

NOTICE OF FUNDING OPPORTUNITY
STATE DIGITAL EQUITY PLANNING GRANT PROGRAM

EXECUTIVE SUMMARY

A. Federal Agency Name

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

B. Funding Opportunity Title

State Digital Equity Planning Grant Program

C. Announcement Type

Initial

D. Funding Opportunity Number

NTIA-DE-PLAN-2022

E. Assistance Listing (CFDA Number)

11.032

F. Key Dates

Complete applications from States (including the 50 states, the District of Columbia, and Puerto Rico) must be received through the NTIA application portal (<https://grants.ntia.gov>) no later than 11:59 p.m. Eastern Daylight Time (EDT) on **July 12, 2022**. U.S. territories (other than Puerto Rico), Indian Tribes, Alaska Native entities, and Native Hawaiian organizations that are interested in participating in this program need not submit applications at this time, but must submit Letters of Intent. The Letters of Intent may be submitted (1) through the NTIA application portal or email (digitalequity@ntia.gov) no later than 11:59 p.m. Eastern Daylight Time (EDT) on **July 12, 2022** or (2) by mail or courier, postmarked (for postal mail) or showing clear evidence of having been mailed (for courier submissions) no later than 11:59 p.m. Eastern Daylight Time (EDT) on **July 12, 2022**. Further application submission requirements and timelines for any U.S. territory or possession (other than Puerto Rico), or from an Indian Tribe, Alaska Native entity, or Native Hawaiian organization that timely submits a Letter of Intent will be provided to such entities in a separate written communication.

NTIA expects to complete its review, selection of successful applicants, and award processing by **September 15, 2022**. The earliest start date for awards under this Notice of Funding Opportunity

(NOFO) is **September 29, 2022**. NTIA may issue awards made under the State Digital Equity Planning Grant Program on a rolling basis.

G. Application Submission Address

Applications or portions thereof submitted by a State through postal mail, courier, email, facsimile, or other means will not be accepted.

For U.S. territories (other than Puerto Rico) and for Indian Tribes, Alaska Native entities, and Native Hawaiian organizations, Letters of Intent must be submitted (1) electronically through the NTIA application portal <https://grants.ntia.gov/>, (2) by email (digitalequity@ntia.gov), or (3) by mail or courier. *See* Section IV of this NOFO for detailed information concerning application submission requirements.

H. Funding Opportunity Description

Under the State Digital Equity Planning Grant Program, the Assistant Secretary of Commerce for Communications and Information (Assistant Secretary) will award grants to the 50 states, the District of Columbia, and Puerto Rico (the States) for the purpose of developing State Digital Equity Plans. Through these Plans, each State will, among other things, identify barriers to digital equity in the State and strategies for overcoming those barriers. Further, U.S. territories and possessions (other than Puerto Rico), Indian Tribes, Alaska Native entities, and Native Hawaiian organizations may also seek grants, cooperative agreements, or contracts to develop their own digital equity plans and, in the case of Tribal entities, to provide input into the digital equity plans of the States in which they are located.

The State Digital Equity Planning Grant Program is part of the larger State Digital Equity Capacity Grant Program, the purpose of which is to promote the achievement of digital equity, support digital inclusion activities, and build capacity for efforts by States relating to the adoption of broadband by residents of those States. States interested in participating in the State Digital Equity Capacity Grant Program must first complete State Digital Equity Plans as contemplated in Section 60304(c) of the Infrastructure Investment and Jobs Act of 2021, Public Law 117-58, 135 Stat. 429 (November 15, 2021) (Infrastructure Act or Act), also commonly known as the Bipartisan Infrastructure Law. State Digital Equity Planning Grant Program participants that are also eligible grantees under the separate Broadband Equity, Access, and Deployment Program (which is the subject of a separate Notice of Funding Opportunity) should plan holistically for these interrelated programs and should ensure close coordination between the personnel and offices preparing to implement them. *See* Section I of this NOFO for the full Program Description.

I. Funding Instrument

Grant (States); Grant, Cooperative Agreement, or Contract (territories or possessions of the United States other than Puerto Rico, as well as Indian Tribes, Alaska Native entities, and Native Hawaiian organizations).

J. Eligibility

Each State is eligible to apply for grants under this program. *See* Section III of this NOFO for additional information concerning the State Digital Equity Planning Grant Program’s eligibility requirements. The governor or equivalent official of an applicant State shall select an Administering Entity to receive and administer the State’s grant funding.

Separately, territories or possessions of the United States that are not defined as States for purposes of this program, as well as Indian Tribes, Alaska Native entities, and Native Hawaiian organizations, are eligible to enter into grants, cooperative agreements, or contracts with NTIA to carry out the activities contemplated in this program. The procedure through which these entities may express interest in entering into such an agreement with NTIA is described in Sections IV.B.2 and IV.B.3 of this NOFO.

K. Anticipated Amounts

Grant awards to States are formula-based and will depend on the number and characteristics of States that apply. Amounts available to the non-State entities described above will be based on the criteria outlined in this NOFO and, in the case of Indian Tribes, Alaska Native entities and Native Hawaiian organizations, will depend on the total number of applicants. The total amount appropriated by Congress for the State Digital Equity Planning Grant Program (including administrative costs) is \$60 million, and the total amount appropriated for State Digital Equity Capacity Grants in fiscal year 2022 is \$240 million.

L. Cost Sharing/Matching

The Infrastructure 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 entity applying for a grant under this program to provide a non-federal cost contribution.

FULL ANNOUNCEMENT TEXT

Table of Contents

I. Program Description	4
A. Overview of the State Digital Equity Planning Grant Program	5
B. Broadband Equity, Access, and Deployment (BEAD) Program	6
C. Definitions	7
II. Federal Award Information	10
A. Funding Availability	10
B. Project/Award Period	10
C. Allocation of Award Amounts	11
D. Type of Funding Instrument	15
III. Eligibility Information	15
A. Eligible Applicants and Designation of an Administering Entity	15
B. Cost Sharing or Matching	15
IV. Application and Submission Information	15

A. Application Portal and Submission.....	15
B. Content and Form of Applications or Letters of Intent.....	16
C. Allowable and Unallowable Uses of State Digital Equity Planning Grant Funds.....	19
D. Certifications Regarding Debarment and Suspension	23
E. System for Award Management (SAM).....	27
F. Submission Dates and Times.....	27
G. Intergovernmental Review.....	28
H. Material Representations and Public Disclosure of Applications.....	28
I. Other Submission Requirements	28
V. Application Review Information	29
A. In General.....	29
B. Initial Eligibility and Administrative Review	29
C. Merit Review.....	29
D. Selection Process.....	30
E. Federal Awarding Agency Review of Risk Posed by Applicants.....	30
F. Anticipated Announcement and Award Dates	30
VI. Federal Award Administration Information.....	30
A. Federal Award Notices.....	30
B. Notification to Unsuccessful Applicants.....	31
C. Retention of Unsuccessful Applications	31
D. Administrative and National Policy Requirements.....	31
E. Reporting	32
F. Recipient Integrity and Performance Matters.....	33
G. Audit Requirements	33
H. Federal Funding Accountability and Transparency Act of 2006.....	33
I. Public Database	34
VII. Federal Awarding Agency Contact(s).....	34
VIII. Other Information	35
A. Transparency	35
B. Protected and Proprietary Information.....	35
C. Funding Availability and Limitation of Liability.....	36
D. Third Party Beneficiaries	36
E. Waiver Authority.....	36
F. Paperwork Reduction Act.....	37
G. Transparency, Accountability, And Oversight Required.....	37
H. Unauthorized Use of Funds.....	39

I. Program Description

NTIA issues this Notice of Funding Opportunity (NOFO) to describe the requirements under which it will issue financial assistance awards for the State Digital Equity Planning Grant Program, authorized by Section 60304(c) of the Infrastructure Investment and Jobs Act of 2021, Public Law 117-58, 135 Stat. 429 (November 15, 2021) (Infrastructure Act or Act), also commonly known as the Bipartisan Infrastructure Law.

A. Overview of the State Digital Equity Planning Grant Program

In recent decades, access to the internet has played a critical and growing role in the ways in which Americans work, learn, receive health care, and participate in democracy. The COVID-19 pandemic crystalized what many have known for a very long time: High-speed internet access is not a luxury, but a necessity, for all Americans, regardless of their age, race, or income, irrespective of where they live, what languages they speak, what resources they have at their disposal, and what specific challenges they may face in their daily lives.

Recognizing broadband's fundamental role in today's society and its centrality to our nation's continued health and prosperity, President Biden has pledged to make sure that every American has access to a reliable, affordable, high-speed internet connection. Full participation in our twenty-first century economy requires no less. Digital equity is necessary for civic and cultural participation, employment, lifelong learning, and access to essential services. Yet affordable, reliable, high-speed internet access has remained elusive to many for too long, because they live in a location where no service is available, the speed or quality of the service available is unreliable, or the offering available is unaffordable. Internet connectivity itself is a necessary, but not sufficient, condition for eradicating the digital divide. Many on the wrong side of that divide require equipment, digital skills, financial resources, and more to realize the Internet's full potential. Those who lack these resources face substantial barriers to digital equity, even in places where fast broadband connections are physically available. This digital divide is particularly acute for communities of color, Tribal nations, and lower-income areas, and spans both urban and rural areas of the country.

Passed on a bipartisan basis in both Chambers of Congress, the Infrastructure Act includes \$42.45 billion to create the BEAD Program, as well as the Digital Equity Act of 2021, which provides \$2.75 billion to further advance federal goals relating to digital equity and digital inclusion.¹ The law charges NTIA – the President's chief advisor on telecommunications and information policy matters, housed within the United States Department of Commerce (DOC) – with administering these programs.

The subject of this NOFO—the \$60 million State Digital Equity Planning Grant Program—is part of the Digital Equity Act's larger State Digital Equity Capacity Grant Program, the purpose of which is to promote the achievement of digital equity, support digital inclusion activities, and build capacity for efforts by States relating to the adoption of broadband by residents of those

¹ For the purposes of this NOFO, 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. The term “digital inclusion” 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—reliable fixed and wireless broadband internet service; internet-enabled devices that meet the needs of the user; and applications and online content designed to enable and encourage self-sufficiency, participation, and collaboration; and includes—obtaining access to digital literacy training; the provision of quality technical support; and obtaining basic awareness of measures to ensure online privacy and cybersecurity.” The term “digital literacy” means “the skills associated with using technology to enable users to find, evaluate, organize, create, and communicate information.” Infrastructure Act § 60302(10)-(12).

States. By creating their own State Digital Equity Plans, States can, among other things, identify barriers to digital equity and outline specific measures aimed at addressing those barriers. States that develop State Digital Equity Plans will then be able to apply for funds from the State Digital Equity Capacity Grant Program to implement those plans. Within one year of the date on which a State is awarded State Digital Equity Planning Grant Program funds, that State must develop a State Digital Equity Plan that includes elements outlined in the statute and herein, solicit and respond to public comments on the draft plan, and finalize that plan. Each State's State Digital Equity Plan will be a key component of any application the State may later submit seeking a State Digital Equity Capacity Grant.²

The State Digital Equity Capacity Grant Program, including the portion known as the State Digital Equity Planning Grant Program, also provides that the Assistant Secretary will set aside funds for U.S. territories and possessions that are not considered States under this program, as well as for Indian Tribes, Alaska Native entities, and Native Hawaiian organizations, to enter into grants, cooperative agreements, or contracts with NTIA to carry out the activities contemplated in this program. The procedure through which these entities can submit Letters of Intent to request NTIA funding is outlined in this NOFO.

NTIA looks forward to working with States, U.S. territories and possessions, Indian Tribes, Alaska Native entities, Native Hawaiian organizations, and designated administering entities to bridge persistent equity gaps and bring equal opportunity to all Americans.

B. Broadband Equity, Access, and Deployment (BEAD) Program

NTIA strongly encourages States and territories to concurrently participate in the State Digital Equity Planning Grant program and the BEAD program. The BEAD program is a historic \$42.5 billion investment in grants to States and territories for broadband planning, deployment, mapping, equity, and adoption projects.

Just as the Digital Equity Act begins with funding for the creation of Digital Equity Plans, the BEAD Program, which is the subject of a separate Notice of Funding Opportunity, begins with a Five-Year Action Plan and an Initial Proposal, each of which must include descriptions of a participant's plans to advance digital equity and inclusion. States and territories should take a holistic approach to developing their BEAD Five-Year Action Plans and their State Digital Equity Plans, recognizing that they have a unified objective of closing the digital divide.

Specifically, NTIA expects that the Five-Year Action Plans and Initial Proposals developed for the BEAD Program will fully incorporate the State or territory's Digital Equity Plan. Moreover, Final Proposals developed for the BEAD Program should be informed by and be complementary, sequenced, integrated, and intentionally linked with BEAD Five-Year Action Plans, BEAD

² This NOFO does not address the State Digital Equity Capacity Grant Program, under which the Assistant Secretary must begin making grants "[n]ot later than 2 years after the date on which the Assistant Secretary begins awarding [state digital equity] planning grants...." Infrastructure Act § 60304(d)(1). NTIA will issue a separate NOFO for the State Digital Equity Capacity Grant Program at a later date.

Initial Proposals, and State Digital Equity Plans to address the goal of universal broadband access and adoption.

Each state and territory should, therefore, ensure that those tasked with developing the State Digital Equity Plan, the Five-Year Action Plan, and the Initial and Final Proposals for the BEAD Program are working closely to meet the programs' shared objectives. As part of that coordination, States and territories should consider overlap in personnel between State Digital Equity planning teams and BEAD Program planning teams. At a minimum, States and territories should establish formal and direct communications and collaboration pathways between the teams that remain in place throughout the entire planning 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.

C. Definitions

(a) Assistant Secretary—The term “Assistant Secretary” means the Assistant Secretary of Commerce for Communications and Information or the individual who holds any successor position.

(b) Administering Entity—The term “administering entity” refers to the entity selected by the governor or equivalent official of each State to administer the Digital Equity Act Planning Grant and Capacity Grant programs. The administering entity shall—

1. Serve as the recipient of, and administering agent for, any grant awarded to the State under this program;
2. Develop, implement, and oversee the State Digital Equity Plan for the State;
3. Make subgrants³ to any entity described in Section 60304(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 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—

³ This NOFO generally uses the terms “subgrantee” and “subgrant” because these are the terms used in the relevant Infrastructure Act provisions. We note, though, that applicable regulations governing federal financial assistance generally use the term “subrecipient” to refer to what the Infrastructure Act calls “subgrantees” and the term “subaward” to refer to what the Infrastructure Act calls “subgrants.” *See generally* 2 C.F.R. Part 200. As used herein, the terms “subgrantee” and “subgrant” herein are meant to have the same meaning, respectively, as the terms “subrecipient” and “subaward” in those regulations and other governing authorities.

- 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.
 - 8. A partnership between any of the previously listed entities.

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

(d) Commission—The term “Commission” refers to the Federal Communications Commission.

(e) 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 library agency, and any other nonprofit or governmental community support organization.

(f) 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.

(g) Covered Populations—The term “covered populations” means:

- 1. Individuals who live in covered households;
- 2. Aging individuals;
- 3. Incarcerated individuals, 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.

(h) 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.

(i) 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.

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

(k) 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.

(l) 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.

(m) Indian Tribe—The term “Indian Tribe” means any Indian tribe, band, nation, or other organized group or community, 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;

(n) 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.

(o) State—The term “State” means:

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

(p) 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. Federal Award Information

A. Funding Availability

NTIA will make up to \$53,400,000 available under the State Digital Equity Planning Grant Program for States. Additionally, pursuant to Section 60304(i)(2) of the Infrastructure Act, NTIA is required to set aside not less than five (5) percent of the amounts made available in a fiscal year for the State Digital Equity Planning and Capacity Grant Programs “to award grants to, or enter into contracts or cooperative agreements with, Indian Tribes, Alaska Native entities, and Native Hawaiian organizations.” Section 60304(i)(3) further directs NTIA to set aside not less than one (1) percent of the total made available “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, at this time NTIA has reserved one (1) percent of the \$300 million total amount made available by Congress for fiscal year 2022 for the State Digital Equity Planning and Capacity Grant Programs (\$60 million and \$240 million, respectively),⁴ or \$3 million in total, for grants, cooperative agreements and contracts with U.S. territories and possessions (other than Puerto Rico). NTIA has further reserved five (5) percent of the total fiscal year 2022 funds available for the State Digital Equity Planning and Capacity Grant Programs, or \$15 million, for grants, cooperative agreements and contracts with Indian Tribes, Alaska Native entities, and Native Hawaiian organizations. The funding for U.S. territories and possessions, as well as for Indian Tribes, Alaska Native entities, and Native Hawaiian organizations, has been reserved proportionally from the State Digital Equity Planning Grant Program and the State Digital Equity Capacity Grant Program.

NTIA strongly urges all States, U.S. territories and possessions, Indian Tribes, Alaska Native entities, and Native Hawaiian organizations to complete applications or Letters of Intent (as appropriate) and begin developing their State Digital Equity Plans. A State considering whether to participate in the State Digital Equity Planning Grant Program should bear in mind that, should it seek State Digital Equity Capacity Grant Program funds in the future, it will be required by Section 60304(d)(2)(B) of the Infrastructure Act to include in its application the State Digital Equity Plan described in Section 60304(c), the development of which is being funded exclusively through this NOFO. NTIA has also determined that it will only provide U.S. territories and possessions with funds to create territorial digital equity plans through this NOFO, and that subsequent funding opportunities for U.S. territories and possessions will be focused on activities to implement those plans. However, due to the large number of Indian Tribes, Alaska Native entities, and Native Hawaiian organizations, and the likely resource constraints among many of these entities, NTIA will continue to offer funds in future NOFOs to tribal entities that have yet to receive Digital Equity Planning Grants and to develop digital equity plans.

B. Project/Award Period

As established in Section 60304(c)(3)(D)(ii) of the Infrastructure Act, the award period for the State Digital Equity Planning Grant Program is one year, beginning on the date on which the grantee is awarded the grant funds; provided, however, that the award period may be extended by NTIA, in consultation with the National Institute of Science and Technology (NIST) Grants

⁴ See Infrastructure Act § 60304(k).

Officer, for up to 180 days based on a written request from a recipient. An applicant may submit a request for an extension of the one-year award period not later than ninety (90) calendar days before the end of the award period.

C. Allocation of Award Amounts

Funding amounts for States will be determined pursuant to a statutory formula. U.S. territories and possessions (other than Puerto Rico), Indian Tribes, Alaska Native entities, and Native Hawaiian organizations that submit Letters of Intent under Sections IV.B.2 and IV.B.3 will each be eligible to receive a portion of the relevant set-aside funds as detailed below.

1. Statutory Formula and Mandates

Pursuant to Section 60304(c)(3)(D)(i) of the Infrastructure Act, which incorporates by reference the formula in Section 60304(d)(3)(A)(i) of the Infrastructure Act, the amount awarded to each eligible State will be calculated by applying a formula in which (a) fifty (50) percent of the total grant amount shall be based on the population of each State in proportion of the total population of all eligible States; (b) twenty-five (25) percent of the total grant shall be based on the number of individuals in each State who are members of the “covered populations” listed in Section 60302(8) of the Infrastructure Act, in proportion to the total number of individuals in all eligible States who are members of covered populations; and (c) twenty-five (25) percent shall be based on the comparative lack of availability and adoption of broadband in each 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 1996,⁵ 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 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 for Puerto Rico.

The planning grant amount awarded to any individual State must not be less than one-half (0.5) percent of the total amount made available to award planning grants to eligible States during a given fiscal year.⁶ Additionally, if there are amounts remaining available to NTIA after awarding Digital Equity Planning Grants or 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 Planning Grants or Digital Equity Capacity Grants for that fiscal year in accordance with the formula described Section 60304(d)(3)(A)(i) of the Infrastructure Act. In the event that additional Digital Equity Planning 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 (other than Puerto Rico) and possessions and for Indian Tribes, Alaska Native Entities, and Native Hawaiian organizations.⁷

⁵ 47 U.S.C. § 1302.

⁶ See Infrastructure Act §§ 60304(c)(3)(D)(i) and 60304(d)(3)(A)(i), (ii).

⁷ In future years, the Assistant Secretary may similarly add unclaimed Digital Equity Capacity Grant funds to the set-asides for U.S. territories and for tribal entities.

In addition to awarding grants to eligible States, Section 60304(i)(3) of the Infrastructure Act requires the Assistant Secretary to set aside at least one (1) percent of available funds during each fiscal year for entering into grants, cooperative agreements, or contracts with U.S. territories and possessions other than Puerto Rico (which is included in the definition of “State” for Digital Equity Act purposes) to carry out the activities described in Section 60304 of the Infrastructure Act. Further, in accordance with Section 60304(i)(2) of the Infrastructure Act, the Assistant Secretary will set aside at least five (5) percent of available funds for entering into grants, cooperative agreements and contracts with Indian Tribes, Alaska Native entities, and Native Hawaiian organizations. Award amounts for participating U.S. territories and possessions, and for Indian Tribes, Alaska Native entities, and Native Hawaiian organizations will be determined for each agreement and are not subject to the funding formula applicable to the States.

After reviewing applications and determining which States are eligible to receive planning 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/programs-surveys/community-resilience-estimates/partnerships/ntia.html>.

2. Tentative Award Allocation Amounts

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

State	Amount	State	Amount
Alabama	\$981,081.12	Montana	\$601,336.88
Alaska	\$567,884.90	Nebraska	\$598,745.97
Arizona	\$1,116,110.78	Nevada	\$754,458.89
Arkansas	\$843,673.10	New Hampshire	\$525,033.51
California	\$4,001,525.45	New Jersey	\$1,176,741.04
Colorado	\$897,119.04	New Mexico	\$740,534.91
Connecticut	\$736,568.10	New York	\$2,180,034.65
Delaware	\$516,096.05	North Carolina	\$1,415,614.32
District of Columbia	\$463,126.49	North Dakota	\$516,392.82
Florida	\$2,407,223.57	Ohio	\$1,470,550.76
Georgia	\$1,429,212.96	Oklahoma	\$882,087.78
Hawaii	\$570,883.08	Oregon	\$782,193.40
Idaho	\$564,706.40	Pennsylvania	\$1,604,131.73
Illinois	\$1,515,352.64	Puerto Rico	\$781,987.43
Indiana	\$1,039,734.16	Rhode Island	\$506,100.07
Iowa	\$708,924.38	South Carolina	\$953,478.05
Kansas	\$692,664.38	South Dakota	\$527,051.65
Kentucky	\$874,236.13	Tennessee	\$1,092,244.06
Louisiana	\$941,542.28	Texas	\$3,110,148.10
Maine	\$542,222.32	Utah	\$676,684.53
Maryland	\$966,659.11	Vermont	\$518,154.22
Massachusetts	\$1,003,763.61	Virginia	\$1,222,391.75
Michigan	\$1,332,440.72	Washington	\$1,076,248.79
Minnesota	\$881,905.10	West Virginia	\$728,065.62
Mississippi	\$875,585.61	Wisconsin	\$952,197.63
Missouri	\$1,007,143.59	Wyoming	\$530,006.38

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.

U.S. Territories and Possessions. The Assistant Secretary shall, from the total funds made available during each fiscal year, reserve not less than one (1) percent 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.⁸ As explained in Section II.A above, NTIA has reserved one

⁸ See Infrastructure Act § 60304(i)(3).

(1) percent of the funds made available during the current fiscal year (\$3,000,000) for this purpose. Further, the Assistant Secretary tentatively allocates \$150,000 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 creating territorial digital equity plans. The balance of the reserved funds will remain available for territories to use for implementation of digital equity plans once those plans are completed, similar to the uses contemplated for State Digital Equity Capacity Grants.

Indian Tribes, Alaska Native Entities, and Native Hawaiian Organizations. The Assistant Secretary shall, from the total funds made available during each fiscal year, reserve not less than five (5) percent to award grants to, or enter into contracts or cooperative agreements with, Indian Tribes, Alaska Native entities, and Native Hawaiian organizations to allow those Tribes, entities, and organizations to carry out the activities described in the statute.⁹ As explained in Section II.A above, NTIA has reserved five (5) percent of the funds made available during the current fiscal year (\$15,000,000) for this purpose. Because the number of interested Indian Tribes, Alaska Native entities, and Native Hawaiian organizations is difficult to predict, the Assistant Secretary will announce tentative allocations after receiving Letters of Intent. Depending on demand, the Assistant Secretary expects to allocate between \$50,000 and \$150,000 to each participating Indian Tribe, Alaska Native entity, and Native Hawaiian organization and will distribute funds evenly within that range. The initial allocation of funds shall be used for the purpose of creating Tribal digital equity plans and may also be used to support Tribal participation in the creation of relevant State digital equity plans. The balance of the reserved funds will remain available for Tribal organizations to implement digital equity plans once those plans are completed, similar to the uses contemplated for State Digital Equity Capacity Grants.

3. Challenge Process

A State may challenge the amount allocated to it as determined by the funding formula. 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 VII.A of this NOFO, signed by the governor or equivalent official, **within fourteen (14) calendar days of 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 make a determination and respond to the State in writing within twenty-one (21) calendar days of receipt of the letter. In the event that 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, pursuant to Section 60304(c)(3)(D)(iii) of the Infrastructure Act, a State receiving a State Equity Planning Grant award from NTIA (*i.e.*, an "Eligible State" as defined in this NOFO) may challenge the amount allocated to it as determined by the funding formula after receiving its award, although NTIA strongly encourages States that wish to challenge funding allocations to do so within fourteen (14) calendar days of publication of this NOFO.

⁹ See Infrastructure Act § 60304(i)(2).

D. Type of Funding Instrument

The funding instrument for awards made to States pursuant to the NOFO will be a grant.

NTIA also expects to award grants to U.S. territories (other than Puerto Rico), Indian Tribes, Alaska Native entities, and Native Hawaiian organizations pursuant to this NOFO, although NTIA and the NIST Grants Officer reserve the right to issue cooperative agreements or contracts to such entities in accordance with Sections 60304(i)(2) and 60304(i)(3) of the Infrastructure Act.

III. Eligibility Information

A. Eligible Applicants and Designation of an Administering Entity

Each state of the United States, the District of Columbia, and Puerto Rico 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.¹⁰ See Section I.C 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.

Separately, territories or possessions of the United States that are not defined as States for purposes of this program, as well as Indian Tribes, Alaska Native entities, and Native Hawaiian organizations, are eligible to enter into grants, cooperative agreements, or contracts with NTIA to carry out the activities contemplated in this program. The procedure through which these entities may express interest in entering into such an agreement with NTIA is described in Sections IV.B.2 and IV.B.3 of this NOFO.

B. Cost Sharing or Matching

The Infrastructure 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 applicant 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.

IV. Application and Submission Information

This Section sets out requirements relating to applications (from States), Letters of Intent (from U.S. territories and possessions (other than Puerto Rico) and Indian Tribes, Alaska Native entities, and Native Hawaiian organizations), and other materials submitted in connection with the State Digital Equity Planning Grant Program.

A. Application Portal and Submission

For States (including Puerto Rico), application forms and instructions are available on the NTIA application portal at <https://grants.ntia.gov/>. Any U.S. territory or possession (other than Puerto Rico), Indian Tribe, Alaska Native entity, or Native Hawaiian organization interested in funding

¹⁰ See Infrastructure Act § 60304(b).

must submit a Letter of Intent to the Assistant Secretary in accordance with the instructions set forth below in Sections IV.B.2 or IV.B.3.

NTIA recommends that applicants participate in application technical assistance webinars and review program and application guidance that will be posted on NTIA's BroadbandUSA website <https://broadbandusa.ntia.gov/>. Failure to properly apply for funds under the State Digital Equity Planning Grant Program by the deadline established in this NOFO may result in a State or other applicant losing this grant opportunity. Applications or Letters of Intent will be accepted until the deadline and processed as received. For States (including Puerto Rico and the District of Columbia), application packages, or portions thereof, 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.

B. Content and Form of Applications or Letters of Intent

Applications for the State Digital Equity Planning Grant Program must be complete and must adhere to the instructions provided in this NOFO and be submitted in the format requested in the NTIA Application Portal (<https://grants.ntia.gov/>). U.S. territories and possessions (other than Puerto Rico), Indian Tribes, Alaska Native entities, and Native Hawaiian organization must submit the Letter of Intent through the NTIA application portal or through alternative means as specified below.

For States, complete applications must be received through the NTIA application portal no later than 11:59 p.m. Eastern Daylight Time (EDT) on **July 12, 2022**.

For U.S. territories and possessions (other than Puerto Rico) and from Indian Tribes, Alaska Native entities, and Native Hawaiian organizations, Letters of Intent must be received through the NTIA application portal or email (digitalequity@ntia.gov) no later than 11:59 p.m. Eastern Daylight Time (EDT) on **July 12, 2022**, 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 Daylight Time (EDT) on **July 12, 2022**. Further application submission requirements and timelines for U.S. territories and possessions (other than Puerto Rico) and from Indian Tribes, Alaska Native entities, and Native Hawaiian organizations that timely submit a Letter of Intent will be provided to such applicants in a separate written communication.

1. States: Application Requirements

Any State (including Puerto Rico and the District of Columbia) applying for a State Digital Equity Planning 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).
- b. A certification from the State that, not later than one (1) year after the date on which the Assistant Secretary awards the planning grant to the State, the Administering Entity for that

State shall develop a State Digital Equity Plan. Such Digital Equity Plan shall comply with the requirements of Section 60304(c) of the Infrastructure Act. The Administering Entity shall submit the Digital Equity Plan to the Assistant Secretary within the one-year statutory deadline.

c. The assurances required under Section 60304(e) of the Infrastructure Act with respect to the State's Administering Entity.¹¹

d. A narrative describing the grant project and activities to be funded by the State Digital Equity Planning Grant Program and how these activities will support the development of a State Digital Equity Plan, as specified in Section IV.C of this NOFO.

e. Detailed Budget and Budget Narrative: All budget information must support the dollar amounts identified in the SF-424 and SF-424A and demonstrate that the project or activity meets the eligible use requirements in the Infrastructure Act and this NOFO. The Budget Narrative must explain the necessity and basis for all costs, clearly correspond to the information included in a Detailed Budget, in the form of a spreadsheet, and reflect only allowable costs that are consistent with the project scope. The Detailed Budget spreadsheet must reflect the cost categories that appear on the SF-424 and SF-424A and include itemized calculations for each cost placed under those categories. The spreadsheet must be formatted to fit letter-sized paper (8.5" x 11").

f. The following standard grant forms and documentation:

- a. Standard Form 424: Application for Federal Assistance
- b. Standard Form 424A: Budget Information for Non-Construction Programs
- c. CD-511 Certification Regarding Lobbying
- d. Standard Form LLL, Disclosure of Lobbying Activities (if applicable); and
- e. Negotiated Indirect Cost Rate Agreement (as applicable)

States that comply with the application requirements and that are deemed eligible to receive planning grant funds will be informed of their final award allocation 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. Applicants should bear in mind that the funding allocations listed in Section II.C.2 of this NOFO could change based on the number of applicants that apply for funding 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.C.2 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.

¹¹ See Appendix B, which reproduces Section 60304(e).

2. U.S. Territories and Possessions: Letters of Intent

Territories and possessions of the United States other than Puerto Rico that wish to develop their own digital equity plans shall each submit a Letter of Intent to the Assistant Secretary signed by the territory or possession's governor or equivalent official. The letter should describe the entity that would administer digital equity activities under this program, as well as specific activities the territory or possession intends to pursue in support of digital equity plan development.

Any U.S. territory or possession that submits a Letter of Intent with the required information will be deemed eligible to receive planning grant funds from the set-aside for territories and possessions as set forth in Section 60304(i)(3) of the Infrastructure Act. Application submission requirements and timelines for U.S. territories and possessions (other than Puerto Rico) that timely submit Letters of Intent will be provided to such applicants in a separate written communication. IV.B.2 U.S. territories and possessions will be informed of their final allocations once NTIA processes Letters of Intent. Any interested U.S. territory or possession (other than Puerto Rico) must submit a Letter of Intent through either through (1) the NTIA application portal, (2) email, or (3) mail or courier by **July 12, 2022**.

3. Indian Tribes, Alaska Native Entities, and Native Hawaiian Organizations: Letters of Intent

Any Indian Tribe, Alaska Native entity, or Native Hawaiian organization that wishes to develop its own digital equity plan and/or participate in the development of relevant State Digital Equity Plans shall submit a Letter of Intent to the Assistant Secretary signed by its governing body. The letter should describe the entity that would administer digital equity activities under this program, as well as specific activities the Tribal organization intends to pursue in support of digital equity plan development (including development of the entity's own plan and, optionally, development of relevant State plans). Interested Indian Tribes, Alaska Native entities, and Native Hawaiian organizations must submit a Letter of Intent through either through (1) the NTIA application portal, (2) email, or (3) mail or courier by **July 12, 2022**.

An Indian Tribe, Alaska Native entity, or Native Hawaiian organization that submits a Letter of Intent with the required information will be deemed eligible to receive planning grant funds from the set-aside for Tribal organizations described in Section 60304(i)(2) of the Infrastructure Act. Application submission requirements and timelines for Indian Tribes, Alaska Native entities, and Native Hawaiian organizations that timely submit a Letter of Intent will be provided to such applicants in a separate written communication. NTIA will divide the available funds from the set-aside evenly among each eligible Tribal organization up to a maximum of \$150,000 each. IV.B.3 Tribal organizations will be informed of allocated award amounts once NTIA processes Letters of Intent.

C. Allowable and Unallowable Uses of State Digital Equity Planning Grant Funds

1. Allowable Uses of State Digital Equity Planning Grant Funds

a. Generally

As set forth in Section 60304(c)(3)(E) of the Infrastructure Act, an eligible State to which a State Digital Equity Planning Grant is awarded must, through its designated Administering Entity, use the grant funds **only** for the following purposes:

1. To develop the State Digital Equity Plan of the State; and
2. To make subgrants to any of the following entities to assist in the development of the State Digital Equity Plan of the State:
 - a. Community anchor institutions;
 - b. County and municipal governments;
 - c. Local educational agencies;
 - d. Indian Tribes, Alaska Native entities, or Native Hawaiian organizations;
 - e. Nonprofit organizations;
 - f. Organizations that represent—
 - i. Individuals with disabilities, including organizations that represent children with disabilities;
 - ii. Aging Individuals;
 - iii. Individuals with language barriers, including—
 1. Individuals who are English learners; and
 2. Individuals who have low levels of literacy;
 - iv. Veterans; and
 - v. Individuals in the State who are incarcerated in facilities other than Federal correctional facilities;
 - g. Civil rights organizations;
 - h. Entities that carry out workforce development programs;
 - i. Agencies of the State that are responsible for administering or supervising adult education and literacy activities in the State;
 - j. Public housing authorities in the State; and
 - k. A partnership between any of the entities described above.¹²

If the Administering Entity for a State makes a subgrant described above, the Administering Entity shall, with respect to the subgrant, provide to the State the assurances required under Section 60304(e) of the Infrastructure Act.

¹² Infrastructure Act § 60304(c)(1)(D).

b. State Digital Equity Plan Requirements

Digital equity is fundamentally concerned with promoting full participation in the digital economy and society by all. Achievement of digital equity requires strategic investments in human and community capacity. Each State Digital Equity Plan prepared using State Digital Equity Planning Grant funding should include a clear description of the State's vision for digital equity in the context of its overarching strategy and goals.

i. Statutory Requirements

The statutory requirements for the contents of State Digital Equity Plans are set forth in Section 60304(c)(1) of the Infrastructure Act, and are listed below:

1. Identification of barriers to digital equity faced by Covered Populations in the State.
2. Measurable objectives for documenting and promoting, among each Covered Population located in that State—
 - a. The availability of, and affordability of access to, fixed and wireless broadband technology;
 - b. The online accessibility and inclusivity of public resources and services;
 - c. Digital literacy;
 - d. Awareness of, and the use of, measures to secure the online privacy of, and cybersecurity with respect to, an individual; and
 - e. The availability and affordability of consumer devices and technical support for those devices.
3. An assessment of how the measurable objectives identified in item 2 of this Section IV.C.1.b.i will impact and interact with the State's—
 - a. Economic and workforce development goals, plans, and outcomes;
 - b. Educational outcomes;
 - c. Health outcomes;
 - d. Civic and social engagement; and
 - e. Delivery of other essential services.
4. In order to achieve the measurable objectives identified in item 2 of this Section IV.C.1.b.i, a description of how the State plans to collaborate with key stakeholders in the State, which may include—¹³

¹³ States must utilize a variety of communications media (*e.g.*, online, print, radio) and provide information in languages other than English when warranted based on the demographics of the stakeholder communities. NTIA also encourages States to collaborate with other groups not named in the statute, including members of Covered Populations who have direct lived experience with being disconnected, state agencies, labor unions and other organizations that represent workers, digital inclusion coalitions located in the State, chambers of commerce and industry associations, public housing resident associations, healthcare systems and networks, homeless continuum of care providers, multi-family housing developers and owners, faith-based institutions, business owners, state and local foundations and funders, early childhood and early intervention coordinators, re-entry organizations, and internet service providers.

- a. Community anchor institutions;
 - b. County and municipal governments;
 - c. Local educational agencies;
 - d. Where applicable, Indian Tribes, Alaska Native entities, or Native Hawaiian organizations;
 - e. Nonprofit organizations;
 - f. Organizations that represent—
 - i. Individuals with disabilities, including organizations that represent children with disabilities;
 - ii. Aging Individuals;
 - iii. Individuals with language barriers, including—
 - 1. Individuals who are English learners; and
 - 2. Individuals who have low levels of literacy;
 - iv. Veterans; and
 - v. Individuals in that State who are incarcerated in facilities other than Federal correctional facilities;
 - g. Civil rights organizations;
 - h. Entities that carry out workforce development programs;
 - i. Agencies of the State that are responsible for administering or supervising adult education and literacy activities in the State;
 - k. Public housing authorities in the State; and
 - l. A partnership between any of the entities described in clauses (a) through (k).
5. A list of organizations with which the Administering Entity for the State collaborated in developing the Plan.

ii. Additional Requirements

In addition to the above requirements, the State Digital Equity Plan developed with planning grant funds shall, at a minimum, include the following:

- 1. A stated vision for digital equity;
- 2. A digital equity needs assessment, including a comprehensive assessment of the baseline from which the State is working and the State's identification of the barriers to digital equity faced generally and by each of the covered populations in the State;
- 3. An asset inventory, including current resources, programs, and strategies that promote digital equity for each of the covered populations, whether publicly or privately funded, as well as existing digital equity plans and programs already in place among municipal, regional, and Tribal governments;
- 4. To the extent not addressed in connection with item 4 of Section IV.C.1.b.i, a coordination and outreach strategy, including opportunities for public comment by, collaboration with, and ongoing engagement with representatives of each category of covered populations within the State and with the full range of stakeholders within the State;

5. A description of how municipal, regional, and/or Tribal digital equity plans will be incorporated into the State Digital Equity Plan;
6. An implementation strategy that is holistic and addresses the barriers to participation in the digital world, including affordability, devices, digital skills, technical support, and digital navigation. The strategy should (a) establish measurable goals, objectives, and proposed core activities to address the needs of covered populations, (b) set out measures ensuring the plan's sustainability and effectiveness across State communities, and (c) adopt mechanisms to ensure that the plan is regularly evaluated and updated;
7. An explanation of how the implementation strategy addresses gaps in existing state, local, and private efforts to address the barriers identified pursuant to Section IV.C.1.b.i, item 1, of this NOFO;
8. A description of how the State intends to accomplish the implementation strategy described above by engaging or partnering with:
 - a. Workforce agencies such as state workforce agencies and state/local workforce boards and workforce organizations;
 - b. labor organizations and community-based organizations; and
 - c. Institutions of higher learning, including but not limited to four-year colleges and universities, community colleges, education and training providers, and educational service agencies;
9. A timeline for implementation of the plan; and
10. A description of how the State will coordinate its use of State Digital Equity Capacity Grant funding and its use of any funds it receives in connection with the Broadband Equity, Access, and Deployment Program, other federal or private digital equity funding.

NTIA will provide further guidance through technical assistance and tools to support planning efforts. If a State has previously conducted a statewide digital equity planning effort, it must demonstrate to NTIA that the resulting plan includes all minimum required elements as listed in this Section IV.C.1.b of the NOFO and that the plan fully complies with the Section 60304(c) of the Infrastructure Act and with this NOFO.

c. Territories and Possessions, and Indian Tribes, Alaska Native Entities, and Native Hawaiian Organizations

U.S. territories and possessions, Indian Tribes, Alaska Native entities, and Native Hawaiian organizations that receive awards from the appropriate funding set-aside may use funds for digital equity plan development and related activities consistent with Section 60304(c) of the Infrastructure Act, this NOFO, and as described in the entity's approved project budget.¹⁴ Additionally, Indian Tribes, Alaska Native entities, and Native Hawaiian organizations may use award funds to further their participation and equity interests in the development of relevant State digital equity plans under this program. Some of the digital equity plan requirements that

¹⁴ NTIA considers "digital equity plan development and related activities" to include the updating or adapting of any similar plans the entity may already have developed and/or conforming such pre-existing plans to this NOFO's requirements.

apply to States may not be applicable or appropriate for territories or Tribal organizations, whereas some information not pertinent to States may be relevant to other entities.¹⁵ NTIA looks forward to working with these entities to agree on project deliverables, project budgets, and overall project goals and objectives that are reasonable and effective for individual territories and Tribal organizations.

2. Prohibited Uses of State Digital Equity Planning Grant Funds

a. Prohibition on Supplanting

Pursuant to Section 60304(h) of the Infrastructure Act, a grant or subgrant awarded pursuant to the State Digital Equity Planning Grant Program shall supplement, not supplant, other federal or State funds that have been made available to carry out activities described in Section 60304 and in this NOFO.

b. Prohibition on Profit or Fees

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

c. Prohibition on the 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.

D. Certifications Regarding Debarment and Suspension

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

1. Instructions for Primary Tier Participant Certification

a. 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 1326.¹⁶

b. 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

¹⁵ For example, a Tribal government must include in its plan a description of any Tribal Broadband Connectivity Program awards it has received for broadband use and adoption projects and how it plans to coordinate its use of State Digital Equity Capacity Grant funding with those funds.

¹⁶ In the context of the State Digital Equity Planning Grant Program, the primary tier participant would be the State, territory, possession, or Tribal or Native entity receiving funding from NTIA.

prospective primary tier participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

c. 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.

d. 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.

e. 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.

f. 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 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.

g. 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.

h. 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/>).

i. 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.

j. 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.

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

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

3. Instructions for Lower Tier Participant Certification (applies to subrecipients)

- a. 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 1326.¹⁷
- b. 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.
- c. 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

¹⁷ In the context of the State Digital Equity Planning 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, territory, possession, or Tribal or Native entity that has received funding from NTIA.

that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

d. 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.

e. 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.

f. 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.

g. 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>).

h. 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.

i. 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.

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

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

b. 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.

E. 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.

1. DUNS System Retirement and Transition to System for Award Management

As of April 4, 2022, the U.S. government no longer utilizes 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, Integrated Award Environment (IAE) systems, required forms, or in downstream government systems.

Rather, the U.S. government will use the unique entity identifier (UEI), found in an entity's SAM.gov registration, for federal awards management, including, but not limited to, contracts, grants, and cooperative agreements. The UEI is the primary key to identify an entity throughout the federal awarding lifecycle and in SAM.gov.

The SAM-generated UEI (SAM) will become the official identifier as of April 4, 2022.

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>.

2. System for Award Management Registration

All applicants must register in the SAM before submitting an application or a Letter of Intent 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/>.

F. Submission Dates and Times

Applications for the State Digital Equity Planning Grant Program must be complete and must adhere to the instructions provided in this NOFO and be submitted in the format requested in the NTIA application portal (www.grants.ntia.gov). For States, complete applications must be received by the NTIA application portal **no later than 11:59 p.m. Eastern Daylight Time (EDT) on July 12, 2022.**

Letters of Intent from U.S. territories other than Puerto Rico and from Indian Tribes, Alaska Native entities, and Native Hawaiian organizations must be received through the NTIA application portal or email no later than 11:59 p.m. Eastern Daylight Time (EDT) on **July 12, 2022**, 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 Daylight Time (EDT) on **July 12, 2022**. Application submission requirements and timelines for U.S. territories and possessions (other than Puerto Rico) and from Indian Tribes, Alaska Native entities, and Native Hawaiian organizations that timely submit a Letter of Intent will be provided to such applicants in a separate written communication. 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) and (b) the free annual registration process in SAM.gov generally takes between three (3) and five (5) business days but can take more than three weeks.

NTIA expects to complete its review, selection of successful applicants, and award processing by **September 15, 2022**. NTIA expects the earliest start date for awards under this NOFO to be **September 29, 2022**. NTIA may, subject to NIST Grants Office Approval, announce awards made under the State Digital Equity Planning Grant Program on a rolling basis.

G. 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.¹⁸

H. Material Representations and Public Disclosure of Applications

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 should be aware that NTIA, in coordination with the NIST Grant Officer, may make all or portions of their applications for grants under the State Digital Equity Planning 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.

I. Other Submission Requirements

For States (including the 50 states, the District of Columbia, and Puerto Rico), complete application packets must be submitted electronically through the NTIA application portal (www.grants.ntia.gov). Complete applications or portions thereof submitted by a State by postal mail, courier, email, facsimile, or other means will not be accepted.

¹⁸ The current Intergovernmental Review Listing (SPOC List) is accessible at: <https://www.whitehouse.gov/wp-content/uploads/2020/04/SPOC-4-13-20.pdf>.

For U.S. territories (other than Puerto Rico) and for Indian Tribes, Alaska Native entities, and Native Hawaiian organizations, Letters of Intent must be submitted (1) electronically through the NTIA application portal, (2) by email (digitalequity@ntia.gov), or (3) by mail or courier.

1. Timely Receipt Requirements and Proof of Timely Submission

Online Submission. Proof of timely submission is automatically recorded by the NTIA application 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.

2. Amendments

Any amendments to this NOFO or additional program guidance will be announced on NTIA.gov and BroadbandUSA.NTIA.gov.

V. Application Review Information

A. In General

NTIA is seeking planning grant applications that conform with the requirements set forth in Section 60304(c) of the Infrastructure Act and in this NOFO, including but not limited to the application requirements set forth in Section IV.B of this NOFO. All States, Indian Tribes, Alaska Native entities, Native Hawaiian organizations, and U.S. territories and possessions that meet the requirements set forth in Section 60304(c) of the Infrastructure Act and in this NOFO will be eligible to receive an award in the amount calculated pursuant to Section II.C 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.

B. 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 applicant 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.

C. 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 Section 60304(c) of the Infrastructure Act 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.

D. Selection Process

The Assistant Secretary or his designee will serve as the Selecting Official and recommend approval of applications selected for funding based on the results of the review process in Section V of this NOFO. The final approval of selected 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 Planning Grant Program. The award decisions of the NIST Grants Officer are final.

E. Federal Awarding Agency Review of Risk Posed by Applicants

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). 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.

F. Anticipated Announcement and Award Dates

NTIA expects to complete its review, selection of successful applicants, and award processing by **September 15, 2022**. NTIA expects the earliest start date for awards under this NOFO to be **September 29, 2022**. NTIA may issue awards made under the State Digital Equity Planning Grant Program on a rolling basis.

VI. 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 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 Section 60304(c)(3)(D)(ii)(II) of the Infrastructure Act, the terms and conditions of an award, and this NOFO.

B. Notification to Unsuccessful Applicants

Unsuccessful applicants will be notified by email (or, in the case of entities that permissibly submitted material via mail or courier, in similar fashion) and will have the opportunity to receive a debriefing. Applicants must make a request within 10 business days of the email 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 VII.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 VII.B of this NOFO, Federal Awarding Agency Contacts, Grant management inquiries, for more information.

4. Domestic Preference for Procurements (Buy American)

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.

5. 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.

E. Reporting

Grantees 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

As set forth in Section 60304(g)(1) of the Infrastructure Act, 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:

1. The use of that grant by the entity;
2. The progress of the entity toward fulfilling the objectives for which the grant was awarded; and
3. 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 Infrastructure 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](#) (dated November 12, 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 semi-annual 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 120 days after the end of the project period.

b. Performance (Technical) Reports

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 semi-annual 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 (<http://go.usa.gov/xkVgP>) and [Department of Commerce Financial Assistance Standard Terms and Conditions](#) (dated November 12, 2020), Section A.01.

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 200,¹⁹ 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 grant regulations in 2 C.F.R. Part 200, Subpart F, adopted by the Department of Commerce in 2 C.F.R. § 1327.101, 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. 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

¹⁹ See 2 C.F.R. Part 200, Appendix XII, available at <http://go.usa.gov/cTBwC>.

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 they have the necessary processes and systems in place to comply with the reporting requirements should they receive funding.²⁰

I. Public Database

Pursuant to Section 60304(g)(1)(C) of the Infrastructure 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 Section 60304(g)(1)(A) of the Infrastructure 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.

VII. Federal Awarding Agency Contact(s)

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

B. Please direct grant management inquiries to:

Scott McNichol
NIST Grants Officer
Grants Management Division
National Institute of Standards and Technology
325 Broadway
Boulder, CO 80305
Phone: (303) 497-3444
Email: scott.mcnichol@nist.gov

C. Please direct media inquiries to:

Stephen F. Yusko
Public Affairs Specialist

²⁰ 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>.

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

VIII. 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 Planning 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 Proprietary Information

Recipients of State Digital Equity Planning 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. Based on these markings, the confidentiality of the contents of those pages will be reviewed for protection consistent with applicable law.

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 (other than Puerto Rico), 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 Planning 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 Planning Grant Program's goals and for which funds are available.

D. Third Party Beneficiaries

The State Digital Equity Planning 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, 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 Planning Grant Program, NTIA will use the State Digital Equity Planning 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, States, and entities receiving funding through the set-asides established in Section 60304(i) of the Infrastructure Act each have a critical role to play in ensuring that the State Digital Equity Planning Grant Program is implemented in a manner that ensures transparency, accountability, and oversight sufficient to, among other things:

1. Minimize the opportunity for waste, fraud, and abuse;
2. 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 Section 60304(c) of the Infrastructure Act, this NOFO, 2 C.F.R. Part 200, the terms and conditions of an award, and other applicable law; and
3. Allow the public to understand and monitor grants awarded under the Program.

To that end, NTIA, States, United States territories and possessions, Indian Tribes, Alaska Native entities, and Native Hawaiian organizations and/or an Administering Entity shall, as appropriate:

1. Conduct such audits of grantees (States), territories, possessions, Indian Tribes, Alaska Native entities, Native Hawaiian organizations, and administering entities as are necessary and appropriate. States shall report the full results of any audits they conduct to the appropriate Federal Program Officer and NIST Grants Officer;
2. 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
3. Impose special conditions on grant awards designed to mitigate the risk of nonperformance where appropriate.

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

1. Comply with the reporting requirements set forth in Section VI.E of this NOFO;
2. Comply with the obligations set forth in Section 60304(c) of the Infrastructure Act, this NOFO, 2 C.F.R. Part 200, the terms and conditions of an award, and other applicable laws; and

3. 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'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 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, shall timely disclose, in writing, to the OIG and awarding agency, whenever, in connection with the award, performance, or closeout of this grant or sub-award thereunder, the recipient has credible evidence that a principal, employee, agent, or sub-recipient has committed:

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

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>. 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 Section 60304(c) of the Infrastructure Act, 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 or possession, Indian Tribe, Alaska Native entity, or Native Hawaiian organization and, as necessary, against an Administering Entity, 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/programs-surveys/community-resilience-estimates/partnerships/ntia.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 \$60 million appropriated for planning grants, \$53,400,000 is available to eligible States after subtracting set-asides. For fiscal year 2022, in which funds have been made available for both the State Digital Equity Planning Grant and State Digital Equity Capacity Grant programs, set-aside funding will be subtracted in equal proportion from each.
2. Using the amount calculated in step 1, NTIA will allocate to each eligible State one-half (0.5) percent of the total available to eligible States, ensuring compliance with the statutory minimum award irrespective of the formula.
3. NTIA will calculate the total amount to be further allocated via the funding formula by subtracting the sum of all funds allocated in step 2 from the total available to eligible States calculated in step 1. The result of this step is the “Formula-Based Funding.”
4. NTIA will allocate fifty (50) percent of the Formula-Based Funding (calculated in step 3) 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.²¹ 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 planning grants made available through this NOFO, NTIA will use estimates from the 2019 ACS.²²
5. NTIA then will allocate twenty-five (25) percent of the Formula-Based Funding derived in step 3 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 4, 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 covered populations without double-counting individuals who are members of multiple

²¹ If the total Formula-Based 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.

²² 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 population categories. NTIA will use the totals for each eligible State in determining the appropriate allocation.²³ 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).²⁴

6. NTIA will allocate the final twenty-five (25) percent of the Formula-Based 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 Formula-Based 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 planning grants made available through this NOFO, NTIA will use the Broadband Deployment Report released on January 19, 2021.²⁵
- b. Another five (5) percent of the total Formula-Based 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 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 planning grants made available through this NOFO, NTIA will use estimates from the 2019 ACS.²⁶

²³ 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>.

²⁴ If the total Formula-Based 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.

²⁵ See <https://www.fcc.gov/document/fcc-annual-broadband-report-shows-digital-divide-rapidly-closing>. 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 A of its Report. To derive the percentage of persons in each state who *lack* fixed broadband availability, NTIA subtracts the Commission's estimate from 100.

²⁶ 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

c. Seven and one-half (7.5) percent of the total Formula-Based 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 planning grants made available through this NOFO, NTIA will use results from the 2021 NTIA Internet Use Survey.²⁷

d. The final seven and one-half (7.5) percent of the total Formula-Based 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 source for this factor and will similarly substitute the median value among all other eligible States for Puerto Rico.²⁸

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 dial-up.

²⁷ 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.

²⁸ 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: Infrastructure Act § 60304(e) (Assurances)

Section 60304(e) of the Infrastructure Act 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).