

requirements other than those currently imposed by State law. For further information on how this authorization complies with applicable executive orders and statutory provisions, please see the Proposed Rule published in the April 5, 2021, **Federal Register** at 86 FR 17572. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2). This final action will be effective June 15, 2021.

#### List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: June 1, 2021.

**Deborah Jordan,**

*Acting Regional Administrator, Region IX.*

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## DEPARTMENT OF COMMERCE

### National Telecommunications and Information Administration

#### 47 CFR Part 302

[Docket No. 210608-0124]

RIN 0660-AA36

#### Connecting Minority Communities Pilot Program

**AGENCY:** National Telecommunications and Information Administration (NTIA), Department of Commerce (DOC).

**ACTION:** Final rule.

**SUMMARY:** The Consolidated Appropriations Act of 2021 (the “Act”) appropriated \$285 million to the National Telecommunications and Information Administration (NTIA) to establish the Connecting Minority Communities (CMC) Pilot Program. The CMC Pilot Program will provide grants to eligible historically Black colleges or universities (HBCUs); Tribal Colleges or Universities (TCUs); and Minority-serving institutions (MSIs) in anchor communities for broadband internet access service, equipment, or to hire information technology personnel to facilitate educational instruction including remote instruction, and to lend or provide equipment to eligible students or patrons. This final rule describes NTIA’s programmatic scope, eligibility criteria, and general guidelines for the CMC Pilot Program as authorized by the Act. NTIA will subsequently publish a Notice of Funding Opportunity (NOFO) on [www.grants.gov](http://www.grants.gov) that will provide more details regarding the CMC eligibility guidelines, application instructions, and program requirements.

**DATES:** This final rule is effective on June 15, 2021.

**FOR FURTHER INFORMATION CONTACT:** Scott Woods, Senior Broadband Program Specialist, telephone: (202) 306-3096, email: [SWoods@ntia.gov](mailto:SWoods@ntia.gov); or Francine Alkisswani, Telecommunications Policy Analyst, telephone: (202) 482-5560, email: [FAlkisswani@ntia.gov](mailto:FAlkisswani@ntia.gov), Office of Telecommunications and Information Applications, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Room 4878, Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

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#### I. Background

NTIA, the Executive Branch agency principally responsible for advising the President on telecommunications and information policy issues, launched its Minority Broadband Initiative (MBI) in November 2019 as an integral part of NTIA’s mission and commitment to expanding broadband internet access and adoption in America. With the MBI, NTIA took the lead on minority stakeholder engagement on broadband deployment in unserved and underserved areas of the country through initially partnering with HBCUs

and TCUs. The Consolidated Appropriations Act, 2021, Division N, Title IX, Section 902, Public Law 116-260, 134 Stat. 1182 (Dec. 27, 2020), codifies the work of the MBI by directing NTIA to establish the Office of Minority Broadband Initiatives, expanding the Agency’s reach to engage MSIs, and to promulgate rules establishing the CMC Pilot Program. The purpose of the Act is to realize the potential of HBCU, TCU, and MSI institutions that will aid in America’s economic development, growth of social capital and increased productivity. NTIA will build and expand upon its relationships with HBCU, TCU and MSI institutions to both fulfill the duties of the Office of Minority Broadband Initiatives and to implement the CMC Pilot Program.

Moreover, NTIA’s mission is to foster robust broadband access, connectivity and adoption as these are essential elements to support the nation’s economic growth and social advancement. NTIA believes that broadband is a conduit for economic development and social opportunities for U.S. households and a gateway to increased productivity, growth and market access for businesses of all sizes. Yet, many American communities, households and critical anchor institutions lack sufficient broadband connectivity and experience significant challenges with digital inclusion, adoption, access and equity, specifically within vulnerable communities, communities of color, and with students at HBCUs, TCUs and MSIs. The COVID-19 pandemic has exacerbated these inequities for students, faculty and staff at HBCUs, TCUs and MSIs.

To address these critical issues, Congress passed the Act to enhance and expand certain provisions of the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”).<sup>1</sup> In the Act, Congress directed NTIA to provide grants to eligible recipients in anchor communities for the purchase of broadband internet access service or any eligible equipment, or to hire and train information technology personnel: (1) To facilitate educational instruction and learning, including through remote instruction; or (2) to operate a minority business enterprise; or (3) to operate a tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended. Through this CMC Pilot Program, NTIA will directly address the lack of broadband access, connectivity, adoption and equity at our

<sup>1</sup> See Coronavirus Aid, Relief, and Economic Security Act, Public Law 116-136, 134 Stat. 281 (Mar. 27, 2020).

nation’s HBCUs, TCUs, and MSIs and in their surrounding anchor communities.

**II. Statutory Requirements**

NTIA adopts these rules to establish, implement, and administer the CMC Pilot Program. Under the Act, Congress directed NTIA to promulgate these rules to establish a method to identify, determine and verify CMC applicant eligibility; to identify which eligible recipients in anchor communities have the greatest unmet financial needs; and to ensure that grants under the Pilot Program are made to eligible recipients in a manner that best achieves the purposes of the Pilot Program.<sup>2</sup>

Accordingly, NTIA developed the following methodology and supporting rationale utilizing information and data from the agency’s National Broadband Availability Map (NBAM) and in consultation with several Federal agencies including the U.S. Department of Education (ED), National Center for

Education Statistics (NCES), Minority Business Development Agency (MBDA) and the Internal Revenue Service (IRS).

1. Method for identifying and verifying that an applicant is an HBCU, TCU, or MSI eligible recipient.

NTIA will analyze available data to establish program eligibility as follows:

a. Eligible institutions must be designated in one of the seven categories delineated by the U.S. Department of Education as authorized by the Higher Education Act of 1965.<sup>3</sup>

b. Where the school type has been legislatively defined and a list of institutions is available from the Federal government, as is the case for HBCUs and TCUs, NTIA will use the data/information provided by the NCES to verify their historical designation.

c. Where the U.S. Department of Education provides eligibility criteria, but does not publish a definitive list of institutions (for example, Asian American and Native American Pacific

Islander-serving institution (AANAPISI), Hispanic-serving institution (HSI), Predominantly Black institution (PBI), Alaska Native-serving institution/Native Hawaiian-serving institution (ANNH), and Native American-serving, non-Tribal institution (NASNTI) designations), NTIA has defined the universe of eligible institutions as those institutions that the U.S. Department of Education defines as eligible or potentially eligible in that category within the U.S. Department of Education’s most recently released Eligibility Matrix.<sup>4</sup> (Currently the 2020 Eligibility Matrix, but NTIA will update this approach to include the U.S. Department of Education’s 2021 Eligibility Matrix, and any subsequent Matrix, as applicable, upon release.)

Accordingly, under this methodology and rationale, NTIA estimates the universe of “eligible” recipient institutions, as of 2020,<sup>5</sup> is as follows:

Type	Number of schools	Method
HBCU .....	102	Most recent NCES list of HBCUs. <sup>6</sup>
HSI .....	501	Defined as eligible or potentially eligible in the most recent Dep’t of Education Eligibility Matrix available, in the HSI category.
TCU .....	37	Most recent NCES list of TCUs. <sup>7</sup>
ANNH .....	66	Defined as eligible or potentially eligible in the most recent Dep’t of Education Eligibility Matrix available, in the ANNH or ANNH F categories.
PBI .....	104	Defined as eligible or potentially eligible in the most recent Dep’t of Education Eligibility Matrix available, in the PBI F or PBI A categories.
AANAPISI .....	336	Defined as eligible or potentially eligible in the most recent Dep’t of Education Eligibility Matrix available, in the AANAPISI or AANAPISI F categories.
NASNTI .....	32	Defined as eligible or potentially eligible in the most recent Dep’t of Education Eligibility Matrix available, in the NASNTI or NASNTI F categories.

2. Method for identifying and mapping areas or anchor communities that are within a 15-mile radius of each eligible HBCU, TCU, or MSI and that meet the estimated median annual household income of not more than 250 percent of the poverty line.

To identify those areas surrounding a qualifying institution in which the “estimated median annual household income is not more than 250 percent of the poverty line,” NTIA will use median household income estimates from the most recent U.S. Census Bureau’s American Community Survey (ACS) for each census tract falling wholly or partially within the applicable area (so

long as corresponding poverty threshold data is also available for that time period, to ensure comparison of similar datasets). Census tracts are the smallest geographic units for which median household income estimates are available, enabling more precise identification of the eligible areas defined in the statute. Currently, the most recent available data estimates are from 2015–2019. For each relevant census tract, NTIA will compare the median household income estimate with the most recent poverty thresholds published by the Census Bureau (so long as corresponding household income data is also available for that

time period, as discussed above). Currently, the most recent available data is from 2019. NTIA will use the weighted average poverty threshold that corresponds to the mean household size in each tract. If the mean household size is between two whole numbers, NTIA will round up to the next whole number to determine the applicable weighted average poverty threshold. This will help to ensure that the program’s eligibility standards include as many communities in need as possible. If the median household income of a census tract does not exceed 2.5 times the applicable weighted average poverty threshold, that tract will be considered

<sup>2</sup> See Consolidated Appropriations Act, 2021, Division N, Title IX, Section 902(c)(1)(B), Public Law 116–260, 134 Stat. 1182 (Dec. 27, 2020).

<sup>3</sup> See U.S. Dep’t of Education, List of Postsecondary Institutions Enrolling Populations with Significant Percentages of Undergraduate Minority Students, <https://www2.ed.gov/about/offices/list/ocr/edlite-minorityinst.html> (last visited May 18, 2021).

<sup>4</sup> See U.S. Dep’t of Education, Office of Postsecondary Education, Eligibility Designations and Applications for Waiver of Eligibility Requirements, <https://www2.ed.gov/about/offices/list/ope/ldues/eligibility.html> (last visited May 18, 2021).

<sup>5</sup> Several Institutions of Higher Education (IHEs) will qualify under more than one category in the table below. Therefore, the total universe of eligible

institutions is not the total number of schools in all category types.

<sup>6</sup> See National Center for Education Statistics, College Navigator, [https://nces.ed.gov/COLLEGE\\_NAVIGATOR/?s=all&sp=4](https://nces.ed.gov/COLLEGE_NAVIGATOR/?s=all&sp=4) (last visited May 18, 2021).

<sup>7</sup> See National Center for Education Statistics, College Navigator, [https://nces.ed.gov/COLLEGE\\_NAVIGATOR/?s=all&sp=8](https://nces.ed.gov/COLLEGE_NAVIGATOR/?s=all&sp=8) (last visited May 18, 2021).

part of the anchor community. These data sets have a small margin of error that may affect the potential eligibility of particular census tracts, and data gaps may exist. NTIA will address this margin of error and an applicant's submission of its own data to support eligibility in the program's NOFO. A further breakdown of NTIA's approach is as follows:

a. The 250 percent threshold will be determined for household size based on the most recent poverty thresholds available from the U.S. Census Bureau, so long as household size data for that time period is also available.<sup>8</sup>

b. The 250 percent poverty threshold by household size will then be applied to the average household size in each census tract according to the most recent American Community Survey data available, so long as poverty threshold data for that time period is also available.

c. Utilizing capabilities within the NBAM platform, a 15-mile buffer will be drawn around each eligible institution as described above.

d. A digital overlay will be used to select all census tracts for each anchor community boundary. If any part of a census tract falls within the boundary, NTIA will include that entire census tract in order to avoid excluding potentially eligible communities. The median household income in each anchor community census tract will be compared to the 250 percent poverty threshold as defined above to determine if the anchor community tract does not exceed the prescribed poverty threshold.

3. Method to determine a comparable maximum distance for TCU anchor community located on land held in trust by the United States is statistically comparable to anchor communities defined as not more than 15 miles from an HBCU, TCU or MSI.

In the Act, Congress also directed that NTIA may establish, in consultation with the Secretary of the Interior, a separate anchor community boundary for those Tribal schools located on land held in trust by the United States, if NTIA can ensure that each anchor community that is established is statistically comparable to other anchor communities within the CMC Pilot Program. After consultation with the Secretary of the Interior and upon review of the applicable data and information for the purposes of CMC Pilot Program consideration, NTIA will

apply this standard as follows: For TCUs located on land held in trust by the United States that are also located within a reservation, the boundary of the reservation on which the TCU falls will be substituted for the 15-mile buffer to create an Area of Interest (AOI) for each institution. These AOIs will be used to define the institution's anchor community boundary.

4. Method to identify which eligible recipients have the greatest unmet financial need. NTIA has interpreted that this requirement refers to both the "eligible institution" and the "students that attend the eligible institutions" and therefore, for ease of application, will analyze the student need data. Accordingly, to determine which eligible recipients have students with the greatest unmet financial needs, each applying eligible institution must provide the following information in their application for funding (or as much of the information as is reasonably available to the institution), to include any supplementary information to explain the data:

- (i) Student population size;
- (ii) Number and percentage of students that are eligible to receive Federal Pell Grants;
- (iii) Number and percentage of students that receive other need-based financial aid from the Federal government, a State, or that institution;
- (iv) Number and percentage of students that qualify as low-income consumers;<sup>9</sup>
- (v) Number and percentage of students that are low-income individuals;<sup>10</sup> and
- (vi) Number and percentage of students that have been approved to receive unemployment insurance benefits under any Federal or State law since March 1, 2020.

NTIA will analyze the submitted information for each of these criteria and will develop an assessment of each institution's student body-based unmet financial needs. These assessments will be compared across all submitted applications during the merit review phase and program eligibility determinations will be made based on an evaluation of the data provided and accompanying explanatory information. Final recommendations for project approval and grant funding will be made for those eligible anchor institutions that have demonstrated the highest unmet financial need.

5. Method for verifying that a designated Minority Business Enterprise

(MBE) or a 501(c)(3) organization applying as a member of the consortium is an eligible entity.

NTIA will require that a consortium applicant that is an MBE self-certify that it is an MBE-designated entity. For consortium applicants that claim tax exempt status, NTIA will utilize the Internal Revenue Service's 501(c)(3) certification portal/database to verify the organization's 501(c)(3) status.

As required by section 902(c)(1) of the Act, we are including all eligibility requirements in the program rules below in §§ 302.3–302.6. Further, § 302.5 addresses the interagency coordination required by section 902(c)(3) of the Act.

### III. Regulatory Analyses and Notices

#### *Executive Order 12866 (Regulatory Policies and Procedures)*

This rule has been determined to be significant under of Executive Order 12866, and therefore has been reviewed by the Office of Management and Budget (OMB).

#### *Administrative Procedure Act*

The effective date of this final rule is the date of publication in the **Federal Register**. The Administrative Procedure Act's rulemaking requirements, including the requirement to engage in a notice and comment process and the 30-day delay in effective date for substantive rules, do not apply here as this rule concerns grants. See 5 U.S.C. 553(a)(2).

#### *Regulatory Flexibility Act*

This final rule is not subject to the requirements of the Regulatory Flexibility Act, as NTIA was not required to publish a notice of proposed rulemaking or provide an opportunity for notice and public comment prior to publication of this final rule. See 5 U.S.C. 601(2), 603, 604. Accordingly, no Regulatory Flexibility Analysis is required, and none has been prepared.

#### *Executive Order 13132 (Federalism)*

This final rule does not contain policies having federalism implications requiring preparations of a Federalism Summary Impact Statement.

#### *Executive Order 12988 (Civil Justice Reform)*

This rulemaking has been reviewed under Executive Order 12988, Civil Justice Reform, as amended by Executive Order 13175. NTIA has determined that the final rule meets the applicable standards provided in section 3 of the Executive Order to minimize litigation, eliminate ambiguity, and reduce burden.

<sup>8</sup> See U.S. Census Bureau, Poverty Thresholds, <https://www.census.gov/data/tables/time-series/demo/income-poverty/historical-poverty-thresholds.html> (last visited May 18, 2021).

<sup>9</sup> As defined under 47 CFR part 54, subpart E, or any successor regulations.

<sup>10</sup> As that term is defined in section 312(g) of the Higher Education Act of 1965 (20 U.S.C. 1058(g)).

*Executive Order 12372*  
(Intergovernmental Consultation)

Applications under this program are subject to Executive Order 12372, “Intergovernmental Review of Federal Programs,” which requires intergovernmental consultation with State and local officials. Non-TCU applicants are required to submit a copy of their applications to their designated State Single Point of Contact (SPOC) offices. See 7 CFR part 3015, subpart V.

NTIA respects the sovereignty of Tribal nations and the various arms of Tribal governments, including institutions of higher education. TCUs will be encouraged to consult with the Tribal entity through which they are chartered, to promote collaboration and a unified approach to addressing the mission of the CMC Pilot Program.

*Executive Order 12630*

This final rule does not contain policies that have takings implications.

*Executive Order 13175 (Consultation and Coordination With Indian Tribes)*

NTIA has analyzed this final rule under Executive Order 13175 and has determined that the action would not have a substantial direct effect on one or more Indian Tribes, would not impose substantial direct compliance costs on Indian Tribal governments, and would not preempt Tribal law. Therefore, a Tribal summary impact statement is not required.

*Paperwork Reduction Act*

This document does not contain new collection-of-information requirements subject to the Paperwork Reduction Act.

*Unfunded Mandates Reform Act*

This final rule contains no federal mandates (under the regulatory provision of Title II of the Unfunded Mandates Reform Act of 1995) for State, local, and Tribal governments or the private sector. The program is voluntary and applicants that meet all eligibility requirements could receive grant funds. Thus, this rulemaking is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

*National Environmental Policy Act*

NTIA has reviewed this rulemaking action for the purposes of the National Environmental Policy Act. NTIA has determined that this final rule would not have a significant impact on the quality of the human environment.

**List of Subjects in 47 CFR Part 302**

Broadband, Grant Programs, internet, Telecommunications.

Dated: June 9, 2021.

**Evelyn Remaley,**

*Acting Assistant Secretary of Commerce for Communications and Information, National Telecommunications and Information Administration.*

■ In consideration of the foregoing, the National Telecommunications and Information Administration, Department of Commerce, adds 47 CFR part 302 to read as follows:

**PART 302—CONNECTING MINORITY COMMUNITIES PILOT PROGRAM**

Sec.

- 302.1 Purpose.
- 302.2 Definitions.
- 302.3 Who may apply.
- 302.4 Application requirements.
- 302.5 Approval and award.
- 302.6 Distribution of grant funds.
- 302.7 Eligible uses for grant funds.
- 302.8 Continuing compliance.
- 302.9 Financial and administrative requirements.
- 302.10 Closeout.
- 302.11 Waiver authority.
- 302.12 Program termination.

**Authority:** Consolidated Appropriations Act, 2021, Division N, Title IX, section 902, Pub. L. 116–260, 134 Stat. 1182 (Dec. 27, 2020).

**§ 302.1 Purpose.**

This part establishes uniform application, approval, award, financial and administrative requirements for the Connecting Minority Communities pilot program authorized under Division N, Title IX, section 902, of the Consolidated Appropriations Act, 2021.

**§ 302.2 Definitions.**

As used in this part—

*Anchor Community* means any area that—

(1) Except as provided in the definition of Certain Tribal Colleges or Universities below, is not more than 15 miles from a historically Black college or university, a Tribal College or University, or a Minority-serving institution; and

(2) Has an estimated median annual household income (based on U.S. Census Bureau American Community Survey data) of not more than 250 percent of the poverty line, as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)). NTIA will use data from the most recent time period for which both household income and poverty line data are available.

*Certain Tribal Colleges or Universities* means, with respect to a Tribal College or University that is located on land held in trust by the United States, the Assistant Secretary, in consultation with the Secretary of the Interior, may

establish a different maximum distance for the purposes of designating an anchor community if the Assistant Secretary is able to ensure that, in establishing that different maximum distance, each anchor community that is established as a result of that action is statistically comparable to other anchor communities described in the definition of Anchor Community in this section. After consultation with the Secretary of the Interior and review of the relevant statistical data, the Assistant Secretary has determined that, for TCUs located on land held in trust by the United States that are also located within a reservation, the boundary of the reservation on which the TCU falls will be substituted for the 15-mile buffer to create an Area of Interest (AOI) for each institution. These AOIs will be used to define the institution’s anchor community boundary.

*Assistant Secretary* means the Assistant Secretary of Commerce for Communications and Information, and Administrator of the National Telecommunications and Information Administration (NTIA).

*Broadband internet access service* has the meaning given the term in 47 CFR 8.1(b), or any successor regulation.

*Commission* means the Federal Communications Commission.

*Connected device* means a laptop computer, tablet computer, or similar device that can connect to broadband internet access service.

*Director* means the Director of the Office.

*Eligible equipment* means—

- (1) A Wi-Fi hotspot;
- (2) A modem;
- (3) A router;
- (4) A device that combines a modem and router;

(5) A connected device; or

(6) Any other equipment used to provide access to broadband internet access service.

*Eligible recipient* means—

- (1) A historically Black college or university;
- (2) A Tribal College or University;
- (3) A Minority-serving institution; or
- (4) A consortium that is led by a historically Black college or university, a Tribal College or University, or a Minority-serving institution and that also includes—

(i) A Minority Business Enterprise; or

(ii) An organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code.

*Historically Black college or university* has the meaning given the term “part B institution” in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

*Minority-serving institution* means any of the following:

(1) An Alaska Native-serving institution, as that term is defined in section 317(b) of the Higher Education Act of 1965 (20 U.S.C. 1059d(b)).

(2) A Native Hawaiian-serving institution, as that term is defined in section 317(b) of the Higher Education Act of 1965 (20 U.S.C. 1059d(b)).

(3) A Hispanic-serving institution, as that term is defined in section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)).

(4) A Predominantly Black institution, as that term is defined in section 371(c) of the Higher Education Act of 1965 (20 U.S.C. 1067q(c)).

(5) An Asian American and Native American Pacific Islander-serving institution, as that term is defined in

section 320(b) of the Higher Education Act of 1965 (20 U.S.C. 1059g(b)).

(6) A Native American-serving, non-Tribal institution, as that term is defined in section 319(b) of the Higher Education Act of 1965 (20 U.S.C. 1059f(b)).

*Minority Business Enterprise* has the meaning given the term in 15 CFR 1400.2, or any successor regulation.

*Office* means the Office of Minority Broadband Initiatives established pursuant to the Consolidated Appropriations Act, 2021, Division N, Title IX, section 902(b)(1).

*Tribal College or University* has the meaning given the term in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)).

*Wi-Fi* means a wireless networking protocol based on Institute of Electrical

and Electronics Engineers standard 802.11, or any successor standard.

*Wi-Fi hotspot* means a device that is capable of—

(1) Receiving broadband internet access service; and

(2) Sharing broadband internet access service with another device through the use of Wi-Fi.

**§ 302.3 Who may apply.**

(a) *Eligible recipient.* To apply for a CMC grant under this part, an applicant must be an eligible recipient in an anchor community as defined in § 302.2. NTIA will rely on the following sources of information to determine whether an applicant is an eligible recipient:

TABLE 1 TO PARAGRAPH (a)

Type	NTIA Validation method
Historically Black College or University (HBCU) Hispanic-Serving Institution (HSI) .....	Most recent NCES list of HBCUs. Defined as eligible or potentially eligible in the most recent Dep't of Education Eligibility Matrix available, in the HSI category.
Tribal College or University (TCU) .....	Most recent NCES list of TCUs.
Alaska Native and Native Hawaiian (ANNH) .....	Defined as eligible or potentially eligible in the most recent Dep't of Education Eligibility Matrix available, in the ANNH or ANNH F categories.
Predominantly Black Institution (PBI) .....	Defined as eligible or potentially eligible in the most recent Dep't of Education Eligibility Matrix available, in the PBI F or PBI A categories.
Asian American and Native American Pacific Islander-Serving Institution (AANAPISI).	Defined as eligible or potentially eligible in the most recent Dep't of Education Eligibility Matrix available, in the AANAPISI or AANAPISI F categories.
Native American-Serving Non-Tribal Institution (NASNTI).	Defined as eligible or potentially eligible in the most recent Dep't of Education Eligibility Matrix available, in the NASNTI or NASNTI F categories.

(b) *Eligibility for consortia members.* For consortium applications led by eligible recipients described in paragraph (a) of this section, NTIA will require that any Minority Business Enterprise (MBE) consortium member self-certify that it is a MBE-designated entity. For consortium members that claim tax-exempt status, NTIA will utilize the Internal Revenue Service's 501(c)(3) certification portal/database to verify the consortium member's tax-exempt status.

**§ 302.4 Application requirements.**

(a) *Contents for an application.* An application for funds for the Connecting Minority Communities Pilot Program must consist of the following components:

(1) *Project narrative.* The project narrative should describe a clearly defined project that best achieves the purposes of the CMC Pilot Program. The project narrative must demonstrate that every project, activity, and cost listed in the application meets the eligible use requirements in § 302.7. The project narrative should include the following information:

(i) *Project justification.* Please describe the primary goals of your project, a description of the community needs and challenges that your proposed project will address and who will directly benefit from your project, including the institution, the anchor community, students, minority business enterprises and/or tax-exempt non-profit organizations. The HBCU, TCU, or MSI applicant must include the following information (or as much of the information as is reasonably available to the institution), to include any supplementary information to explain the data:

- (A) Student population size;
- (B) Number and percentage of students that are eligible to receive Federal Pell Grants;
- (C) Number and percentage of students that receive other need-based financial aid from the Federal Government, a State, or that institution;
- (D) Number and percentage of students that qualify as low-income consumers for the purposes of the program carried out under 47 CFR part 54, subpart E, or any successor regulations;

(E) Number and percentage of students that are low-income individuals as that term is defined in section 312(g) of the Higher Education Act of 1965 (20 U.S.C. 1058(g)); and

(F) Number and percentage of students that have been approved to receive unemployment insurance benefits under any Federal or State law since March 1, 2020.

(ii) *Project activities.* Please provide details about the specific grant-funded activities you plan to carry out; who will plan, implement, and manage your project, including the lead organization and principal partner organizations; and a project schedule, including significant milestones that describe when and in what sequence your project activities will occur.

(iii) *Project results.* Please provide a description of your project's intended results and how you plan to evaluate the benefits of your project. Please describe proposed metrics, what data you plan to collect, and the evaluation methodologies.

(2) *Project budget.* A project budget for all proposed projects and activities to be funded by the grant funds must be

reasonable and the allocation of funds must sufficient to complete the tasks outlined in the project narrative. Budget clarity and cost effectiveness are essential. The budget is a description of the resources the applicant proposes to use to complete the project in the time period that the applicant specifies. The budget should include the cost of all items needed to complete the project. The administrative requirements, cost principles, and audit requirements listed in 2 CFR part 200, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, will be incorporated into each award.

(3) *Budget narrative.* The application must include a budget narrative that clearly relates each of the activities the applicant proposes in the Project Narrative to the relevant section of the Project Budget.

(b) *Due dates—application deadline.* The applicant must submit the completed application by the application deadline provided in the Notice of Funding Opportunity, which will be subsequently published by NTIA and publicly accessible at [www.grants.gov](http://www.grants.gov). Failure to meet the application deadline will generally preclude the applicant from receiving consideration for a grant award.

#### § 302.5 Approval and award.

(a) NTIA will review each application for compliance with the requirements of this part.

(b) NTIA may request additional information from the applicant, with respect to any of the application submission requirements of § 302.4, prior to making a recommendation for an award. Failure to submit such additional information may preclude the applicant from further consideration for award.

(c) When making grant awards, NTIA will coordinate with other Federal agencies, including the Commission, the National Science Foundation, and the Department of Education, to ensure the efficient expenditure of Federal funds, including by preventing multiple expenditures of Federal funds for the same purpose.

(d) The Assistant Secretary will recommend to the National Institute of Standards and Technology (NIST), Grants Management Division, approval of grant awards to qualifying applicants. NIST, serving as the Grants Office for the CMC grant program, will then issue grant awards in writing to the successful applicants.

#### § 302.6 Distribution of grant funds.

(a) *Funding allocation.* Except as provided in paragraph (b) of this section—

(1) *In general.* (i) Grant funds for each eligible recipient that meets the eligibility and/or certification requirements set forth in § 302.3 will be allocated to the applicants with the greatest unmet financial needs, based on evaluation of the following data provided by the applicant (including any supplementary information provided to explain the data) or by other Federal agencies:

(A) Student population size;  
(B) Number and percentage of students that are eligible to receive Federal Pell Grants;

(C) Number and percentage of students that receive other need-based financial aid from the Federal Government, a State, or that eligible recipient;

(D) Number and percentage of students that are qualifying low-income consumers for the purposes of the program carried out under 47 CFR part 54, subpart E, or any successor regulations;

(E) Number and percentage of students that are low-income individuals as that term is defined in section 312(g) of the Higher Education Act of 1965 (20 U.S.C. 1058(g)); and  
(F) Number and percentage of students that have been approved to receive unemployment insurance benefits under any Federal or State law since March 1, 2020.

(ii) Upon submission, NTIA will assess each institution's student body-based unmet financial needs. These assessments will be compared across all submitted applications during the merit review phase and program eligibility determinations will be made based on an evaluation of the data provided and any accompanying explanatory information. Final recommendations for project approval and grant funding will generally be made for those eligible anchor institutions that have demonstrated the greatest unmet financial need.

(2) *Historically Black colleges or universities set-aside.* In accordance with the requirement set forth in the Consolidated Appropriations Act, 2021, at least 40 percent of the grant funds awarded pursuant to the CMC Pilot Program will be set aside for distribution to qualifying historically Black colleges or universities.

(3) *Student support set-aside.* In accordance with the requirement set forth in the Consolidated Appropriations Act, 2021, at least 20 percent of grant funds awarded

pursuant to the CMC Pilot Program will be set aside for eligible HBCUs, TCUs and MSIs to provide broadband internet access service or eligible equipment to their students.

(b) *Additional notices of funding opportunity.* Grant funds that are not distributed under paragraph (a) of this section may be made available to applicants through subsequent Notices of Funding Opportunity, which will be published by NTIA and publicly accessible via [www.grants.gov](http://www.grants.gov).

#### § 302.7 Eligible uses for grant funds.

(a) *Eligible uses.* In general and subject to the more specific uses listed in paragraphs (a)(1) through (3) of this section, grant funds awarded to HBCUs, TCUs or MSIs may be used as appropriate to facilitate educational instruction and learning, including through remote instruction; and grant funds awarded to consortia including Minority Business Enterprises (MBEs) or Tax-Exempt Organizations may be used to operate that MBE or Tax-Exempt Organization. Grant funds awarded under this part may only be used for the following purposes:

(1) The purchase of broadband internet access service, including the installation or upgrade of broadband facilities on a one-time, capital improvement, basis in order to increase or expand broadband capacity and/or connectivity at the eligible institution;

(2) The purchase or lease of eligible equipment and devices for student or patron use, subject to any restrictions and prohibited uses identified in paragraph (d) of this section; and

(3) To hire and train information technology personnel who are a part of the eligible anchor institution, MBE or Tax-Exempt Organization.

(b) *Student priority for the provision of broadband services, devices, and equipment.* The HBCUs, TCUs or MSI applicant must certify that if it receives a grant under this part to provide broadband internet access service or eligible equipment to students that it will, as a condition of that grant, prioritize students in need, in accordance with the following criteria:

(1) Students who are eligible to receive Federal Pell Grants;

(2) Students who receive any other need-based financial aid from the Federal Government, a State, or the eligible recipient;

(3) Students who are qualifying low-income consumers for the purposes of the program carried out under 47 CFR part 54, subpart E, or any successor regulations;

(4) Students who are low-income individuals as that term is defined in

section 312(g) of the Higher Education Act of 1965 (20 U.S.C. 1058(g)); or

(5) Students who have been approved to receive unemployment insurance benefits under any Federal or State law since March 1, 2020.

(c) *Prioritization of students and patrons without equipment and/or broadband access.* Any recipient that lends or provides eligible equipment to students or patrons must prioritize the lending or providing of such equipment or devices to students or patrons that the recipient believes do not have access to such equipment.

(d) *Prohibited uses.* The sale or transfer of any portion of the grant-funded equipment for a thing (including a service) of value during the life of equipment is prohibited. Recipients are required to comply with the property standards, including the use and disposition requirements, contained in 2 CFR 200.311 through 200.316, and with the terms and conditions set forth in the grant award.

#### § 302.8 Continuing compliance.

(a) The applicant must certify that it has complied with the required statutory and programmatic conditions in submitting its application.

(b) A grant recipient must submit on an annual basis, 30 days after the end of each Federal fiscal year in which grant funds are available, a certification regarding compliance and use of CMC grant funds as outlined in § 302.7.

(c) Where a recipient knowingly provides false or inaccurate information in its certification related use of CMC grant funds, the recipient shall—

(1) Not be eligible to receive the grant under this part;

(2) Return any grant awarded under this part during the time that the certification was not valid; and

(3) Not be eligible to receive any subsequent grants under this part.

#### § 302.9 Financial and administrative requirements.

(a) *General.* The requirements of 2 CFR part 200, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, govern the implementation and management of grants awarded under this part. Awards issued pursuant to this program will also be subject to the *Department of Commerce Standard Terms and Conditions for Financial Assistance Awards* that are in effect on the date of the award. The current version, dated

November 12, 2020, is accessible at:

[https://www.commerce.gov/sites/default/files/2020-11/DOC%20Standard%20Terms%20and%20Conditions%20-%2012%20November%202020%20PDF\\_0.pdf](https://www.commerce.gov/sites/default/files/2020-11/DOC%20Standard%20Terms%20and%20Conditions%20-%2012%20November%202020%20PDF_0.pdf).

Awards issued pursuant to this program may also be subject to specific award conditions as authorized by 2 CFR 200.208.

(b) *Reporting requirements—(1) Performance reports.* Each grant recipient shall submit semi-annual and annual performance reports to NTIA, following the procedures of 2 CFR 200.329. Semi-annual performance reports are due within 30 calendar days after the reporting period. Annual performance reports are due within 90 calendar days after the reporting period, except when a final report is required under § 302.10.

(2) *Financial reports.* Each recipient shall submit quarterly financial reports to NTIA and the National Institute of Standards and Technology (NIST), following the procedures of 2 CFR 200.328, within 30 calendar days after the reporting period, except when a final financial report is required under § 302.10.

(c) *Audit requirements.* All CMC grant awards are subject to audit in accordance with 2 CFR part 200, subpart F and the *Department of Commerce Financial Assistance Standard Terms and Conditions*. Specifically, 2 CFR part 200, subpart F, adopted by the Department of Commerce through 2 CFR 1327.101 requires any non-federal entity (as defined in 2 CFR 200.1) 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 subpart F. Additionally, unless otherwise specified in the terms and conditions of the award, entities that are not subject to subpart F of 2 CFR part 200 (e.g., commercial entities) that expend \$750,000 or more in DOC funds during their fiscal year must submit to the Grants Officer either: A financial related audit of each DOC award or subaward in accordance with Generally Accepted Government Auditing Standards; or a project specific audit for each award or subaward in accordance with the requirements contained in 2 CFR 200.507. Applicants are reminded that NTIA, NIST, the Department of Commerce Office of Inspector General, or another authorized Federal agency

may conduct an audit of an award at any time.

#### § 302.10 Closeout.

(a) *Expiration of the right to incur costs.* The right to incur programmatic costs under this part will expire at the end of the period of performance. The right to incur closeout costs under this part will expire at the end of the 120-day closeout period, unless this period is extended in writing by the Grants Officer.

(b) *Final submissions.* Within 120 calendar days after the completion of projects and activities funded under this part, but in no event later than the closeout period expiration date identified in paragraph (a) of this section, each grant recipient must submit—

(1) A final financial report to NTIA/NIST, following the procedures of 2 CFR 200.344(a); and

(2) A final performance report to NTIA/NIST, following the procedures of 2 CFR 200.344(a).

(c) *Disposition of unexpended balances.* Any funds that remain unexpended after closeout shall cease to be available to the recipient and shall be returned to the Federal Government.

#### § 302.11 Waiver authority.

It is the general intent of NTIA not to waive any of the provisions set forth in this part. However, under extraordinary circumstances and when it is in the best interest of the Federal government, NTIA, upon its own initiative or when requested, may waive the provisions in this part. 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.

#### § 302.12 Program termination.

Except with respect to the report required under the Consolidated Appropriations Act, 2021, Division N, Title IX, section 902(c)(7), and the authority of the Secretary of Commerce and the Inspector General of the Department of Commerce described in section 902(c)(8), the CMC Pilot Program, including all reporting requirements under section 902, shall terminate on the date on which the amounts made available to carry out the CMC Pilot Program are fully expended.

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