

Before the National Telecommunications and Information Administration
Docket No. 220105-0002
Infrastructure Investment and Jobs Act Implementation

Comments of
The National Tribal Telecommunications Association

The National Tribal Telecommunications Association (NTTA) offers these comments in response to the National Telecommunications and Information Administration's (NTIA) request for comment on issues associated with the broadband provisions contained in the Infrastructure Investment and Jobs Act (IIJA).

NTTA consists of Tribally-owned communications companies and broadband providers including Cheyenne River Sioux Telephone Authority, Fort Mojave Telecommunications, Inc., Gila River Telecommunications, Inc., Hopi Telecommunications, Inc., Mescalero Apache Telecom, Inc., Saddleback Communications, San Carlos Apache Telecommunications Utility, Inc., Siyeh Communications, Tohono O'odham Utility Authority, and Warm Springs Telecom, as well as associate members Alaska Tribal Broadband, Nez Perce Tribe, Sacred Wind Communications, and Spokane Tribe Telecom Exchange. NTTA's mission is to be the national advocate for telecommunications service on behalf of its member companies and to provide guidance and assistance to members who are working to provide modern telecommunications services to Tribal lands.

NTTA's members are aware of the unprecedented amount of broadband deployment funding that exists today, and many are attempting to take advantage of these funding sources to make broadband internet access services available in historically underserved Tribal areas. While this unprecedented amount of funding is available, it would benefit policymakers and stakeholders to help ensure support for broadband deployment is targeted to areas that need it most – high cost, rural, and Tribal areas. In addition, even with the \$65 billion targeted for broadband in the IIJA, the fact remains that the actual amount of funding necessary to deploy, for example, universal 100/20 Mbps service is not known.

Path to Universal Broadband

The broadband-related funding contained in the IIJA under NTIA's purview – Broadband Equity, Access and Deployment (BEAD), Middle Mile Infrastructure, and Digital Equity – represents efforts to address the vital components of universal broadband service in the United States. There is a logical path to

realizing and maintaining universal service in the United States – particularly in Tribal areas. First, funding for *deployment* in areas where an independent business case cannot be made is important for addressing the bottom line availability of services. Next, once broadband networks are deployed, services in traditional high-cost, difficult to serve areas may require *sustainability* funding to assist in operating and maintaining those networks. Sustainability funding will also help keep the level of end-user revenues low enough to ensure affordability. Once networks are deployed and the providers are operating in a sustainable environment, *affordability* must be addressed – after all, a world-class, state-of-the-art broadband network does little good if the services it enables are not affordable for a large portion of the population. Finally, a substantial effort will be necessary once sustainable and affordable broadband services are available throughout the country to address *digital literacy and equity*.

The path to universal service cannot be overstated and the United States is investing in Tribal areas and focusing primarily on deployment. Recently, the Federal Communications Commission (FCC), as of the end of October 2021, has awarded 292 2.5 GHz licenses via its Rural Tribal Priority Window process. These licenses, the spectrum for which can be used for a number of services, including fixed wireless broadband, are provided to qualifying Tribal entities at no cost. While funding for deploying networks using 2.5 GHz spectrum is vital, so is support for the ongoing operations and maintenance. Ongoing support will make the services to end users more affordable and protects the investment being made by the federal and state governments. To put it bluntly – these new networks cannot be allowed to fail.

Funding for Tribal Areas

As noted in the request for comment, NTIA expects to conduct Tribal consultations to “gather input on questions related to the additional funding appropriated for the Tribal Broadband Connectivity Program.” NTIA assumes the additional \$2 billion appropriated for the TBCP will be handled consistently with the current round of funding and include input from Tribal governments and Tribally owned entities. The TBCP was a popular program with over \$5 billion in applications for the \$980 million initial program.

The BEAD funding is to be ultimately determined by the states and territories, according to plans for deployment, mapping, equity and adoption projects. As noted by NTIA, Tribal governments are not included in the list of state and local governments eligible for direct BEAD funding and instead must participate through state-operated programs: “How can NITA ensure that state/territories consult with Tribal governments about how best to meet Tribal members’ needs when providing funding for broadband service to unserved and underserved locations on Tribal lands within state boundaries.” (*Request for Comment, question 21*)

To ensure residents in Tribal areas benefit from BEAD funding, NTTA urges NTIA to require state plans submitted – both interim and final – to incorporate some type of Tribal consultation related to areas in the state or territory where the Tribal digital divide needs to be addressed. This consultation could resemble that currently required by the Federal Communications Commission of all eligible telecommunications carriers that serve Tribal lands (see 47 C.F.R. § 54.313(a)(5)). At a minimum, Tribal consultation in the context of BEAD program funding allocations should include:

- An identification of all Tribal areas within the state, territory, or local area.
- A determination of broadband availability in those Tribal areas and the providers serving those areas. Where possible, the Tribal governments should have input into areas that are or should be considered unserved or underserved.
- Consultation with the Tribal governments for a needs assessment and deployment planning with a focus on Tribal community anchor institutions; and the actual level of broadband availability (taking into consideration the inherent inaccuracies in FCC Form 477 data).
- Ensuring any potential funding is not duplicative and is being provided to companies with proven ability to provide the services needed. In addition, the Tribal government in the area being considered for BEAD funding should have significant input into selecting the entity tasked with deploying broadband in the Tribal area.

Tribal consultation could also include contacting current Tribally-owned broadband providers, such as those represented by NTTA, to assist in the planning and implementation of BEAD-funded projects in Tribal areas.

Middle Mile Broadband Infrastructure Program

The Middle Mile Broadband Infrastructure (MMBI) grant program consists of \$1 billion in funding to “expand and extend middle-mile infrastructure to reduce the cost of connecting unserved and underserved areas to the internet backbone.” In many Tribal areas, especially those in Alaska and remote areas in the lower 48, the high cost of middle-mile services is often the biggest factor in retail BIAS rates. In many cases, most prominently in Alaska, the only middle mile service is provided by satellite providers, which is both expensive and typically includes high latency.

The lack of affordable middle-mile infrastructure is a common problem in Tribal areas, a fact noted by the Government Accountability Office in 2016 (Report 16-222) and the Tribal members of the Federal Communications Commission Native Nations Communications Task Force. The GAO stated, “Tribal lands

located far from urban areas may not have middle-mile infrastructure necessary for high-speed internet deployment to their lands” and “satellite internet is a poor substitute for land-based middle-mile infrastructure because it is slower, less reliable, includes restrictive caps on data usage, and suffers from regular blackout periods.”

NTTA recommends NTIA focus on areas without adequate and affordable middle-mile service options. Funding should also be used to extend current middle-mile networks or to expand middle-mile networks in areas where there is only one provider. NTIA must consult with Tribal governments, consortiums, or other groups to ensure MMBI funding is being allocated efficiently – for example, to fund Native-owned networks that provide middle-mile services to Tribal areas.

Digital Equity

The IJA’s Digital Equity Act contains \$2.75 billion to address digital equity, inclusion, and literacy. There are two programs adopted – State Digital Equity Capacity Grants and Digital Equity Competitive Grants – that will award funding to address the stated issues. NTIA requests comment on a third program – Digital Equity Planning grants – that will be awarded to states who wish to participate in the State Digital Equity Capacity grant program, which will require the generation of a state plan.

NTTA notes that digital equity, inclusion, and literacy are a key part of the path to universal service described above. Once broadband networks have been deployed and have been made sustainable, either through support or other means, and the services made affordable, the next logical step is to ensure the people who would benefit the most are aware of the services, have access to, and the use of, affordable information and communication technologies, and have the skills necessary to find, evaluate, organize, create, and communicate information (see Digital Equity Act definitions).

States, in their submitted digital equity plans, are to collaborate with key stakeholders, including, where applicable, Indian Tribes, Alaska Native entities, and Native Hawaiian organizations. This continues a common theme throughout the IJA – collaboration and consultation with Tribal governments is a vital step in ensuring that all Americans are in the best position possible to reap the benefits offered by the IJA. States should therefore include in their plans how they will consult with Tribal governments on how to best address the digital equity, inclusion, and literacy needs in their areas. This consultation must, at a minimum, include meetings with Tribal leaders, organizations, and other entities (e.g., schools and libraries) to identify the needs, steps to address the needs, and the funding needed to solve any problems identified. Only in this way can NTIA, the states, and all other stakeholders ensure that the eventual State Digital Equity Capacity grant funds are focused on those areas that need it the most.

Conclusion

NTTA appreciates this opportunity to provide input to NTIA as it embarks on its monumental efforts to implement the broadband provisions included in the IIA, which are designed to address deployment, middle-mile infrastructure, and digital equity. As the United States continues to address the path to universal broadband service, it will be vital to engage with Tribal governments to ensure Native Americans, who are part of a group that has been historically underserved and thus fits squarely in the definition of those targeted by digital equity policies, experience positive outcomes. NTTA looks forward to working with NTIA in the future to assist in ensuring Tribal areas are properly considered for IIA funding.

Respectfully Submitted,

Godfrey Enjady
President
National Tribal Telecommunications Association