August 24, 2023

The Honorable Maria Cantwell
Chair
The Honorable Ted Cruz
Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Cathy McMorris Rodgers
Chair
The Honorable Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce
House of Representatives

Tribal Broadband Connectivity Program: Feedback Should Be Provided to Applicants Receiving Equitable Distribution Grants

Tribal access to broadband internet lags behind the rest of the country. However, two recent appropriations totaling $3 billion for the new Tribal Broadband Connectivity Program (TBCP) provided the National Telecommunications and Information Administration (NTIA) with an opportunity to help increase tribal access to broadband.[1]

In January 2023, we began our second review of TBCP in response to a provision in the Consolidated Appropriations Act, 2021 (2021 Act).[2] This act includes a provision for GAO to review, every six months until funds are expended, TBCP grants awarded during the prior six months.[3] This report responds to the statutory deadline for the fourth report and provides timely information about an aspect of the program—feedback to applicants—related to the notice of funding opportunity issued on July 27, 2023. Meanwhile, we are continuing our review of NTIA's administration of TBCP, including reviewing the post-award process, additional topics related to NTIA's actions taken to distribute grants on an equitable basis, and the sustainability of projects.

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[1]The Consolidated Appropriations Act, 2021, appropriated $1 billion for TBCP. In November 2021, the Infrastructure Investment and Jobs Act appropriated an additional $2 billion. NTIA resides within the Department of Commerce.

[2]Pub. L. No. 116-260, div. N., tit. IX, § 905(f)(2), 134 Stat. 1182, 2144 (2020) (codified at 47 U.S.C. § 1705(f)(2)).

[3]This act also includes a provision for GAO to review, every six months until funds are expended, Broadband Infrastructure Program grants awarded during the prior six months. Pub. L. No. 116-260, § 905(f)(2), 134 Stat. at 2144. However, NTIA did not award any Broadband Infrastructure Program grants in the prior six months, so this report focuses on the TBCP. To meet the previous statutory deadlines, GAO held briefings or submitted a draft report that was later issued. See GAO, *Broadband Funding: Stronger Management of Performance and Fraud Risk Needed for Tribal and Public-Private Partnership Grants*, GAO-23-105426 (Washington, D.C.: Jan. 24, 2023). This report covers the additional equitable distribution grants made since our last response in May 2023.

As of July 25, 2023, NTIA had announced 191 grants totaling $1.79 billion of the $1.98 billion it planned to award under its original notice of funding opportunity.[4] According to NTIA officials, NTIA received 301 applications requesting a total of $5.85 billion. These applications involved 452 out of 596 Tribes.[5] The original notice stated that NTIA expected grants to range from $1 million to $50 million for broadband infrastructure deployment projects and from $50,000 to $2.5 million for broadband use and adoption projects. On July 27, 2023, NTIA announced a second notice of funding opportunity, under which almost $1 billion will be made available to eligible entities.[6]

The 2021 Act requires NTIA to make the $1 billion appropriated for TBCP in that act available to eligible entities (e.g., Tribes) on an equitable basis, but it did not define equitable basis.[7] The original notice stated that NTIA would allocate up to $500,000 per tribal government to meet this equitable distribution requirement. NTIA officials later clarified to us that this allocation would be available to applicants that passed merit review but did not receive the amount they requested.[8] NTIA refers to grants of up to $500,000 per tribal government instead of the larger amount the applicant has requested as equitable distribution grants.[9]

As of July 25, 2023, NTIA had awarded 56 equitable distribution grants to applicants, according to NTIA officials. These 56 equitable distribution grants account for about 30 percent of the 191 announced TBCP grants but account for less than 2 percent of the funds awarded.

We examined the extent to which NTIA provided constructive feedback to applicants that received equitable distribution grants. To conduct this work, we reviewed relevant laws, the *Department of Commerce Grants and Cooperative Agreements Manual (Commerce Grants Manual)*, NTIA program documentation, and leading practices for managing broadband grant programs that we developed in prior work.[10] In addition, we interviewed Commerce and NTIA

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[4]The 2021 Act authorized the Assistant Secretary of Commerce for Communications and Information, who is also the Administrator of NTIA, to use not more than 2 percent of the amount appropriated by the act for the TBCP for administrative purposes. 47 U.S.C. § 1705(c)(3)(B).

[5]As of July 2023, the Bureau of Indian Affairs list of federally recognized tribes contains 574 tribes. 88 Fed. Reg. 2112 (Jan. 12, 2023). However, some of these tribes are composed of multiple bands, or have political subdivisions, that are included in the list. For example, the Minnesota Chippewa Tribe's six component bands are included on the list. The 2021 Act makes tribal governments eligible recipients for the TBCP and defines tribal governments as the governing body of any Indian or Alaska Native Tribe, band, nation, pueblo, village, community, component band, or component reservation, individually recognized (including parenthetically) in the Bureau's list of federally recognized tribes. 47 U.S.C. § 1705(a)(12).

[6]The Consolidated Appropriations Act, 2021, defined the entities eligible for TBCP as: (i) a tribal government; (ii) a tribal college or university; (iii) the Department of Hawaiian Home Lands on behalf of the Native Hawaiian Community, including Native Hawaiian Education Programs; (iv) a tribal organization; or (v) a corporation established pursuant to the Alaska Native Claims Settlement Act. 47 U.S.C. § 1705(a)(8).

[7]47 U.S.C. § 1705(c)(3)(A).

[8]The TBCP Notice of Funding Opportunity identifies three review stages: (1) initial administrative and eligibility; (2) merit; and (3) programmatic.

[9]NTIA refers to all awards of up to $500,000 per tribal government regardless of the amount the applicant requested as equitable distribution grants. This report does not address equitable distribution grants where the applicant requested $500,000 or less.

[10]For the leading practices, see GAO, *Rural Broadband Development: Improved Consistency with Leading Practices Could Enhance Management of Loan and Grant Programs*, GAO-17-301 (Washington, D.C.: Apr. 13, 2017). For this report, we focused on the leading practice of external communications. Other leading practices are: program performance measurement, risk assessment, application review procedures, mapping, external training, project monitoring, internal communication, written documentation, and coordination mechanisms. They were developed by synthesizing leading practices from a variety of sources; reviewing federal agency, academic, and research reports related to broadband deployment; and interviewing officials from federal agencies and industry groups.

officials regarding Commerce policies and NTIA practices related to providing feedback to applicants that received equitable distribution grants.

We obtained views and information through a survey, interviews, and conversations at tribal broadband events as follows.[11]

- We sent a survey to 29 entities we identified as possible recipients of equitable distribution grants. To ensure the questions were clear and interpretable, we conducted two pretests with respondents. Twelve survey recipients did not respond, and four survey recipients indicated they did not expect to receive an equitable distribution grant. Of the remaining 13 respondents, seven reported that they had received an equitable distribution grant, which we confirmed by reviewing NTIA's award announcements, and six reported that they expected to receive an equitable distribution grant.[12]

- Of the 13 survey respondents that received an equitable distribution grant or reported that they expected to receive an equitable distribution grant, we spoke with four applicants at one or both of two consecutive events we attended in March 2023—a tribal broadband industry event and a Tribal Broadband Leaders Network event. Two of these applicants received equitable distribution grants in April 2023, and two told us they expected to receive an equitable distribution grant. In addition, we interviewed two of the survey respondents that expected to receive equitable distribution grants for our broader study.[13] One of these interviews occurred before we administered the survey, and one occurred while we were administering the survey.

We analyzed information provided through responses to open-ended survey questions, conversations at conferences, and interviews to identify key themes. We then compared the information to a leading practice related to external communication for the management of broadband grant programs and to the *Commerce Grants Manual*.

We conducted this performance audit from March 2023 to August 2023 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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[11]We identified these entities using a variety of methods—conversations at a National Tribal Telecommunications Association conference in March 2023; group introductions at an NTIA Tribal Broadband Leaders Network event in March 2023; interviews for our broader study; referrals; and reviewing NTIA's award announcements as of May 12, 2023. Based on conversations with NTIA officials, we inferred that grants announced after the last grant of over $500,000 were equitable distribution grants.

[12]As of July 25, 2023, three of these applicants had received an equitable distribution grant. The remaining three respondents, all of which were applicants representing consortia, may not receive equitable distribution grants, though NTIA officials told us they plan to announce equitable distribution grants to consortia last.

[13]One applicant we interviewed that expected to receive an equitable distribution grant, and received the grant after speaking with us, told us their application included more than one project type, one of which passed merit review and one of which did not. They expected to receive an equitable distribution grant for the project that passed merit review. They told us NTIA did not provide feedback on the project that did not pass merit review.

NTIA Did Not Provide Constructive Feedback to Applicants that Received Equitable Distribution Grants

None of the seven applicants we surveyed that received an equitable distribution grant reported that NTIA provided constructive feedback on their application; all seven reported they had requested feedback.[14] One survey respondent reported that NTIA officials stated that their decision was based on funding availability, not the application's merits or quality. Another survey respondent reported that NTIA officials told them that there were other applicants with greater needs. In both cases, these responses lacked constructive information that could help the applicants improve their applications for subsequent rounds, inform decisions about whether to pursue other broadband funding options, or inform other planning activities.

Some applicants that received or expected to receive equitable distribution grants indicated they were disappointed by the lack of constructive feedback and highlighted the importance of such feedback as follows.

- Constructive feedback could help applicants receiving equitable distribution grants improve their application for the second TBCP funding round, which NTIA announced on July 27, 2023. One survey respondent that received an equitable distribution grant and three survey respondents that expected to receive an equitable distribution grant reported believing they could be disadvantaged for the second round without constructive feedback on the first round's grant decision.

- Constructive feedback could help applicants receiving equitable distribution grants decide whether to apply for the second round of TBCP funding. Applying for a federal grant can be complicated and time consuming, particularly for applicants with less experience. One applicant we spoke with that expected to receive an equitable distribution grant said they would want to know if their community's need is not sufficient before they go to the trouble of applying again.

- Constructive feedback could inform Tribes' approaches toward other funding opportunities, including the Broadband Equity, Access, and Deployment Program.[15] One applicant we spoke with that received an equitable distribution grant and one respondent that expected to receive an equitable distribution grant said that feedback on their TBCP application would likely be relevant to applications for other broadband programs.

- Constructive feedback—particularly information about the process NTIA used to decide which applications passing merit review would receive a full award—could foster confidence in the grant program. One respondent that expected to receive an equitable distribution grant said that a lack of transparency in why some applications are receiving full funding while others are receiving equitable distribution grants could erode confidence in the grant process. In the absence of this information, three applicants we spoke with—one that received an equitable distribution grant and two that expected to

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[14]In this report, constructive feedback refers to the sort of feedback mentioned in the *Commerce Grants Manual*, which states that unsuccessful applicants may request a debriefing that provides constructive feedback that can assist applicants to develop improved proposals in the future. Department of Commerce, *Department of Commerce Grants and Cooperative Agreements Manual* (Washington, D.C.: April 20, 2021). According to the *Commerce Grants Manual*, briefings should take the form of advice to applicants on the strengths and weaknesses of their own proposal in terms of the published evaluation and review criteria.

[15]The Broadband Equity, Access, and Deployment (BEAD) Program, provides $42.45 billion to expand high-speed internet access by funding planning, infrastructure deployment and adoption programs in all 50 states, Washington D.C., Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

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receive an equitable distribution grant—shared a variety of explanations for how they thought NTIA made award decisions, such as favoring shovel-ready projects, penalizing applications for having high construction costs, favoring fiber even when fiber would delay provision of service for years, and preferring certain types of applicants over others.

The first notice of funding opportunity indicated that unsuccessful applicants would have an opportunity to receive a debriefing after the opportunity officially closed and that unsuccessful applicants must request feedback within 10 business days of notification that their application would not be funded. According to the original notice, NTIA expected to complete its review, select the successful applicants, and process awards by November 29, 2021. However, NTIA began announcing awards on a rolling basis in November 2021, and, as of July 25, 2023, still planned to announce awards in the coming months, according to NTIA officials. As a result, applicants that received notice that their applications were unsuccessful could be awaiting feedback for well over a year after requesting feedback.[16]

NTIA officials told us they do not plan to provide constructive feedback to applicants that received equitable distribution grants for three main reasons.

- NTIA considers applicants receiving equitable distribution grants to be successful because they were selected for an award. The *Commerce Grants Manual* and notice of funding opportunity provisions related to providing feedback specify that feedback is for unsuccessful applicants.[17] Further, the *Commerce Grants Manual* does not address situations where grantees do not receive the full amount of funding requested. However, leading practices for managing broadband grant programs indicate agencies should provide feedback for all applicants.[18] Commerce attorneys and NTIA officials said that NTIA could choose to provide feedback on any application but the *Commerce Grants Manual* does not direct them to provide feedback to applicants that did not receive any funding, which does not include equitable distribution grant recipients. However, NTIA officials said that their ability to provide constructive feedback is limited in certain circumstances.[19]

- NTIA officials said that adjustments to the second funding round affect the extent to which first-round feedback would be relevant. For example, the second notice of funding opportunity prioritizes the review of applications for infrastructure deployment from first round recipients of grants for planning, engineering, feasibility, and sustainability projects. NTIA officials said that those equitable distribution grantees with these kinds of projects would accrue similar benefits from completing their projects as they would from receiving feedback from NTIA. In addition, NTIA officials told us that they plan to provide additional technical assistance to applicants during the second round of funding. They

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[16]Moreover, NTIA has provided some limited feedback to applicants that received equitable distribution grants before the opportunity closed, such as saying that other applicants had greater needs.

[17]The *Commerce Grants Manual* indicates that unsuccessful applications are applications that are rejected, withdrawn, or unfunded. Department of Commerce, *Department of Commerce Grants and Cooperative Agreements Manual*. There are no statutory or regulatory requirements for NTIA to provide feedback to TBCP grant recipients.

[18]GAO-17-301.

[19]According to NTIA officials, the constructive feedback NTIA may provide is limited to the strengths and weaknesses of the particular applicant's proposal, and NTIA is limited in discussing how the applicant fared in relation to other applications that it considered for award. In addition, if the grant application reviewers only scored an application numerically and did not provide commentary, NTIA will be unable to provide constructive feedback.

further said the technical assistance could be more helpful to applicants than feedback on their first-round applications. NTIA could provide feedback in this way, as long as it is constructive and timely enough to allow applicants to incorporate it into applications for the second round of funding.

- According to NTIA officials, the agency faces staffing challenges in providing feedback to applicants and must prioritize program activities. However, providing constructive feedback could help potential second-round applicants decide whether to apply and improve their applications in a way that reduces the time NTIA needs to review applications. It could also reduce the need for NTIA to request additional information to address defects in applications, which we previously identified as a cause of delay in making award decisions.[20]

NTIA's plan to provide technical assistance to applicants, if appropriately timed and tailored to meet applicants' needs, could represent the kind of constructive feedback applicants receiving equitable distribution grants said they needed. However, without constructive feedback from NTIA—including information on the process NTIA used to decide which applications that passed merit review would receive full funding—applicants receiving equitable distribution grants will not have the information needed to 1) determine whether to apply to the next TBCP funding round, 2) improve their applications in the next funding round if they decide to apply, and 3) determine whether to apply for other funding programs. In addition, applicants may lose confidence in the impartiality of the program's award process.

Conclusions

The Tribal Broadband Connectivity Program provides a historic chance to improve tribal access to broadband and further narrow the digital divide. NTIA has about $1 billion more to distribute in its second round of program funding. In the first round, 56 applicants received equitable distribution grants for a fraction of their original request. NTIA has provided little to no feedback to applicants who received equitable distribution grants. Leading practices indicate that agencies should provide feedback to all applicants. Constructive feedback, possibly in the form of technical assistance for the second round of funding and information about NTIA's process for deciding which meritorious applications received full funding in the first round, could help these applicants improve their applications and increase confidence in the impartiality of the program's award process.

Recommendation for Executive Action

The Administrator of NTIA should provide applicants that receive equitable distribution grants in the first round of TBCP with constructive feedback—by providing debriefings or technical assistance—to help these applicants improve their applications for the second round of TBCP funding. (Recommendation 1)

Agency Comments

We provided a draft of this report to the Department of Commerce for review and comment. In its comments, reproduced in enclosure I, the Department of Commerce concurred with our recommendation and provided technical comments that we incorporated as appropriate.

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[20]GAO-23-105426.

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We are sending copies of this report to the appropriate congressional committees, the Secretary of Commerce, and the Assistant Secretary of Commerce for Communications and Information. In addition, the report is available at no charge on the GAO website at http://www.gao.gov.

If you or your staff have any questions about this report, please contact me at (202) 512-2834 or VonAhA@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report include Keith Cunningham (Assistant Director); Carrie Wilks (Assistant Director); Rebecca Rygg (Analyst in Charge); Tammy Beltran; Melissa Bodeau; Gina Hoover; and Jeanette Soares.

Andrew Von Ah
Director, Physical Infrastructure Issues

Enclosure

Enclosure 1: Comments from the Department of Commerce

UNITED STATES DEPARTMENT OF COMMERCE
Office of the Chief Financial Officer and
Assistant Secretary for Administration
Washington, D.C. 20230

August 8, 2023

Mr. Andrew Von Ah
Director, Physical Infrastructure Issues
U.S. Government Accountability
Office 441 G Street NW
Washington, DC 20548

Dear Mr. Von Ah:

Thank you for the opportunity to respond to the U.S. Government Accountability Office (GAO) Draft Report titled GAO-23-106824, Tribal Broadband Connectivity Program: NTIA Should Provide Feedback to Applicants Receiving Partial Grants (Draft Report). The U.S. Department of Commerce (Department) appreciates the work that GAO has done to evaluate the implementation of the Tribal Broadband Connectivity Program (TBCP) managed by the National Telecommunications and Information Administration (NTIA).

GAO made one recommendation in the Draft Report. On behalf of the Department, I have enclosed comments to the Draft Report from NTIA that address the specific GAO recommendation. The Department agrees with GAO about the importance of providing constructive feedback to TBCP Equitable Distribution award recipients in the form GAO describes in its report and concurs with its recommendation.

If you have any questions, please contact MaryAnn Mausser, Department GAO Audit Liaison, at (202) 482-8120 or mmausser@doc.gov.

Sincerely,

JEREMY
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JEREMY PELTER
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Jeremy Pelter
Deputy Assistant Secretary for Administration,
performing the non-exclusive functions and duties
of the Chief Financial Officer and Assistant
Secretary for Administration

Enclosure 1: Comments from the Department of Commerce

Department of Commerce's Comments on
GAO Draft Report entitled Tribal Broadband Connectivity Program: NTIA Should
Provide Feedback to Applicants Receiving Equitable Distribution Grants *(GAO-23-106824)*
(Draft Report)

The Department of Commerce (Department) has reviewed the draft report and appreciates the work that the Government Accountability Office (GAO) has done to evaluate the implementation of the Tribal Broadband Connectivity Program (TBCP) managed by the National Telecommunications and Information Administration (NTIA). The Department provides the following response to the Draft Report.

NTIA engaged in feedback with all TCBP applicants in accordance with all laws, regulations, and policies addressing applicant consultation, including with Equitable Distribution allocation awardees that did not receive the full amount of funding requested and unsuccessful applicants.

For example, during the application window of the first funding opportunity, NTIA's TBCP team conducted outreach via phone calls with every Tribal Government per the Department of Interior's Federally Recognized Indian Tribe List Act. Additionally, NTIA's TBCP team hosted 10 national webinars, published four Frequently Asked Questions documents, and attended several in-person tribal events to share information regarding the program. As a part of this outreach, NTIA made clear it would follow the selection factors and selection process outlined in the first NOFO in making awards.

Further, NTIA has provided constructive feedback, consistent with the Department of Commerce's Grants and Cooperative Agreements Manual (DOC Grants Manual), to all 45 unsuccessful applicants that did not receive a TBCP award because they did not pass Merit Review or successfully complete Programmatic Review under the first TBCP NOFO.

Regarding grant applicant consultation and all other grant program operations, NTIA adheres to the federal financial assistance policies set forth in the DOC Grants Manual. Section 8.J.2.a(1) defines "successful applicants" as those selected for an award (regardless of the amount requested and the amount ultimately granted). Section 8.J.2.a.(1) defines "unsuccessful applicants" as those that were not selected for funding.

Therefore, based on the definition in the DOC Grants Manual, NTIA considered Equitable Distribution award recipients to be successful applicants because they had "been selected for an award." These recipients are held to the same standard as recipients that received their full funding request; both are responsible for complying with the same programmatic requirements and laws applicable to the TBCP.

NTIA believes that the resources of both NTIA and the TBCP Equitable Distribution award recipients should be spent focusing on completing the projects authorized under their first-round TBCP awards because this effort would effectively provide the same benefits as receiving constructive feedback. Many of the Equitable Distribution awards are for Planning, Engineering, Feasibility, and Sustainability Studies projects to enable these recipients to use TBCP funding to

Enclosure 1: Comments from the Department of Commerce

undertake planning activities, environmental reviews, engineering and network design work, and acquiring equipment in advance of constructing a broadband network. NTIA's goal in funding these types of projects is to allow these recipients to get a head start in performing the preliminary work needed to deploy broadband infrastructure, which will help position Equitable Distribution award recipients for success in the second round of TBCP funding.

In the second TBCP NOFO, which NTIA issued on July 27, 2023, NTIA has prioritized the review and consideration for award of Standalone Broadband Infrastructure Deployment projects submitted by recipients of awards for Planning, Engineering, Feasibility, and Sustainability Studies projects during the first round of TBCP funding or those who received Equitable Distribution awards to purchase supplies and equipment under the first TBCP NOFO. Thus, applications from Equitable Distribution award recipients from the first TBCP NOFO – including those not having received the full amount of their requested funds – will be prioritized in the second TBCP NOFO.

Consistent with its efforts for the first NOFO, NTIA's TBCP team has developed an extensive outreach strategy outlining its plans to engage with all relevant stakeholders during the second round of TBCP funding. Upon release of the second NOFO the TBCP team will again conduct targeted outreach and host technical assistance webinars to these groups of recipients, including the Equitable Distribution award recipients, during the application window.

Comments on Recommendation

GAO made one recommendation to the Department of Commerce in the report.

- **Recommendation for Executive Action:** The Administrator of NTIA should provide applicants that receive equitable distribution grants with constructive feedback—by providing debriefings or technical assistance— to help these applicants improve their applications for the second round of TBCP funding.

   Response: The Department agrees with GAO about the importance of providing constructive feedback to TBCP Equitable Distribution award recipients in the form GAO describes in its report and concurs with its recommendation.

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