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rules on the dispute that it was established to resolve and the time for appeal of its decision under section 113(i)(7) of the NTIA Organization Act (47 U.S.C. 923(i)(7)) has expired, unless such an appeal has been taken.

(2) If such an appeal has been taken, the board shall continue to exist until the appeal process has been exhausted and the board has completed any action required by a court hearing the appeal.

§ 301.220 Dispute Resolution.

(a) *Meeting with parties.* In consideration of the proposal set forth in a request pursuant to either § 301.200(a)(4)(vi) or (b)(3)(vi) of or at another mutually convenient date, time, and place (including via teleconference or other electronics means), the Chair of the board established under this subpart shall call a meeting of the board to be held simultaneously with representatives of the parties to the dispute to discuss the dispute.

(b) *Additional written submissions.* The parties to the dispute shall provide the board with any additional written materials and documents as it may request. In cases where the dispute or an element thereof relates to the impact on the Federal Entity's national security, law enforcement, or public safety operations or functions, the board may request, and the Federal entity shall provide, additional written submissions concerning such impact.

(c) *Assistance from Technical Panel.* A board established under this subpart may request technical assistance, as necessary, from the Technical Panel governed by subpart B of this part.

(d) *Deadline for decision.* The board shall rule on the dispute not later than thirty (30) days from the date the request was received by the NTIA, unless the parties and the board all agree in writing, and subject to the approval of the Assistant Secretary, to extend this period for a specified number of days.

(e) *Board decision.* The decision of a board established under this subpart shall:

- (1) Be in writing;
- (2) Be limited to determinations related to the execution, timing, or cost of the Transition Plan submitted by the Federal entity;

(3) Be based only on the record before it, including the request; meeting(s) with the parties all at the same time; any additional written submissions requested by the board and served on the other party, including submissions from the Federal entity concerning the potential impact on its national security, law enforcement, or public safety operations or functions; input from the Technical Panel, and other matters and material for which it may take official notice;

(4) Ensure that the decision does not have a detrimental impact on the Federal entity's operations or services that have national security, law enforcement, or public safety functions; and

(5) Be final upon issuance.

(f) *Recommendations.* A decision of the board may include recommendations for remedial or other corrective actions to the appropriate Federal agency with the legal authority to take such actions based on the board's findings.

PART 302—CONNECTING MINORITY COMMUNITIES PILOT PROGRAM

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

SOURCE: 86 FR 31641, June 15, 2021, unless otherwise noted.

§ 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

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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).	Most recent NCES list of HBCUs.
Hispanic-Serving Institution (HSI)	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 be 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. 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.

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§ 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.

§ 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-%202012%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,

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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 sec-

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tion, 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.

PARTS 303–399 [RESERVED]