



## **NTIA TRIBAL CONSULTATION SUMMARY REPORT**

The National Telecommunications and Information Administration (NTIA) invited Tribal leaders to participate in a Tribal Consultation webinar on January 14, 2022. NTIA convened this government-to-government Tribal Consultation to seek input on NTIA's implementation of the Tribal Broadband Connectivity Program (TBCP), which includes an additional \$2 billion appropriated by the Infrastructure Investment and Jobs Act, Pub. L. 117-58, also known as the Bipartisan Infrastructure Law.

The Consolidated Appropriations Act, 2021, Pub. L. No. 116-260 (Act), created the Tribal Broadband Connectivity Program, providing new sources of Tribal funding for high-speed internet to mitigate the digital divide across Indian Country. NTIA received applications requesting significantly more in funding than the \$980 million available for grants under the Act. Of the additional \$2 billion in funding appropriated for the Tribal Broadband Connectivity Program by the Bipartisan Infrastructure Law, a portion may be used to fund applications submitted in response to the June 3, 2021, Tribal Broadband Connectivity Program Notice of Funding Opportunity (NOFO). The Department of Commerce and NTIA are dedicated to expanding high-speed Internet deployment in unserved areas and promoting digital inclusion.

The current \$980 million Tribal Broadband Connectivity Program provides funding for the following:

- High-speed Internet infrastructure deployment, including support for the establishment of carrier-neutral submarine cable landing stations;
- Affordable broadband programs, including:
  - Providing free or reduced-cost broadband service;
  - Preventing disconnection of existing broadband service;
- Distance learning;
- Telehealth
- Digital inclusion efforts; and
- High-speed Internet adoption activities.

The Bipartisan Infrastructure Law did not change these eligible uses of funds for the program.

The Bipartisan Infrastructure Law did include technical amendments to the Tribal Broadband Connectivity Program in response to applicant's challenges, which are the following:

1. Adding \$2 billion for NTIA to distribute to eligible entities, including to fund previously-proposed programs
2. Relaxing time requirements of the original program—eligible entities now have up to
  - a. 6 months to submit applications
  - b. 18 months to commit the funds to projects, once funds are received
  - c. 4 years to fully expend the grant funds, once funds are received
3. Allowing infrastructure grantees to expend up to 2.5% total project cost for related planning, feasibility, and sustainability studies
4. Preserving unused allocated funds for other Tribal high-speed Internet projects instead



of reverting back to the Treasury

NTIA structured the Tribal Consultation around the following questions, which it disseminated prior to the consultation via a [Dear Tribal Leader Letter](#) on December 28, 2021, addressing the following topic areas:

- Should NTIA make available any of the additional Tribal Broadband Connectivity Program funding appropriated by the Bipartisan Infrastructure Law for the applications submitted in response to the June 2021 NOFO?
- If so, what percentage of the additional funding should NTIA make available for this purpose?
- If NTIA were to issue a second Tribal Broadband Connectivity Program NOFO for the remaining funds appropriated by the Bipartisan Infrastructure Law, when would be the most accommodating time for Tribes to be able to submit applications?

Following are links to the Tribal Consultation [recording](#) and [transcript](#).

During the Tribal Consultation, NTIA heard comments from 22 Tribal leaders or their delegates. At the conclusion of the written comment period on January 31<sup>st</sup>, 2022 NTIA received and reviewed 33 written comments from Tribal Nations.

Following is a summary of the input from Tribes and stakeholders and NTIA's response.

**Should NTIA make available any of the additional Tribal Broadband Connectivity Program funding appropriated by the Bipartisan Infrastructure Law for the applications submitted in response to the June 2021 NOFO?**

This inquiry provided a mix of responses from Tribal leaders and stakeholders. Several comments indicated, yes, NTIA should make additional funding available for the applications submitted in response to the June 2021 Tribal Broadband Connectivity Program NOFO. The feedback to add additional funding often came from Tribes who applied during the first application round and mentioned that additional funding would lessen future burden on Tribes to reapply in subsequent NOFO's. Many other comments indicated, no, NTIA should not make additional funding available for the applications submitted in response to the June 2021 Tribal Broadband Connectivity Program NOFO. This feedback was largely from Tribes who did not have the opportunity to apply for the first round due to COVID-19 impacts and a lack of resources to apply. Other Tribes expressed that they limited their ask in the initial application to be fair to other Tribes that are also in need. But with the advent of additional funding, they would like to apply for areas of need that were not in their initial application.

*Based on the feedback provided, NTIA has determined to add \$1 billion from the Bipartisan Infrastructure Law funds to the current round of applications under review.*

**If so, what percentage of the additional funding should NTIA make available for this purpose?**

Commenters provided a variety of percentages to make available for the applications that were submitted in response to the June 2021 Tribal Broadband Connectivity Program NOFO.



Many responses indicated that 100 percent of the additional funding should become available because the total amount of funding to the June 2021 NOFO request was six times oversubscribed. Others expressed that 100 percent of the additional funding should be added due to time, resource, and capacity constraints for completing a second application. Tribes commented that the initial application was a considerable effort

NTIA also received comments that a percentage, varying from 25 – 80 percent of additional funding should be made available for the applications submitted in response to the June 2021 Tribal Broadband Connectivity Program NOFO. Several comments acknowledged that there are many Tribes that did not have the time, resources, or capacity to apply due to challenges endured by the COVID-19 pandemic. For these reasons, commenters advise a percentage of the Bipartisan Infrastructure Law funds to be added to the June 2021 NOFO, and the remaining for a second NOFO. While some suggested the second NOFO should prioritize those who applied for the first round, others suggested it should prioritize Tribes that were not able to submit an initial application.

Similarly, NTIA received responses noting that a large percentage of the additional Tribal Broadband Connectivity Program funds should go toward the applications submitted under the June 2021 NOFO, while the remaining should be split evenly and distributed to all other Tribes through a formula. Finally, NTIA received comments that zero percent of Bipartisan Infrastructure Law funding should be made available to existing applications because a second NOFO will give all Tribes the opportunity to participate. The reasoning behind these comments were similar to previous arguments such as capacity limitations due to COVID-19 and limited application time.

Based on the feedback provided, NTIA will allocate an additional \$1 billion from the Bipartisan Infrastructure Law funding to the current round of applications under review. NTIA reached this decision based upon consideration of the following factors:

1. 25% of eligible Tribes did not apply to the program due to impacts of COVID-19 within their communities. The program prioritizes communities that are unserved and under-resourced in the originating statute, thus it is important that these Tribes severely impacted by the pandemic are given the opportunity to participate.
2. There are Tribal Governments in the current round of applications that failed merit review or the proposal was not programmatically viable. These Tribal Governments may benefit from a second opportunity that affords a longer application window and additional technical assistance to yield more detailed and thorough applications.
3. Of the current round of applications under review, many of the applicants specifically applied for planning activities and would benefit from a second NOFO opportunity to apply for funding to execute these projects.
4. The additional \$1 billion fully funds all infrastructure project requests that meet the evaluation criteria and the priority programmatic activities of the Tribal Broadband Connectivity Program to connect unserved households.

**If NTIA were to issue a second Tribal Broadband Connectivity Program NOFO for the remaining funds appropriated by the Bipartisan Infrastructure Law, when would be the**



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### **most accommodating time for Tribes to be able to submit applications?**

Tribal leaders and stakeholders suggested a variety of timeframes to submit applications if a second Tribal Broadband Connectivity Program NOFO were issued. The overwhelming preference indicated that, more time is advantageous, and a timeline well into the fourth quarter of 2022 would be the most accommodating time for Tribes. Several Tribes and stakeholders communicated that they have become overwhelmed with all the current opportunities and activities and need extra time to put together an application. Additionally, others expressed that more time will provide for more thorough applications upon submission. Another perspective indicated that smaller Tribes do not have the time and resources to manage a second application so soon, and therefore suggests the fourth quarter to submit a second Tribal Broadband Connectivity Program application.

Other timeframes ranged from as soon as possible, within the next 90 days, at the beginning or during the third quarter of 2022, August 2022, the spring of 2023, March 2023, or as late as possible. Several commenters expressed that a second Tribal Broadband Connectivity Program NOFO should not be issued until all applicants are notified of their June 2021 NOFO application status.

Those that indicated as soon as possible mention that the earlier they know what will be funded, the better they will be able to plan with accordance to other high-speed internet funding opportunities. Others mentioned as soon as possible is best since they have all the information ready from the first application to complete a second application. Another perspective articulated that within the next 90 days will be best to avoid rising costs over time. Lastly, other Tribes and stakeholders displayed flexibility to meet any deadline that NTIA establishes.

*Based on the feedback provided, NTIA has determined to add \$1 billion to existing Tribal Broadband Connectivity Program applications from Bipartisan Infrastructure Law funds, while reserving remaining funds for a second NOFO. This determination was made with the consideration of the following factors:*

- Currently, Tribes are heavily burdened with multiple funding opportunities to which they are applying for and awaiting outcomes. The determination will better inform their needs and planning for a future Tribal Broadband Connectivity Program application round 2.
- NTIA greatly respects the reality of subsistence hunting and fishing seasons as well as cultural observances during the spring, summer, and fall months. NTIA does not want Tribes to have to choose between these seasons and applying for broadband grants.
- A late 2022 timeframe allows Tribes to complete their planning and design activities with NTIA or other entities, which ultimately yields a more direct description of their needs in a future application.
- This timeframe supports concurrent planning activities with states via the NTIA Broadband Equity, Access, and Deployment (BEAD), Digital Equity, and Middle Mile programs.



- This timeframe permits time for NTIA to conduct 3 meaningful Tribal Consultations on the second NOFO.

### **Additional Feedback**

- Commenters expressed interest in looking at how NTIA can use their existing application for other NTIA program opportunities.
- Other perspectives mentioned that if there is not enough funding to cover all applications accepted, no new ones should be accepted.
- Some expressed great concerns about capacity and the level of resources that it took to apply for this program.
  - Tribal leaders and stakeholders indicate that competitive grant funding is not the most effective way due to a lack of resources for many Tribes.
  - Many commenters recommend NTIA to develop more structured and detailed guidance in the NOFO.
  - Others suggest a more “user-friendly” application to lessen the burden on the Tribal applicant.
  - Some suggest an increase in technical assistance will be helpful to navigate the application process for those who were unable to submit an application in response to the June 2021 Tribal Broadband Connectivity Program NOFO.
- Tribal leaders and stakeholders conveyed concerns for the timing of a second Tribal Broadband Connectivity Program NOFO due to weather related challenges during construction.
- Many others pointed out supply chain issues hinder the implementation of project’s timeline to deploy high-speed internet infrastructure.
  - Others pointed out that unanticipated supply chain issues have dramatically increased the cost of all their construction projects that were not accounted in the original application.

### **Summary**

The Tribal consultation yielded many viewpoints. Some questions received a variety of responses, while others received more consistent answers.

First, most Tribal leaders expressed a desire for flexibility applying to the second NOFO and a preference for an application timeline in the fourth quarter of 2022.

The other two questions received more mixed responses. First, in response to the question regarding whether NTIA should apply funding from the \$2 billion allocated through the Bipartisan Infrastructure Law, Tribal leaders expressed both assenting and dissenting responses. Positive responses were often premised on the need to limit the burden of applying



for a second NOFO as there were good applications from the round one NOFO that could receive more funding. Negative responses often came from Tribal leaders who were unable to submit applications for the first NOFO or those who limited their initial ask to make their applications more competitive.

As for the question related to what percentage of the Bipartisan Infrastructure Law funding should be applied for round one NOFO applications, NTIA received mixed responses. Some commenters stated that 100 percent of new funds should be applied to existing applications due to the significant oversubscription to the round one NOFO and number of quality applications. We also heard that Tribes prefer between 25-80 percent of new funds to be allocated to existing applications with a preference to save funding for a second NOFO. The second NOFO could allow Tribes who missed out on the first NOFO to receive funding to the second program.

*These various opinions guided NTIA to move ahead issuing a second round NOFO in Quarter 4 of 2022, to allow Tribe's flexibility to submit grants. NTIA will utilize \$1 billion of the new Bipartisan Infrastructure Law funding for existing applications while reserving funds for a second NOFO.*