §1723(d)(3)(B), the terms and conditions of the award, available funding, and this NOFO.

### **B. Notification to Unsuccessful Applicants**

Unsuccessful applicants will be notified in writing by email (or, in the case of entities that submitted material via mail or courier, in a similar fashion) and will have the opportunity to receive a debriefing. Applicants must make a request within ten (10) business days of the email or written notification to receive a debrief from NTIA. NTIA will then work with the unsuccessful applicant to arrange a date and time for the debrief.

### **C. Retention of Unsuccessful Applications**

Unsuccessful applications will be retained in accordance with NTIA recordkeeping requirements.

### **D. Administrative and National Policy Requirements**

Recipients of funding pursuant to this program must comply with applicable statutes and regulations, including but not limited to:

#### **1. 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>.

#### **2. 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 V.B of this NOFO, Federal Awarding Agency Contacts, Grant management inquiries, if you need more information.

### **3. 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 V.B of this NOFO, Federal Awarding Agency Contacts, Grant management inquiries, for more information.

### **4. Build America, Buy America Act Domestic Content Preference Requirements**

Pursuant to the Build America, Buy America Act (BABA) (Pub. L. No. 117-58, §§ 70901-52) and regulations promulgated thereunder at 2 C.F.R. part 184, recipients of an award of federal financial assistance from the Department of Commerce are hereby notified that none of the funds provided under such award may be used for an “infrastructure project” (as defined in 2 C.F.R. 184.3) unless:

- a. all iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
- b. all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than fifty-five (55) percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
- c. all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

To help federal agencies and recipients meet BABA requirements, the Hollings Manufacturing Extension Partnership (MEP) National Network™ of the National Institute for Standards and Technology (NIST) provides a service to connect stakeholders, including recipients, to U.S.



manufacturers that have relevant production capabilities and capacities to help fulfill current market and supply chain needs. Recipients considering requesting a BABA nonavailability waiver are strongly encouraged to contact the NIST/MEP for assistance with supplier scouting services prior to seeking a BABA nonavailability waiver. Further information on the NIST/MEP supplier scouting services is available at: <https://www.nist.gov/mep/supplier-scouting>.

### *Waivers*

When necessary, recipients may apply for, and the Department may grant, a waiver from these requirements. The Department will provide the recipient with information on the process for requesting a waiver from these requirements. When the Department has made a determination that one of the following exceptions applies, the awarding official may waive the application of the domestic content procurement preference in any case in which the Department determines that:

- i. applying the domestic content procurement preference would be inconsistent with the public interest;
- ii. the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
- iii. the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than twenty-five (25) percent.

A request to waive the application of the domestic content procurement preference must be in writing. NTIA will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than fifteen (15) calendar days and must be reviewed by the Made in America Office of the Office of Management and Budget (OMB).

There may be instances where an award qualifies, in whole or in part, for an existing waiver described at <https://www.commerce.gov/oam/build-america-buy-america>.

## **5. Domestic Preference for Procurements**

Pursuant to 2 C.F.R. § 200.322, as appropriate and to the extent consistent with law, 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.

## **6. 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.

## **7. Cybersecurity Best Practices**

Recipients and subrecipients must ensure that the planning, design, and project oversight phases of the programs and activities funded through the Digital Equity Capacity Grant Program are consistent with current industry best practices for cybersecurity, such as the NIST Cybersecurity Framework<sup>29</sup> and Cybersecurity and Infrastructure Security Agency (CISA) Cybersecurity Performance Goals (CPGs).<sup>30</sup> These performance goals provide a baseline set of cybersecurity practices that are broadly applicable, with known risk-reduction value. NTIA reserves the right to review a recipient's cybersecurity framework and recipients must review the cybersecurity framework of its subrecipients.

### **E. Reporting**

Recipients will be required to comply with reporting requirements. In addition to the reporting requirements found in 2 C.F.R. Part 200, NTIA will provide additional reporting instructions in connection with the requirements set forth in this Section, including details on the manner and format in which recipients will be required to report information in support of federal agency obligations under the ACCESS BROADBAND Act, 47 U.S.C. § 1307, and Section 60105 of the Infrastructure Act.

#### **1. Infrastructure Act Reporting Requirements (Annual Report)**

As set forth in 47 U.S.C. §1723(g)(1), any entity to which a grant, including a subgrant, is awarded under this program shall be required to publicly report, for each year during the period of performance of a program grant, in a format to be specified by the Assistant Secretary, on:

- a. The use of that grant by the entity;
- b. The progress of the entity toward fulfilling the objectives for which the grant was awarded; and

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<sup>29</sup> NIST Cybersecurity Framework, <https://www.nist.gov/cyberframework/framework>.

<sup>30</sup> Cybersecurity & Infrastructure Security Agency, Cross-Sector Cybersecurity Performance Goals, <https://www.cisa.gov/cross-sector-cybersecurity-performance-goals>.

- c. The implementation of the State Digital Equity Plan of the State.

The Assistant Secretary may establish additional reporting and information requirements for any recipient of a grant as necessary to fulfil the requirements of the Digital Equity Act.

## **2. Other Reporting Requirements**

The following reporting requirements described in Section A.01, Reporting Requirements, of the Department of Commerce Financial Assistance Standard Terms and Conditions (12 November 2020), apply to awards in this program:

### **a. Financial Reports**

Each award recipient will be required to submit an SF-425, Federal Financial Report on a semiannual basis for the periods ending March 31 and September 30 of each year. Reports will be due within thirty (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. If awarded, further instructions on where and how to submit reports will be provided via a specific award condition. A final financial report is due within one hundred twenty (120) days after the end of the project period.

### **b. Performance (Technical) Report**

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 semiannual basis for the periods ending March 31 and September 30 of each year. If awarded, further instructions on where and how to submit reports will be provided via a specific award condition. Reports will be due within thirty (30) days after the end of the reporting period. Technical progress reports shall contain information as prescribed in 2 C.F.R. § 200.329 and Department of Commerce Financial Assistance Standard Terms and Conditions (dated November 12, 2020), Section A.01. Capacity Grant Program reporting elements may include, but are not limited to: Status of achieving project implementation milestones and measurable objectives, and alignment to expenditures, project outputs, e.g., number of devices provided/subsidized, number of digital literacy/training programs developed and number of training hours provided, number of Internet subscriptions provided/subsidized, project output beneficiaries, including number of beneficiaries across the Covered Populations, number of jobs created for project implementation, results from program evaluation activities (when applicable), progress on implementation of the State Digital Equity Plan using funds other than from the State Digital Equity Capacity Grant Program (as applicable).

### **c. Human Subjects Research**

All State Digital Equity Capacity Grant Program recipients must comply with Department of Commerce regulations relating to the protection of human subjects for all research conducted or supported pursuant to a NTIA grant award (per 15 C.F.R. Part 27). Recipients must review

forthcoming guidance for human subjects research protection and make an independent assessment of their planned activities and act in accordance with Human Subjects Research protection requirements and report any new research activities or updates to planned activities on an ongoing basis.

#### **F. 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,<sup>31</sup> 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.

#### **G. Audit Requirements**

The federal financial assistance regulations in 2 C.F.R. Part 200, Subpart F require any non-federal entity 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.*, for-profit subrecipients) that expend \$750,000 or more in grant 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. § 200.507. *See* Section D.01.c. of the Department of Commerce Financial Assistance Standard Terms and Conditions. Applicants are reminded that NTIA, the NIST Grants Office, the Department of Commerce Office of Inspector General, or another authorized federal agency may conduct an audit of an award at any time.

#### **H. 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 \$30,000 or more. In addition, recipients that meet certain criteria are responsible for reporting executive compensation. Applicants must ensure

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<sup>31</sup> *See* 2 C.F.R. Part 200, Appendix XII, available at <http://go.usa.gov/cTBwC>.

they have the necessary processes and systems in place to comply with the reporting requirements should they receive funding.<sup>32</sup>

## **I. Public Database**

Pursuant to 47 U.S.C. §1723(g)(1)(C) of the Digital Equity Act, NTIA will create and maintain a fully searchable database, which shall be accessible on the internet at no cost to the public, that contains, at a minimum: (i) the application of each State that has applied for a grant under this program; (ii) the status of each application described in clause (i); (iii) each report submitted by an entity pursuant to §1723(g)(1)(A) of the Digital Equity Act; (iv) a record of public comments made regarding the State Digital Equity Plan of a State, as well as any written responses to or actions taken as a result of those comments; and (v) any other information that is sufficient to allow the public to understand and monitor grants awarded under this program.

In accordance with federal policy, any publications and their supporting data resulting from federally funded research should be made publicly accessible without an embargo on their free and public release, no later than December 31, 2025. <https://www.whitehouse.gov/wp-content/uploads/2022/08/08-2022-OSTP-Public-Access-Memo.pdf>.

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<sup>32</sup> 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>.

## **V. FEDERAL AWARDING AGENCY CONTACTS**

### **A. Please direct programmatic inquiries to:**

Angela Thi Bennett  
Director of Digital Equity  
Office of Internet Connectivity and Growth  
National Telecommunications and Information Administration  
U.S. Department of Commerce  
1401 Constitution Avenue, NW  
Washington, DC 20230  
Phone: (202) 482-2048  
Email: [digitalequity@ntia.gov](mailto:digitalequity@ntia.gov)

### **B. Please direct grant management inquiries to:**

Darren Olson  
NIST Grants Officer  
Grants Management Division  
National Institute of Standards and Technology  
325 Broadway  
Boulder, CO 80305  
Phone: (720) 693-0465  
Email: [darren.olson@nist.gov](mailto:darren.olson@nist.gov)

### **C. Please direct media inquiries to:**

Charles Meisch  
Director of Public Affairs  
Office of Public Affairs  
National Telecommunications and Information Administration  
U.S. Department of Commerce  
1401 Constitution Avenue NW, Room 4897  
Washington, DC 20230  
Phone: (202) 482-7002  
Email: [press@ntia.doc.gov](mailto:press@ntia.doc.gov)

## **VI. OTHER INFORMATION**

### **A. Transparency**

The Infrastructure Act contains robust reporting requirements for grant recipients, and requires NTIA, the Commission, and other agencies to coordinate to make information regarding federal broadband funding, low-cost plans, and other aspects of the State Digital Equity Capacity Grant Program readily available to and understandable by the public. NTIA will fulfill its obligations to the fullest extent possible. Recipients of U.S. Department of Commerce and NTIA grants also should be cognizant of the access to records requirements set forth at 2 C.F.R. § 200.337.

### **B. Protected and Propriety Information**

Recipients of State Digital Equity Capacity Grants acknowledge and understand 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 either entity, may be used by the Department of Commerce in conducting reviews and evaluations of its financial assistance programs and for statistical purposes. For this purpose, information and data may be accessed, reviewed, and evaluated by Department of Commerce 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, recipients 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 the Department of Commerce and external program evaluators. In accordance with 2 C.F.R. § 200.303(e), program participants are reminded that they must take reasonable measures to safeguard protected personally identifiable information and other confidential 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 consistent with applicable law, including 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.*). In the event that a submission contains information or data deemed to be confidential commercial information or that otherwise should not be publicly disclosed, that information should be identified, bracketed, and marked as Privileged, Confidential, Commercial or Financial Information. *See* 15 C.F.R. § 4.9(b). Based on these markings, the confidentiality of the contents of those pages will be reviewed for protection consistent with applicable law. As discussed above, 47 U.S.C. 1723(g)(1)(C) requires that NTIA create and maintain a fully searchable public database that includes the application of each State that has applied for a grant under this program, among other information.

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. In the event that a submission contains such information or data, that information should be identified, bracketed, and marked appropriately. Based on these markings, the confidentiality of the contents of those pages will be reviewed for protection consistent with applicable law. States, U.S. territories (other than Puerto Rico), Indian Tribes, Alaska Native entities, and Native Hawaiian organizations that are interested in participating in this program 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.

In addition to the public disclosure requirements of this program, each State, U.S. territory, Indian Tribe, Alaska Native entity, or Native Hawaiian organization interested in participating in this program is encouraged to consult its own 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 or how omitting sensitive information could impact NTIA's assessment of the application.

### **C. Funding Availability and Limitation of Liability**

Funding for the State Digital Equity Capacity Grant Program described in this NOFO is contingent upon the continued availability of appropriations. In no event will NTIA, NIST, 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, NIST or the Department of Commerce to award any specific project or to obligate any available funds. NTIA will recommend for funding only projects that are deemed likely to achieve the State Digital Equity Capacity Grant Program's goals and for which funds are available.

### **D. Third Party Beneficiaries**

The State Digital Equity Capacity Grant Program is not intended to and does not create any rights enforceable by third party beneficiaries.

### **E. 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 at the discretion of the Assistant Secretary, 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.



## **F. 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. For purposes of the State Digital Equity Capacity Grant Program, NTIA will use the State Digital Equity Capacity Grant Program forms in the Application for Broadband Grant Programs information collection (0660-0046) and Standard Forms 424 (Application for Federal Assistance), 424A (Budget Information for Non-Construction Programs), 425 (Federal Financial Report), and SF-LLL (Disclosure for Lobbying Activities) under the respective control numbers 4040-0004, 4040-0006, 4040-0014, and 4040-0013.

## **G. Transparency, Accountability, and Oversight Required**

### **1. Generally**

NTIA and all State Digital Equity Capacity Grant Program recipients have a critical role to play in ensuring that the State Digital Equity Capacity Grant Program is implemented in a manner that ensures transparency, accountability, and oversight sufficient to, among other things:

- a. Minimize the opportunity for waste, fraud, and abuse;
- b. Ensure that recipients of grants under the Program use grant funds to further the overall purpose of the Program in compliance with the requirements of 47 U.S.C. §1723 of the Digital Equity Act, this NOFO, 2 C.F.R. Part 200, the terms and conditions of an award, and other applicable law; and
- c. Allow the public to understand and monitor grants awarded under the Program.

To that end, NTIA shall, as appropriate:

- d. Conduct such audits of award recipients (States, U.S. Territories, Native Entities), and Administering Entities as are necessary and appropriate;
- e. Develop monitoring plans, subject to the approval of the Assistant Secretary, which may include site visits or desk reviews, technical assistance, and random sampling of compliance requirements; and
- f. Impose special conditions on grant awards designed to mitigate the risk of nonperformance where appropriate.

Each State, U.S. Territory, Indian Tribe, Alaska Native entity, Native Hawaiian organization, and/or Administering Entity or Administering Organization shall, as appropriate:

- g. Comply with the reporting requirements set forth in Section IV.E of this NOFO;

- h. Conduct audits of sub-recipients and award management as necessary and appropriate. States shall report the full results of any audits they conduct to the appropriate Federal Program Officer and NIST Grants Officer;
- i. Comply with the obligations set forth in 47 U.S.C. §1723(d) of the Digital Equity Act, this NOFO, 2 C.F.R. Part 200, the terms and conditions of an award, and other applicable laws; and
- j. Establish and widely publicize telephone numbers and email addresses for the State, U.S. territory or possession, Indian Tribe, Alaska Native entity, Native Hawaiian organization, and/or Administering Entity or Administering Organization's Office of Inspector General (or comparable entity) for the purpose of reporting waste, fraud or abuse, in the Program. States, U.S. possessions and territories, Indian Tribes, Alaska Native entities, Native Hawaiian organizations, and their administering entities shall produce copies of materials used for such purpose upon request of the Federal Program Officer or the Grants Officer.

## **2. U.S. Department of Commerce Office of Inspector General**

The U.S. Department of Commerce Office of Inspector General (OIG) seeks to improve the efficiency and effectiveness of the Department's programs, including through deterring and detecting fraud, waste, abuse, and mismanagement. The OIG accomplishes this mission primarily through investigations, audits, and inspections of Department activities, including grants, cooperative agreements, loans, and contracts.

### **a. Disclosures**

Recipients of financial assistance originating from the U.S. Department of Commerce, including NTIA, as well as applicants applying to this funding opportunity, shall timely disclose, in writing, to the OIG and awarding agency, whenever, in connection with the award, performance, or closeout of this grant or subaward thereunder, the recipient has credible evidence that a principal, employee, agent, or subrecipient has committed:

- i. A violation of federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code;
- ii. A violation of the civil False Claims Act (31 U.S.C. §§ 3729-3733); or
- iii. A violation of the Federal Antitrust Laws found in Title 15 of the United States Code.

### **b. Reporting**

The OIG maintains a hotline to receive allegations of fraud, waste, or abuse. To report such allegations, please visit <https://www.oig.doc.gov/Pages/Hotline.aspx> to submit a complaint or call toll-free at 800-424-5197. The OIG will accept complaints via U.S. mail at the following address:

U.S. Department of Commerce  
Office of Inspector General  
1401 Constitution Avenue  
Washington, D.C. 20230.

Upon request, the OIG will take appropriate measures to protect the identity of any individual who reports misconduct, as authorized by the Inspector General Act of 1978, as amended. Reports to the OIG may also be made anonymously.

### **3. Whistleblower Protection**

Recipients, sub-recipients, and employees working on this grant award will be subject to the whistleblower rights and remedies established under 41 U.S.C. § 4712. An employee of a recipient or sub-recipient may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing information that the employee reasonably believes is evidence of: gross mismanagement of a federal contract or award; a gross waste of federal funds; an abuse of authority (*i.e.*, an arbitrary and capricious exercise of authority that is inconsistent with the mission of NTIA or the U.S. Department of Commerce or the successful performance of a contract or grant awarded by NTIA or the Department) relating to a federal contract or award; a substantial and specific danger to public health or safety; or a violation of a law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

The recipient or sub-recipient shall inform its employees and contractors, in writing, in the predominant language of the workforce or organization, of employee whistleblower rights and protections under 41 U.S.C. § 4712, as described above and at

<https://www.oig.doc.gov/Pages/Whistleblower-Protection-Program.aspx>.

### **H. Unauthorized Use of Funds**

In the event of non-compliance with 47 U.S.C. § 1723, this NOFO, 2 C.F.R. Part 200, the terms and conditions of an award, or other applicable law, NTIA and the NIST Grants Officer shall take appropriate enforcement action against a State, U.S. Territory, Indian Tribe, Alaska Native entity, or Native Hawaiian organization and, as necessary, against an Administering Entity or Administering Organization, as authorized in 2 C.F.R. §§ 200.339 - 200.343.

## Appendix A: State Funding Formula

NTIA and the U.S. Census Bureau have collaborated to create the Digital Equity Act Population Viewer, which contains the inputs used in the funding formula for each State, as well as links to the original data sources where applicable. The Census Bureau has also documented the methodology it has used to calculate the total number of persons in each State who are members of Covered Populations. The Digital Equity Act Population Viewer can be accessed at <https://www.census.gov/data/data-tools/digital-equity-act-population.html>.

1. NTIA will calculate the total amount available for awards to eligible States by subtracting set-asides for administrative costs, U.S. territories and possessions, and Tribal organizations from the total appropriation. Of the \$840 million appropriated for capacity grants, \$760,800,000 is available to eligible States after subtracting set-asides and administrative costs. This amount will be referred to as the “Gross Funding”.
2. NTIA will then multiply the Gross Funding amount determined in step 1 by 0.5 percent. This amount will be referred to as the “Minimum Award.”<sup>33</sup>
3. Using the amount calculated in step 1, NTIA will allocate fifty (50) percent of the Gross Funding (calculated in step 1) based on each eligible State’s population in proportion to the total population of all eligible States. For example, if “State X” contains one (1) percent of the total population of all eligible States, it would receive one (1) percent of the amount allocated during this step.<sup>34</sup> To determine the population of each eligible State, NTIA will use the most recent American Community Survey (ACS) single-year estimates released by the Census Bureau at the time of NOFO publication (excluding any estimates designated as experimental). For grants made available through this NOFO, NTIA will use estimates from the 2022 ACS.<sup>35</sup>
4. NTIA then will allocate twenty-five (25) percent of the Gross Funding determined in step 1 based on each eligible State’s proportion of the total number of individuals who fall within “Covered Populations” in all eligible States (as defined in Section I.C of this NOFO). Using ACS data from the same year used in step 2, as well as any auxiliary data sources it may deem necessary, the Census Bureau will create and publish estimates of the number of people in each State who are members of one or more of the groups constituting Covered Populations. The Census Bureau will employ its internal data to estimate membership of all

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<sup>33</sup> 47 U.S.C. §1723(d)(3)(A)(ii).

<sup>34</sup> If the total Gross Funding equaled \$56,000,000, then \$28,000,000 (half of \$56,000,000) would be allocated under this step, leaving State X with \$280,000 (one (1) percent of \$28,000,000) under this step.

<sup>35</sup> Population estimates calculated by the U.S. Census Bureau using ACS data can be found in Table B01003 and can be broken out by state using the Census Bureau’s data tool, available at <https://data.census.gov>.

Covered Populations without double-counting individuals who are members of multiple Covered Population categories. NTIA will use the totals for each eligible State in determining the appropriate allocation.<sup>36</sup> Thus, for example, if the Census Bureau determines that there are 100 million individuals throughout all eligible States that fall within one or more Covered Population groups, and that State X is home to five million of those persons, State X would, in this step, be allocated five (5) percent of twenty-five (25).<sup>37</sup>

5. NTIA will allocate the final twenty-five (25) percent of the Gross Funding by using four different indicators of the relative lack of broadband availability and adoption in each eligible State. These indicators are all collected from the three data sources required by statute, including the Commission’s Section 706(b) report, the ACS, and the NTIA Internet Use Survey. At this time, the Assistant Secretary has not designated any additional data sources for use in this portion of the funding formula. This portion of the funds will be allocated as follows:
  - a. Five (5) percent of the total Gross Funding will be allocated based on the proportion of individuals in each eligible State, relative to all other eligible States, who reside in a location where fixed broadband service that meets the Commission’s standard for advanced telecommunications capability is unavailable. For example, an eligible State in which ten (10) percent of the population lacks availability of fixed broadband meeting the Commission standard will receive an allocation that is twice as large as that for an eligible State where five (5) percent of the population lacks broadband availability. Both the definition of “advanced telecommunications capability” and the estimate to be used for each eligible State will be based on the most recent report the Commission has published pursuant to Section 706(b) of the Telecommunications Act of 1996 as of the date of NOFO publication. For grants made available through this NOFO, NTIA will use the Section 706 Report released on March 18, 2024.<sup>38</sup>
  - b. Another five (5) percent of the total Gross Funding will be allocated based on the proportion of individuals in each eligible State, relative to all other eligible States, who live in households that lack any type of computing device and/or a subscription

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<sup>36</sup> The estimates of Covered Populations created by the Census Bureau are available at <https://www.census.gov/programs-surveys/community-resilience-estimates/partnerships/ntia.html>.

<sup>37</sup> If the total Gross Funding equaled \$56,000,000, then \$14,000,000 (twenty-five (25) percent of \$56,000,000) would be allocated under this step, leaving State X with \$700,000 (five (5) percent of \$14,000,000) under this step.

<sup>38</sup> See <https://www.fcc.gov/document/fcc-increases-broadband-speed-benchmark-0>. The Commission lists the percentage of persons in each state who live where fixed broadband is available that meets the advanced telecommunications capability standard in Appendix B-1 of its Report (in the column entitled “Fixed 100/20 Mbps Including Fixed Wireless”). To derive the percentage of persons in each state who lack fixed broadband availability, NTIA subtracts the Commission’s estimate from 100.

to an internet access service other than dial-up service. NTIA will implement this factor using the most recent ACS single-year estimates released by the Census Bureau at the time of NOFO publication (excluding any estimates designated as experimental). For grants made available through this NOFO, NTIA will use estimates from the 2022 ACS.<sup>39</sup>

- c. Seven and one-half (7.5) percent of the total Gross Funding will be allocated based on the proportion of individuals in each eligible State, relative to all other eligible States, who do not use the internet from any location. For this factor, NTIA will use data from the most recent edition of the NTIA Internet Use Survey to have publicly released results at the time of NOFO publication. As a supplement to the Census Bureau's Current Population Survey, the NTIA Internet Use Survey does not include Puerto Rico residents in its sample. Therefore, NTIA is required to use the median value for this factor among all other eligible States for Puerto Rico if it is an eligible State. For grants made available through this NOFO, NTIA will use results from the 2021 NTIA Internet Use Survey.<sup>40</sup>
- d. The final seven and one-half (7.5) percent of the total Gross Funding will be allocated based on the proportion of individuals in each eligible State, relative to all other eligible States, who do not use at least one of the following types of devices: (1) a desktop computer; (2) a laptop computer; or (3) a tablet computer. NTIA will use data from the same edition of the NTIA Internet Use Survey as factor (c) as the data

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<sup>39</sup> The estimates used here are published in Table S2802 and may be broken out by state using the Census Bureau's data tool, available at <https://data.census.gov>. Specifically, NTIA will use the estimates under the subheading "Percent Broadband Internet Subscription," within the heading "With a Computer," and will subtract the estimate from 100 to get the percent of people in households in each state that lack either a computer or a broadband internet subscription in the household. Note that the Census Bureau defines "broadband" for the purposes of this table as including any type of internet access service other than dialup.

<sup>40</sup> In the NTIA Internet Use Survey, interviewers ask whether each member of the household age three or older uses the internet from a variety of locations (including a final question about any other location not previously covered). Individuals not reported as using the internet from any location are considered not to be internet users. NTIA reports the proportion of individuals who use the internet from any location in its Data Explorer tool, which includes the ability to break out data by state, at <https://www.ntia.gov/data/explorer>. NTIA will subtract the estimate for each state from 100 to derive the percent of people that do not use the internet.

source for this factor and will similarly substitute the median value among all other eligible States for Puerto Rico.<sup>41</sup>

6. NTIA will compare the allocation for each State resulting from the allocation formula described in steps 3 through 5 above with the Minimum Award amount. If the allocation for one or more States is lower than the Minimum Award amount, NTIA will increase the allocations for those States to the Minimum Award amount and decrease the allocations to the remaining states on a proportionate basis.

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<sup>41</sup> The NTIA Internet Use Survey includes a series of questions about the use of different types of computing devices by individual members of each household, including desktops, laptops, tablets, and several other device types. NTIA reports the proportion of individuals who use at least one of the three types of devices listed above in its Data Explorer tool, at <https://www.ntia.gov/data/explorer>. NTIA will subtract the estimate for each state from 100 to derive the percent of people that do not use any of the three device types.

## **Appendix B: Certifications Regarding Debarment and Suspension**

By signing and submitting an application for funding pursuant to the State Digital Equity Capacity Grant Program, the applicant is making the certifications set forth below (*see* Line 21 on the SF-424, Application for Federal Assistance).

### **Instructions for Primary Tier Participant Certification**

- i. 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.<sup>42</sup>
- ii. 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.
- iii. 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.
- iv. 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.
- v. 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.
- vi. 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

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<sup>42</sup> In the context of the State Digital Equity Capacity Grant Program, the primary tier participant would be the State, U.S. Territory, or Native Entity receiving a Capacity Grant from NTIA.



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.

- vii. 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.
- viii. 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 (SAM) Exclusions website (<https://www.sam.gov/>).
- ix. 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.
- x. 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.

#### Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Tier Covered Transactions

- i. The prospective primary tier participant certifies to the best of its knowledge and belief, that it and its principals or associated entities:
  - 1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any federal department or agency;

- 2) 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;
  - 3) 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 i(2) of this certification; and
  - 4) 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.
- ii. 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.

**Instructions for Lower Tier Participant Certification (applies to subrecipients)**

- i. By 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.<sup>43</sup>
- ii. 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.
- iii. 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.

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<sup>43</sup> In the context of the State Digital Equity Capacity Grant Program, lower-tier participants would be the entities that receive subgrants from, enter into contracts with, or otherwise receive program funding from the State, U.S. Territory, Native Entity that has received a Capacity Grant from NTIA.

- iv. 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.
- v. 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.
- vi. 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.
- vii. 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>).
- viii. 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.
- ix. 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.

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions**

- i. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals or associated entities is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any federal department or agency.
- ii. 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.

### **Appendix C: Assurances Required by 47 U.S.C. §1723(e)**

47 U.S.C. §1723(e) provides as follows:

(e) ASSURANCES. When applying for a grant under this section, a State shall include in the application for that grant assurances that—

(1) if an entity described in section 60305(b) is awarded grant funds under this section (referred to in this subsection as a “covered recipient”), provide that --

(A) the covered recipient shall use the grant funds in accordance with any applicable statute, regulation, and application procedure;

(B) the administering entity for that State shall adopt and use proper methods of administering any grant that the covered recipient is awarded, including by--

(i) enforcing any obligation imposed under law on any agency, institution, organization, or other entity that is responsible for carrying out the program to which the grant relates;

(ii) correcting any deficiency in the operation of a program to which the grant relates, as identified through an audit or another monitoring or evaluation procedure; and

(iii) adopting written procedures for the receipt and resolution of complaints alleging a violation of law with respect to a program to which the grant relates; and

(C) the administering entity for that State shall cooperate in carrying out any evaluation--

(i) of any program that relates to a grant awarded to the covered recipient; and

(ii) that is carried out by or for the Assistant Secretary or another federal official;

(2) the administering entity for that State shall—

(A) use fiscal control and fund accounting procedures that ensure the proper disbursement of, and accounting for, any federal funds that the State is awarded under this section;

(B) submit to the Assistant Secretary any reports that may be necessary to enable the Assistant Secretary to perform the duties of the Assistant Secretary under this section;

(C) maintain any records and provide any information to the Assistant Secretary, including those records, that the Assistant Secretary determines is necessary to enable the Assistant Secretary to perform the duties of the Assistant Secretary under this section; and

(D) with respect to any significant proposed change or amendment to the State Digital Equity Plan for the State, make the change or amendment available for public comment in accordance with subsection (c)(2); and

(3) the State, before submitting to the Assistant Secretary the State Digital Equity Plan of the State, has complied with the requirements of subsection (c)(2).

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Signature of Authorized Representative

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Date