



Alaska Statewide Broadband Advisory Board – August 28, 2023

Special Board Meeting

Alaska Department of Commerce, Community & Economic Development

Meeting Details: [Click here to join the meeting](#)

Meeting ID: 259 703 619 329; Passcode: WLwGXQ

Call In: 907-202-7104; Phone Conference ID: 187 438 239#

AGENDA

- I. Call to Order and Roll Call
- II. Approval of Agenda
- III. Unfinished Business
 1. Approval of Footnote 70 Letter to the National Telecommunication & Information Administration
- IV. New Business
 1. Discussion Item: Role of Statewide Broadband Advisory Board Regarding Draft Digital Equity Plan
 2. Discussion Item: Role of Statewide Broadband Advisory Board Regarding BEAD Initial Proposal Volume 1 and Volume 2
- V. Public Comment
- VI. Adjournment



Alaska Statewide Broadband Advisory Board Agenda Statement

Meeting Date:	August 28, 2023
Item Number:	III.1.
Item Title:	Approval of Footnote 70 Letter to the National Telecommunications & Information Administration
Submitted By:	Thomas Lochner, Director Melissa Kookesh, Tribal Liaison
Recommendation:	Approve Footnote 70 Letter to the National Telecommunications & Information Administration
Attachments:	1. Combined Draft Footnote 70 Letter; 2. August 21 st Approved Version; 3. T Sweeney Proposed Edits; 4. A Hoffman Proposed Edits

Summary Statement:

During the August 21, 2023, regular meeting the Board approved initial edits to the Footnote 70 as provided by Vice Chair Tara Sweeney. The Board determined additional time was required to allow Board members to review the letter and propose additional edits.

Proposed edits were received from Vice Chair Sweeney and Board Member Ana Hoffman. Tribal Liaison, Melissa Kookesh, has incorporated the edits of both members Sweeney and Hoffman into a combined draft letter. There is one section in the letter where the edits were inconsistent. The text in that section is currently shown with a strikethrough to represent one member proposed omitting the language.

For clarity, PDF copies of the original proposed edited letters from both board members are attached. A copy of the version that was approved at the August 21st meeting is also included.

This is an opportunity for the full Board to discuss the proposed edits and determine a final version of the letter to be submitted to NTIA.



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community,
and Economic Development

ALASKA BROADBAND OFFICE

550 West Seventh Avenue, Suite 1535
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August 25, 2023

The Honorable Alan Davidson
Assistant Secretary of Commerce for Communications and Information
U.S. Department of Commerce
1401 Constitution Avenue NW
Washington, DC 20230

Dear Secretary Davidson:

The State of Alaska Broadband Advisory Board is incredibly thankful for the infrastructure the Broadband Equity, Access, and Deployment (BEAD) program will bring to Alaska, and the opportunities that will follow. The Broadband Advisory Board is proud to do our part to help ensure "Internet for All." As a body, we are concerned the entire program, and ultimate infrastructure build out, will be negatively impacted by specific language in the Notice of Funding Opportunity (NOFO) that potentially creates significant challenges for the BEAD projects in Alaska.

Graciously, the NOFO requires plans to deploy broadband to Unserved and Underserved project areas on Tribal Lands to include a "Resolution of Consent from each Tribal Government, from the Tribal Council or other governing body, upon whose Tribal Lands the infrastructure will be deployed."⁷⁰ This language alone is standard and expected. However, Footnote 70 in the NOFO reads:

"In the case of consortiums, a Tribal resolution is required from each Tribal Government on whose Tribal Lands the infrastructure will be deployed. For projects deploying to locations on Tribal Lands in Hawaii, consent must be obtained from the Department of Hawaiian Home Lands. ***For projects deploying to locations in Alaska, with the exception of deployments on the Metlakatla Reservation, an Eligible Entity must gain the consent (by Tribal resolution) of 51 percent or more of the federally recognized tribal governments in the Alaska Native Region in which the infrastructure will be deployed*** (emphasis added). Consent from the Metlakatla Reservation will not be required for deployments in the Southeast Alaska Region Village..."

If it is the intent for each Tribal Government that owns the land to be given decision making power over their own land, then Footnote 70 misses the mark. The definitions in the NTIA source documents (cite in footnote) are incongruent with the diverse landownership and/or jurisdictional authority within each region.

BACKGROUND

While the State of Alaska recognizes and acknowledges that Tribal Governments are all sovereign, Tribal landholdings vary. The Alaska Native Claims Settlement Act of 1971 (“The Act”) conveyed authority to title of land in Alaska to Alaska Native regional and village corporations, not Federally Recognized Tribes. Further, The Act did not extinguish Tribal sovereignty. Therefore, title to selected land surface rights in and around an Alaska Native community are generally owned by, or to be conveyed by the Bureau of Land Management to the Alaska Native village corporation; and the title to selected sub-surface land in and around an Alaska Native community are generally owned by, or to be conveyed by the Bureau of Land Management, to the Alaska Native regional corporation. If the intent of Footnote 70 is indeed to give the Tribal entity that owns the land decision-making power over their own land, Footnote 70 inappropriately authorizes non-landowners to grant consent outside of their jurisdictional authority, on behalf of landowners, to broadband infrastructure projects proposed within a specific region. A more appropriate approach in Alaska which respects the sovereign authority of Tribal Governments but aligns with actual land ownership would be to request support, rather than consent, from the relevant Tribal Government.

Additionally, the language in Footnote 70 doesn’t consider the size and diversity within each Alaska region. For example, Doyon, Limited is one regional corporation of twelve in the state of Alaska. This region of interior Alaska alone includes approximately 172 million acres of land, of which Doyon owns 12.5 million acres. There are 26 Village Corporations and 38 Federally Recognized Tribes within this Region.

The Advisory Board anticipates this confusing caveat will be prohibitive to the successful deployment of the BEAD program in Alaska. Significant challenges are anticipated:

1. Interest in the BEAD grant will be stifled among bidders who see this unusual consent requirement as too high of a barrier of entry.
2. It might create arbitrage amongst the approving parties further delaying the process or dissuading potential bidders.
3. Several of the affected communities meet infrequently and it may cause delays in having their voices heard.

RECOMMENDATIONS

The State Broadband Advisory Board is charged with making recommendations to the State of Alaska on the behalf of the communities we represent. In service of that, we now offer a recommendation to the National Telecommunications and Information Administration to apply the following approach to the matter of tribal consents in lieu of Footnote 70, recognizing the unique land ownership issues in Alaska:

1. Instead of requiring consent from the majority of Federally Recognized Tribes within the relevant Alaska Native Region, NTIA should require each applicant to seek and secure a resolution of support from the federally recognized tribal governing body within the location where service is to be provided and such support may be non-exclusive.
2. In the absence of demonstrated support from the federally recognized tribe, the applicant may demonstrate support from the federally recognized tribal consortium for the region in which service

is to be provided and such support may be non-exclusive. In general, regional Tribal consortiums already have resolutions of authority to operate on behalf of their member Federally Recognized Tribes. The State Broadband Advisory Board recommends the option for a Tribal consortium to demonstrate support for a project by submitting a letter or resolution of support.

~~In the instance where a Federally Recognized Tribe owns private title or title to lands taken into trust by the Federal Government on behalf of that Tribe, and those lands are included in a proposed project footprint, then a resolution of support is warranted.~~ The State Broadband Advisory Board recommends the following definition for Tribal Consortium:

A Tribal consortium is a partnership between two or more tribes that work together to achieve a common objective¹, and whose authority is conferred through resolution from the governing bodies of its member tribes.

The recommendations contained herein removes barriers to access to capital for Eligible Entities, increases efficiency, supports Tribal self-determination, and maintains authority within the land-ownership pattern while fostering intra-regional cooperation.

The Board appreciates thoughtful consideration given to this request and looks forward to a timely response from NTIA Leadership. Please reach out to me directly with any questions at gledford@cityofwasilla.gov.

Best regards,

Glenda Ledford
Chair, Statewide Broadband Advisory Board

CC: The Honorable Lisa Murkowski, US Senator for Alaska
The Honorable Dan Sullivan, US Senator for Alaska
The Honorable Mary Peltola, US Congresswoman for Alaska
Tyson Gallagher, Chief of Staff, Office of the Governor, State of Alaska
The Honorable Julie Sande, Commissioner, DCCED, State of Alaska
Micaela Fowler, Deputy Commissioner, DCCED, State of Alaska
Tim Stelzig, NTIA Regional FPO
Tyler Sachtleben, NTIA Alaska FPO
Alaska Broadband Office

¹ [Tribal Consortia in Region 10 | US EPA](#)



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August 21, 2023

The Honorable Alan Davidson
Assistant Secretary of Commerce for Communications and Information
U.S. Department of Commerce
1401 Constitution Avenue NW
Washington, DC 20230

Dear Secretary Davidson:

The State of Alaska Broadband Advisory Board is incredibly thankful for the infrastructure the Broadband Equity, Access, and Deployment (BEAD) program will bring to Alaska, and the opportunities that will follow. The Broadband Advisory Board is proud to do our part to help ensure "Internet for All." As a body, we are concerned the entire program, and ultimate infrastructure build out, will be negatively impacted by specific language in the Notice of Funding Opportunity (NOFO) that potentially creates significant challenges for the BEAD projects in Alaska.

Graciously, the NOFO requires plans to deploy broadband to Unserved and Underserved project areas on Tribal Lands to include a "Resolution of Consent from each Tribal Government, from the Tribal Council or other governing body, upon whose Tribal Lands the infrastructure will be deployed."⁷⁰ This language alone is standard and expected. However, Footnote 70 in the NOFO reads:

"In the case of consortiums, a Tribal resolution is required from each Tribal Government on whose Tribal Lands the infrastructure will be deployed. For projects deploying to locations on Tribal Lands in Hawaii, consent must be obtained from the Department of Hawaiian Home Lands. ***For projects deploying to locations in Alaska, with the exception of deployments on the Metlakatla Reservation, an Eligible Entity must gain the consent (by Tribal resolution) of 51 percent or more of the federally recognized tribal governments in the Alaska Native Region in which the infrastructure will be deployed*** (emphasis added). Consent from the Metlakatla Reservation will not be required for deployments in the Southeast Alaska Region Village..."

If it is the intent for each Tribal Government that owns the land to be given decision making power over their own land, then Footnote 70 misses the mark. While the State of Alaska recognizes and acknowledges that Tribal Governments are all sovereign, Tribal landholdings vary, if at all. The Alaska Native Claims Settlement Act of 1971 ("The Act") conveyed authority to title of land in Alaska to Alaska Native regional and village corporations, not Federally Recognized Tribes. Further, The Act did not extinguish Tribal sovereignty. Therefore, title to selected land surface rights in and around an Alaska Native community are generally owned by, or to be conveyed by the Bureau of Land Management to the Alaska Native village corporation; and, the sub-surface selected land rights are generally owned by, or to

be conveyed by the Bureau of Land Management, to the Alaska Native regional corporation. Unless an Alaska Native corporation has officially transferred title to a Federally Recognized Tribe, Footnote 70 inappropriately authorizes non-landowners to grant consent outside of their jurisdictional authority, on behalf of landowners, to broadband infrastructure projects proposed within a specific region.

Additionally, the language in Footnote 70 doesn't consider the size and diversity within each Alaska Native Corporation Region. For example, Doyon, Limited is one Regional Corporation of twelve in the state of Alaska. This region of interior Alaska alone includes approximately 172 million acres of land, of which Doyon owns 12.5 million acres. There are 26 Village Corporations and 38 Federally Recognized Tribes within this Region. In general, regional Tribal consortia already have resolutions of authority to operate on behalf of their member Federally Recognized Tribes. The State of Alaska recommends that, instead of requiring consent from a majority of the Tribes, NTIA revise the requirement to allow for Tribal Consortia to demonstrate support for a project by submitting a letter either with the project proponent or directly to the NTIA. This increases efficiency, supports Tribal self-determination, and maintains authority within the land-ownership pattern while fostering intra-regional cooperation.

The Advisory Board anticipates this confusing caveat will be prohibitive to the successful deployment of the BEAD program in Alaska. Significant challenges are anticipated:

1. Interest in the BEAD grant will be stifled among bidders who see this unusual consent requirement as too high of a barrier of entry.
2. It might create arbitrage amongst the approving parties further delaying the process or dissuading potential bidders.
3. Several of the affected communities meet infrequently and it may cause delays in having their voices heard.

The State Broadband Advisory Board is charged with making recommendations to the State of Alaska on the behalf of the communities we represent. In service of that, we now offer a recommendation to the National Telecommunications and Information Administration to allow for a waiver from enforcement of Footnote 70 on a region-by-region basis.

The Board appreciates thoughtful consideration given to this request and looks forward to a timely response from NTIA Leadership. Please reach out to me directly with any questions at gledford@cityofwasilla.gov.

Best regards,

Glenda Ledford
Chair, Statewide Broadband Advisory Board



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August 21, 2023

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U.S. Department of Commerce
1401 Constitution Avenue NW
Washington, DC 20230

Dear Secretary Davidson:

The State of Alaska Broadband Advisory Board is incredibly thankful for the infrastructure the Broadband Equity, Access, and Deployment (BEAD) program will bring to Alaska, and the opportunities that will follow. The Broadband Advisory Board is proud to do our part to help ensure "Internet for All." As a body, we are concerned the entire program, and ultimate infrastructure build out, will be negatively impacted by specific language in the Notice of Funding Opportunity (NOFO) that potentially creates significant challenges for the BEAD projects in Alaska.

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[BACKGROUND](#)

While the State of Alaska recognizes and acknowledges that Tribal Governments are all sovereign, Tribal landholdings vary, ~~if at all~~. The Alaska Native Claims Settlement Act of 1971 ("The Act") conveyed authority to title of land in Alaska to Alaska Native regional and village corporations, not Federally Recognized Tribes. Further, The Act did not extinguish Tribal sovereignty. Therefore, title to selected land surface rights in and around an Alaska Native community are generally owned by, or to be conveyed by the Bureau of Land Management to the Alaska Native village corporation; and, the [title to selected](#) sub-surface [selected](#) land [rights in and around an Alaska Native community](#) are generally owned by, or to be conveyed by the Bureau of Land Management, to the Alaska Native regional corporation. Unless an Alaska Native corporation has officially transferred title to a Federally Recognized Tribe, Footnote 70 inappropriately authorizes non-landowners to grant consent outside of their jurisdictional authority, on behalf of landowners, to broadband infrastructure projects proposed within a specific region.

Additionally, the language in Footnote 70 doesn't consider the size and diversity within each Alaska ~~Native Corporation Region~~, [nor the sheer number of Federally Recognized Tribes within Alaska \(229 Tribes\)](#). For example, Doyon, Limited is one ~~Regional Corporation~~ of twelve in the state of Alaska. This region of interior Alaska alone includes approximately 172 million acres of land, of which Doyon owns 12.5 million acres. There are 26 Village Corporations and 38 Federally Recognized Tribes within this Region.

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RECOMMENDATIONS

The State of Alaska has two recommendations. ↓

1. In general, regional Tribal consortia already have resolutions of authority to operate on behalf of their member Federally Recognized Tribes. The State of Alaska recommends that, instead of requiring consent from a majority of the Tribes, NTIA revise the requirement to allow for [a Tribal consortium Consortium](#) to demonstrate support for a project by submitting a [letter or resolution of support](#). ~~either with the project proponent or directly to the NTIA. This increases efficiency, supports Tribal self-determination, and maintains authority within the land ownership pattern while fostering intra-regional cooperation.~~

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- ~~3. Several of the affected communities meet infrequently and it may cause delays in having their voices heard.~~

2. The State Broadband Advisory Board is charged with making recommendations to the State of Alaska on the behalf of the communities we represent. In service of that, we now offer a recommendation to the National Telecommunications and Information Administration to allow for a waiver from enforcement of Footnote 70 on a region-by-region basis.

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The Board appreciates thoughtful consideration given to this request and looks forward to a timely response from NTIA Leadership. Please reach out to me directly with any questions at gledford@cityofwasilla.gov.

Best regards,

Glenda Ledford
Chair, Statewide Broadband Advisory Board



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Additionally, the language in Footnote 70 doesn’t consider the size and diversity within each Alaska region, nor the sheer number of Federally Recognized Tribes within Alaska (229 Tribes). For example, Doyon, Limited is one regional corporation of twelve in the state of Alaska. This region of interior Alaska alone includes approximately 172 million acres of land, of which Doyon owns 12.5 million acres. There are 26 Village Corporations and 38 Federally Recognized Tribes within this Region.

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RECOMMENDATIONS

The State Broadband Advisory Board is charged with making recommendations to the State of Alaska on the behalf of the communities we represent. In service of that, we now offer a recommendation to the National Telecommunications and Information Administration to apply the following approach to the matter of tribal consents in lieu of Footnote 70, recognizing the unique land ownership issues in Alaska:

1. Instead of requiring consent from the majority of Federally Recognized Tribes within the relevant Alaska Native Region, NTIA should require each applicant to seek and secure a resolution of support from the federally recognized tribal governing body within the location where service is to be provided and such support may be non-exclusive.
2. In the absence of demonstrated support from the federally recognized tribe, the applicant may demonstrate support from the federally recognized tribal consortia for the region in which service is to be provided and such support may be non-exclusive. InThe State of Alaska has

~~three recommendations.~~ In general, regional Tribal consortia already have resolutions of authority to operate on behalf of their member Federally Recognized Tribes. The State of Alaska Broadband Advisory Board recommends ~~that, instead of requiring consent from a majority of~~ allowing the Tribes, ~~NTIA revise the requirement to allow~~ option for a Tribal consortium to demonstrate support for a project by submitting a letter or resolution of support.

~~In the instance where a Federally Recognized Tribe owns private title or title to lands taken into trust by the Federal Government on behalf of that Tribe, and those lands are included in a proposed project footprint, then a resolution of support is warranted. NTIA's source documents define: Indian Tribe Tribal Lands Tribal Government Trust Lands Native Corporation Tribal Organization Native Entity. Yet, these documents remain silent on Tribal consortia.~~ The State of Alaska Broadband Advisory Board recommends the following definition: for Tribal Consortium:

A Tribal consortium is a partnership between two or more tribes that work together to achieve a common objective¹, and whose authority is conferred through resolution from the governing bodies of its member tribes.

The recommendations contained herein removes barriers to access to capital for Eligible Entities, increases efficiency, supports Tribal self-determination, and maintains authority within the land-ownership pattern while fostering intra-regional cooperation.

The Board appreciates thoughtful consideration given to this request and looks forward to a timely response from NTIA Leadership. Please reach out to me directly with any questions at gledford@cityofwasilla.gov.

Best regards,

Glenda Ledford
Chair, Statewide Broadband Advisory Board



Alaska Statewide Broadband Advisory Board Agenda Statement

Meeting Date:	August 28, 2023
Item Number:	IV.1.
Item Title:	Discussion Item: Role of Statewide Broadband Advisory Board Regarding the Digital Equity Plan
Submitted By:	Lisa Von Bargaen, Deputy Director
Recommendation:	None. Discussion item only.
Attachments:	None

Summary Statement:

During the regular meeting of August 21, 2023, the Board requested the opportunity to have further discussion about the role it will play in the review and approval of the Digital Equity Plan. This agenda item is that opportunity for discussion. To help provide context, the estimated timeline for the Digital Equity Plan has been included in this agenda statement.

Digital Equity (DE) Plan Timeline (Estimated)

August 14, 2023	DE Plan back from Rasumson Foundation
August 14 – 28, 2023	ABO Review, Update, and Finalize Key Performance Indicators (KPIs)
August 30, 2023	Socialize KPIs with Rasmuson Steering Committee/Coalition
August 31, 2023	ABO finalize the Draft DE Plan
September 1 – 30, 2023	ABO Submit to SOA Affected Departments (i.e.: Law, DEED, Corrections, etc.)
September 15 – 30, 2023	ABO Submit to Commerce/Governor’s Office Review of DE Plan
October 3 – November 2, 2023	Release for Draft DE Plan for Public Comment
October 18, 2023	Reconvene Steering Committee for Input
November 3 - 10, 2023	Incorporate Public Comment into DE Plan
November 10 - 17, 2023	SOA Legal Review
November 20 – December 4, 2023	Commerce/Governor’s Office Second Review of DE Plan
December 5, 2023	File DE Plan with NTIA



Alaska Statewide Broadband Advisory Board Agenda Statement

Meeting Date:	August 28, 2023
Item Number:	IV.2.
Item Title:	Discussion Item: Role of Statewide Broadband Advisory Board Regarding BEAD Initial Proposal Volume 1 and Volume 2
Submitted By:	Lisa Von Bargaen, Deputy Director
Recommendation:	None. Discussion item only.
Attachments:	None

Summary Statement:

During the regular meeting of August 21, 2023, the Board requested the opportunity to have further discussion about the role it will play in the review and approval of both Volume 1 and Volume 2 of the Initial Proposal. This agenda item is that opportunity for discussion. To help provide context, the estimated timeline for Volume 1 that was in the August 21st packet is included in this agenda statement. The Alaska Broadband Office has not finalized the timeline for Volume 2. That effort is in progress.

Volume 1 Timeline (Estimated)

8.25.2023	Submittal of Draft Volume I to Commerce/Governor’s Office Leadership
8.25.2023 – 9.08.2023	Commerce/Governor’s Office Leadership Review of Draft Volume I
9.08.2023 – 9.12.2023	ABO Incorporating Edits
9.12.2023 – 10.11.2023	30-Day Public Comment Period of Draft Volume I
10.11.2023 – 10.13.2023	Incorporation of Public Comments into Draft Volume I
10.13.2023	Submittal of Volume I to NTIA
10.13.2023 – 11.13.2023	Estimated Review & Approval Period by NTIA of Volume I
11.13.2023 – 12.13.2023	Publication of Eligible Locations & Challenge Process <i>(Robust notification of Tribal/Local Governments, Non-Profits, and ISPs)</i>
12.14.2023	In-State Challenge Process Officially Begins
12.14.2023 – 1.16.2024	Challenge Portal Open
12.14.2023 – 2.16.2024	ISP Rebuttal Period
12.14.2023 – 3.17.2024	ABO Adjudication of ISP-Rejected Challenges
3.18.2024 – 3.20.2024	Final Challenge Packet Prepared
3.20.2024 – 4.03.2024	Commerce/Governor’s Office Leadership Review of Final Challenge Results
4.03.2024 – 4.05.2024	ABO Incorporating Edits
4.05.2024	Submittal of Final Challenge Results to NTIA
4.05.2024 – 5.05.2024	Estimated Review & Approval Period by NTIA of Final Challenge Results
5.05.2024 – 7.05.2024	60-Day Public Posting of Final Approved Challenge Results ¹

¹ The ABO must post the final, approved Challenge results for 60 days prior to any awards being made under the BEAD program.