

(5) achieving digital equity is a matter of social and economic justice and is worth pursuing.

(Pub. L. 117–58, div. F, title III, §60303, Nov. 15, 2021, 135 Stat. 1212.)

### **§ 1723. State Digital Equity Capacity Grant Program**

#### **(a) Establishment; purpose**

##### **(1) In general**

The Assistant Secretary shall establish in the Department of Commerce the State Digital Equity Capacity Grant Program (referred to in this section as the “Program”)—

(A) the purpose of which is to promote the achievement of digital equity, support digital inclusion activities, and build capacity for efforts by States relating to the adoption of broadband by residents of those States;

(B) through which the Assistant Secretary shall make grants to States in accordance with the requirements of this section; and

(C) which shall ensure that States have the capacity to promote the achievement of digital equity and support digital inclusion activities.

##### **(2) Consultation with other Federal agencies; no conflict**

In establishing the Program under paragraph (1), the Assistant Secretary shall—

(A) consult with—

- (i) the Secretary of Agriculture;
- (ii) the Secretary of Housing and Urban Development;
- (iii) the Secretary of Education;
- (iv) the Secretary of Labor;
- (v) the Secretary of Health and Human Services;
- (vi) the Secretary of Veterans Affairs;
- (vii) the Secretary of the Interior;
- (viii) the Federal Communications Commission;
- (ix) the Federal Trade Commission;
- (x) the Director of the Institute of Museum and Library Services;
- (xi) the Administrator of the Small Business Administration;
- (xii) the Federal Co-Chair of the Appalachian Regional Commission; and
- (xiii) the head of any other agency that the Assistant Secretary determines to be appropriate; and

(B) ensure that the Program complements and enhances, and does not conflict with, other Federal broadband initiatives and programs.

#### **(b) Administering entity**

##### **(1) Selection; function**

The governor (or equivalent official) of a State that wishes to be awarded a grant under this section shall, from among entities that are eligible under paragraph (2), select an administering entity for that State, which shall—

(A) serve as the recipient of, and administering agent for, any grant awarded to the State under this section;

(B) develop, implement, and oversee the State Digital Equity Plan for the State described in subsection (c);

(C) make subgrants to any entity described in subsection (c)(1)(D) that is located in the State in support of—

(i) the State Digital Equity Plan for the State; and

(ii) digital inclusion activities in the State generally; and

(D) serve as—

(i) an advocate for digital equity policy and digital inclusion activities; and

(ii) a repository of best practice materials regarding the policies and activities described in clause (i).

##### **(2) Eligible entities**

Any of the following entities may serve as the administering entity for a State for the purposes of this section if the entity has demonstrated a capacity to administer the Program on a statewide level:

(A) The State, a political subdivision, agency, or instrumentality of the State, an Indian Tribe located in the State, an Alaska Native entity located in the State, or a Native Hawaiian organization located in the State.

(B) A foundation, corporation, institution, association, or coalition that is—

- (i) a not-for-profit entity;
- (ii) providing services in the State; and
- (iii) not a school.

(C) A community anchor institution, other than a school, that is located in the State.

(D) A local educational agency that is located in the State.

(E) An entity located in the State that carries out a workforce development program.

(F) An agency of the State that is responsible for administering or supervising adult education and literacy activities in the State.

(G) A public or multi-family housing authority that is located in the State.

(H) A partnership between any of the entities described in subparagraphs (A) through (G).

#### **(c) State Digital Equity Plan**

##### **(1) Development; contents**

A State that wishes to be awarded a grant under subsection (d) shall develop a State Digital Equity Plan for the State, which shall include—

(A) the identification of the barriers to digital equity faced by covered populations in the State;

(B) measurable objectives for documenting and promoting, among each group described in subparagraphs (A) through (H) of section 1721(8) of this title located in that State—

(i) the availability of, and affordability of access to, fixed and wireless broadband technology;

(ii) the online accessibility and inclusivity of public resources and services;

- (iii) digital literacy;
- (iv) awareness of, and the use of, measures to secure the online privacy of, and cybersecurity with respect to, an individual; and
- (v) the availability and affordability of consumer devices and technical support for those devices;

(C) an assessment of how the objectives described in subparagraph (B) will impact and interact with the State's—

- (i) economic and workforce development goals, plans, and outcomes;
- (ii) educational outcomes;
- (iii) health outcomes;
- (iv) civic and social engagement; and
- (v) delivery of other essential services;

(D) in order to achieve the objectives described in subparagraph (B), a description of how the State plans to collaborate with key stakeholders in the State, which may include—

- (i) community anchor institutions;
- (ii) county and municipal governments;
- (iii) local educational agencies;
- (iv) where applicable, Indian Tribes, Alaska Native entities, or Native Hawaiian organizations;
- (v) nonprofit organizations;
- (vi) organizations that represent—

(I) individuals with disabilities, including organizations that represent children with disabilities;

(II) aging individuals;

(III) individuals with language barriers, including—

(aa) individuals who are English learners; and

(bb) individuals who have low levels of literacy;

(IV) veterans; and

(V) individuals in that State who are incarcerated in facilities other than Federal correctional facilities;

(vii) civil rights organizations;

(viii) entities that carry out workforce development programs;

(ix) agencies of the State that are responsible for administering or supervising adult education and literacy activities in the State;

(x) public housing authorities in the State; and

(xi) a partnership between any of the entities described in clauses (i) through (x); and

(E) a list of organizations with which the administering entity for the State collaborated in developing and implementing the Plan.

## **(2) Public availability**

### **(A) In general**

The administering entity for a State shall make the State Digital Equity Plan of the State available for public comment for a period of not less than 30 days before the date on which the State submits an application to the Assistant Secretary under subsection (d)(2).

### **(B) Consideration of comments received**

The administering entity for a State shall, with respect to an application submitted to the Assistant Secretary under subsection (d)(2)—

(i) before submitting the application—

(I) consider all comments received during the comment period described in subparagraph (A) with respect to the application (referred to in this subparagraph as the “comment period”); and

(II) make any changes to the plan that the administering entity determines to be worthwhile; and

(ii) when submitting the application—

(I) describe any changes pursued by the administering entity in response to comments received during the comment period; and

(II) include a written response to each comment received during the comment period.

## **(3) Planning grants**

### **(A) In general**

Beginning in the first fiscal year that begins after November 15, 2021, the Assistant Secretary shall, in accordance with the requirements of this paragraph, award planning grants to States for the purpose of developing the State Digital Equity Plans of those States under this subsection.

### **(B) Eligibility**

In order to be awarded a planning grant under this paragraph, a State—

(i) shall submit to the Assistant Secretary an application under subparagraph (C); and

(ii) may not have been awarded, at any time, a planning grant under this paragraph.

### **(C) Application**

A State that wishes to be awarded a planning grant under this paragraph shall, not later than 60 days after the date on which the notice of funding availability with respect to the grant is released, submit to the Assistant Secretary an application, in a format to be determined by the Assistant Secretary, that contains the following materials:

(i) A description of the entity selected to serve as the administering entity for the State, as described in subsection (b).

(ii) A certification from the State that, not later than 1 year after the date on which the Assistant Secretary awards the planning grant to the State, the administering entity for that State shall develop a State Digital Equity Plan under this subsection, which—

(I) the administering entity shall submit to the Assistant Secretary; and

(II) shall comply with the requirements of this subsection, including the requirement under paragraph (2)(B).

(iii) The assurances required under subsection (e).

**(D) Awards****(i) Amount of grant**

A planning grant awarded to an eligible State under this paragraph shall be determined according to the formula under subsection (d)(3)(A)(i).

**(ii) Duration****(I) In general**

Except as provided in subclause (II), with respect to a planning grant awarded to an eligible State under this paragraph, the State shall expend the grant funds during the 1-year period beginning on the date on which the State is awarded the grant funds.

**(II) Exception**

The Assistant Secretary may grant an extension of not longer than 180 days with respect to the requirement under subclause (I).

**(iii) Challenge mechanism**

The Assistant Secretary shall ensure that any eligible State to which a planning grant is awarded under this paragraph may appeal or otherwise challenge in a timely fashion the amount of the grant awarded to the State, as determined under clause (i).

**(E) Use of funds**

An eligible State to which a planning grant is awarded under this paragraph shall, through the administering entity for that State, use the grant funds only for the following purposes:

(i) To develop the State Digital Equity Plan of the State under this subsection.

(ii)(I) Subject to subclause (II), to make subgrants to any of the entities described in paragraph (1)(D) to assist in the development of the State Digital Equity Plan of the State under this subsection.

(II) If the administering entity for a State makes a subgrant described in subclause (I), the administering entity shall, with respect to the subgrant, provide to the State the assurances required under subsection (e).

**(d) State capacity grants****(1) In general**

Beginning not later than 2 years after the date on which the Assistant Secretary begins awarding planning grants under subsection (c)(3), the Assistant Secretary shall each year award grants to eligible States to support—

(A) the implementation of the State Digital Equity Plans of those States; and

(B) digital inclusion activities in those States.

**(2) Application**

A State that wishes to be awarded a grant under this subsection shall, not later than 60 days after the date on which the notice of funding availability with respect to the grant is released, submit to the Assistant Secretary an application, in a format to be determined by the Assistant Secretary, that contains the following materials:

(A) A description of the entity selected to serve as the administering entity for the State, as described in subsection (b).

(B) The State Digital Equity Plan of that State, as described in subsection (c).

(C) A certification that the State, acting through the administering entity for the State, shall—

(i) implement the State Digital Equity Plan of the State; and

(ii) make grants in a manner that is consistent with the aims of the Plan described in clause (i).

(D) The assurances required under subsection (e).

(E) In the case of a State to which the Assistant Secretary has previously awarded a grant under this subsection, any amendments to the State Digital Equity Plan of that State, as compared with the State Digital Equity Plan of the State previously submitted.

**(3) Awards****(A) Amount of grant****(i) Formula**

Subject to clauses (ii), (iii), and (iv), the Assistant Secretary shall calculate the amount of a grant awarded to an eligible State under this subsection in accordance with the following criteria, using the best available data for all States for the fiscal year in which the grant is awarded:

(I) 50 percent of the total grant amount shall be based on the population of the eligible State in proportion to the total population of all eligible States.

(II) 25 percent of the total grant amount shall be based on the number of individuals in the eligible State who are members of covered populations in proportion to the total number of individuals in all eligible States who are members of covered populations.

(III) 25 percent of the total grant amount shall be based on the comparative lack of availability and adoption of broadband in the eligible State in proportion to the lack of availability and adoption of broadband of all eligible States, which shall be determined according to data collected from—

(aa) the annual inquiry of the Federal Communications Commission conducted under section 1302(b) of this title;

(bb) the American Community Survey or, if necessary, other data collected by the Bureau of the Census;

(cc) the NTIA Internet Use Survey, which is administered as the Computer and Internet Use Supplement to the Current Population Survey of the Bureau of the Census; and

(dd) any other source that the Assistant Secretary, after appropriate notice and opportunity for public comment, determines to be appropriate.

**(ii) Minimum award**

The amount of a grant awarded to an eligible State under this subsection in a fis-

cal year shall be not less than 0.5 percent of the total amount made available to award grants to eligible States for that fiscal year.

**(iii) Additional amounts**

If, after awarding planning grants to States under subsection (c)(3) and capacity grants to eligible States under this subsection in a fiscal year, there are amounts remaining to carry out this section, the Assistant Secretary shall distribute those amounts—

(I) to eligible States to which the Assistant Secretary has awarded grants under this subsection for that fiscal year; and

(II) in accordance with the formula described in clause (i).

**(iv) Data unavailable**

If, in a fiscal year, the Commonwealth of Puerto Rico (referred to in this clause as “Puerto Rico”) is an eligible State and specific data for Puerto Rico is unavailable for a factor described in subclause (I), (II), or (II) of clause (i), the Assistant Secretary shall use the median data point with respect to that factor among all eligible States and assign it to Puerto Rico for the purposes of making any calculation under that clause for that fiscal year.

**(B) Duration**

With respect to a grant awarded to an eligible State under this subsection, the eligible State shall expend the grant funds during the 5-year period beginning on the date on which the eligible State is awarded the grant funds.

**(C) Challenge mechanism**

The Assistant Secretary shall ensure that any eligible State to which a grant is awarded under this subsection may appeal or otherwise challenge in a timely fashion the amount of the grant awarded to the State, as determined under subparagraph (A).

**(D) Use of funds**

The administering entity for an eligible State to which a grant is awarded under this subsection shall use the grant amounts for the following purposes:

(i)(I) Subject to subclause (II), to update or maintain the State Digital Equity Plan of the State.

(II) An administering entity for an eligible State to which a grant is awarded under this subsection may use not more than 20 percent of the amount of the grant for the purpose described in subclause (I).

(ii) To implement the State Digital Equity Plan of the State.

(iii)(I) Subject to subclause (II), to award a grant to any entity that is described in section 1724(b) of this title and is located in the eligible State in order to—

(aa) assist in the implementation of the State Digital Equity Plan of the State;

(bb) pursue digital inclusion activities in the State consistent with the State Digital Equity Plan of the State; and

(cc) report to the State regarding the digital inclusion activities of the entity.

(II) Before an administering entity for an eligible State may award a grant under subclause (I), the administering entity shall require the entity to which the grant is awarded to certify that—

(aa) the entity shall carry out the activities required under items (aa), (bb), and (cc) of that subclause;

(bb) the receipt of the grant shall not result in unjust enrichment of the entity; and

(cc) the entity shall cooperate with any evaluation—

(AA) of any program that relates to a grant awarded to the entity; and

(BB) that is carried out by or for the administering entity, the Assistant Secretary, or another Federal official.

(iv)(I) Subject to subclause (II), to evaluate the efficacy of the efforts funded by grants made under clause (iii).

(II) An administering entity for an eligible State to which a grant is awarded under this subsection may use not more than 5 percent of the amount of the grant for a purpose described in subclause (I).

(v)(I) Subject to subclause (II), for the administrative costs incurred in carrying out the activities described in clauses (i) through (iv).

(II) An administering entity for an eligible State to which a grant is awarded under this subsection may use not more than 3 percent of the amount of the grant for a purpose described in subclause (I).

**(e) Assurances**

When applying for a grant under this section, a State shall include in the application for that grant assurances that—

(1) if an entity described in section 1724(b) of this title is awarded grant funds under this section (referred to in this subsection as a “covered recipient”), provide that—

(A) the covered recipient shall use the grant funds in accordance with any applicable statute, regulation, and application procedure;

(B) the administering entity for that State shall adopt and use proper methods of administering any grant that the covered recipient is awarded, including by—

(i) enforcing any obligation imposed under law on any agency, institution, organization, or other entity that is responsible for carrying out the program to which the grant relates;

(ii) correcting any deficiency in the operation of a program to which the grant relates, as identified through an audit or another monitoring or evaluation procedure; and

(iii) adopting written procedures for the receipt and resolution of complaints alleging a violation of law with respect to a program to which the grant relates; and

(C) the administering entity for that State shall cooperate in carrying out any evaluation—

- (i) of any program that relates to a grant awarded to the covered recipient; and
- (ii) that is carried out by or for the Assistant Secretary or another Federal official;

(2) the administering entity for that State shall—

(A) use fiscal control and fund accounting procedures that ensure the proper disbursement of, and accounting for, any Federal funds that the State is awarded under this section;

(B) submit to the Assistant Secretary any reports that may be necessary to enable the Assistant Secretary to perform the duties of the Assistant Secretary under this section;

(C) maintain any records and provide any information to the Assistant Secretary, including those records, that the Assistant Secretary determines is necessary to enable the Assistant Secretary to perform the duties of the Assistant Secretary under this section; and

(D) with respect to any significant proposed change or amendment to the State Digital Equity Plan for the State, make the change or amendment available for public comment in accordance with subsection (c)(2); and

(3) the State, before submitting to the Assistant Secretary the State Digital Equity Plan of the State, has complied with the requirements of subsection (c)(2).

**(f) Termination of grant**

**(1) In general**

The Assistant Secretary shall terminate a grant awarded to an eligible State under this section if, after notice to the State and opportunity for a hearing, the Assistant Secretary—

(A) presents to the State a rationale and supporting information that clearly demonstrates that—

(i) the grant funds are not contributing to the development or execution of the State Digital Equity Plan of the State, as applicable; and

(ii) the State is not upholding assurances made by the State to the Assistant Secretary under subsection (e); and

(B) determines that the grant is no longer necessary to achieve the original purpose for which Assistant Secretary awarded the grant.

**(2) Redistribution**

If the Assistant Secretary, in a fiscal year, terminates a grant under paragraph (1), the Assistant Secretary shall redistribute the unspent grant amounts—

(A) to eligible States to which the Assistant Secretary has awarded grants under subsection (d) for that fiscal year; and

(B) in accordance with the formula described in subsection (d)(3)(A)(i).

**(g) Reporting and information requirements; internet disclosure**

The Assistant Secretary—

(1) shall—

(A) require any entity to which a grant, including a subgrant, is awarded under this section to publicly report, for each year during the period described in subsection (c)(3)(D)(ii) or (d)(3)(B), as applicable, with respect to the grant, and in a format specified by the Assistant Secretary, on—

(i) the use of that grant by the entity;

(ii) the progress of the entity towards fulfilling the objectives for which the grant was awarded; and

(iii) the implementation of the State Digital Equity Plan of the State;

(B) establish appropriate mechanisms to ensure that each eligible State to which a grant is awarded under this section—

(i) uses the grant amounts in an appropriate manner; and

(ii) complies with all terms with respect to the use of the grant amounts; and

(C) create and maintain a fully searchable database, which shall be accessible on the internet at no cost to the public, that contains, at a minimum—

(i) the application of each State that has applied for a grant under this section;

(ii) the status of each application described in clause (i);

(iii) each report submitted by an entity under subparagraph (A);

(iv) a record of public comments made regarding the State Digital Equity Plan of a State, as well as any written responses to or actions taken as a result of those comments; and

(v) any other information that is sufficient to allow the public to understand and monitor grants awarded under this section; and

(2) may establish additional reporting and information requirements for any recipient of a grant under this section.

**(h) Supplement not supplant**

A grant or subgrant awarded under this section shall supplement, not supplant, other Federal or State funds that have been made available to carry out activities described in this section.

**(i) Set asides**

From amounts made available in a fiscal year to carry out the Program, the Assistant Secretary shall reserve—

(1) not more than 5 percent for the implementation and administration of the Program, which shall include—

(A) providing technical support and assistance, including ensuring consistency in data reporting;

(B) providing assistance to—

(i) States, or administering entities for States, to prepare the applications of those States; and

(ii) administering entities with respect to grants awarded under this section; and

(C) developing the report required under section 1725(a) of this title;

(2) not less than 5 percent to award grants to, or enter into contracts or cooperative

agreements with, Indian Tribes, Alaska Native entities, and Native Hawaiian organizations to allow those tribes, entities, and organizations to carry out the activities described in this section; and

(3) not less than 1 percent to award grants to, or enter into contracts or cooperative agreements with, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States that is not a State to enable those entities to carry out the activities described in this section.

**(j) Rules**

The Assistant Secretary may prescribe such rules as may be necessary to carry out this section.

**(k) Authorization of appropriations**

There are authorized to be appropriated—

(1) \$60,000,000 for the award of grants under subsection (c)(3), which shall remain available until expended;

(2) for the award of grants under subsection (d)—

(A) \$240,000,000 for fiscal year 2022; and

(B) \$300,000,000 for each of fiscal years 2023 through 2026; and

(3) such sums as may be necessary to carry out this section for each fiscal year after the end of the 5-fiscal year period described in paragraph (2).

(Pub. L. 117–58, div. F, title III, § 60304, Nov. 15, 2021, 135 Stat. 1212.)

**§ 1724. Digital Equity Competitive Grant Program**

**(a) Establishment**

**(1) In general**

Not later than 30 days after the date on which the Assistant Secretary begins awarding grants under section 1723(d) of this title, and not before that date, the Assistant Secretary shall establish in the Department of Commerce the Digital Equity Competitive Grant Program (referred to in this section as the “Program”), the purpose of which is to award grants to support efforts to achieve digital equity, promote digital inclusion activities, and spur greater adoption of broadband among covered populations.

**(2) Consultation; no conflict**

In establishing the Program under paragraph (1), the Assistant Secretary—

(A) may consult a State with respect to—

(i) the identification of groups described in subparagraphs (A) through (H) of section 1721(8) of this title located in that State; and

(ii) the allocation of grant funds within that State for projects in or affecting the State; and

(B) shall—

(i) consult with—

(I) the Secretary of Agriculture;

(II) the Secretary of Housing and Urban Development;

(III) the Secretary of Education;

(IV) the Secretary of Labor;

(V) the Secretary of Health and Human Services;

(VI) the Secretary of Veterans Affairs;

(VII) the Secretary of the Interior;

(VIII) the Federal Communications Commission;

(IX) the Federal Trade Commission;

(X) the Director of the Institute of Museum and Library Services;

(XI) the Administrator of the Small Business Administration;

(XII) the Federal Co-Chair of the Appalachian Regional Commission; and

(XIII) the head of any other agency that the Assistant Secretary determines to be appropriate; and

(ii) ensure that the Program complements and enhances, and does not conflict with, other Federal broadband initiatives and programs.

**(b) Eligibility**

The Assistant Secretary may award a grant under the Program to any of the following entities if the entity is not serving, and has not served, as the administering entity for a State under section 1723(b) of this title:

(1) A political subdivision, agency, or instrumentality of a State, including an agency of a State that is responsible for administering or supervising adult education and literacy activities, or for providing public housing, in the State.

(2) An Indian Tribe, an Alaska Native entity, or a Native Hawaiian organization.

(3) A foundation, corporation, institution, or association that is—

(A) a not-for-profit entity; and

(B) not a school.

(4) A community anchor institution.

(5) A local educational agency.

(6) An entity that carries out a workforce development program.

(7) A partnership between any of the entities described in paragraphs (1) through (6).

(8) A partnership between—

(A) an entity described in any of paragraphs (1) through (6); and

(B) an entity that—

(i) the Assistant Secretary, by rule, determines to be in the public interest; and

(ii) is not a school.

**(c) Application**

An entity that wishes to be awarded a grant under the Program shall submit to the Assistant Secretary an application—

(1) at such time, in such form, and containing such information as the Assistant Secretary may require; and

(2) that—

(A) provides a detailed explanation of how the entity will use any grant amounts awarded under the Program to carry out the purposes of the Program in an efficient and expeditious manner;

(B) identifies the period in which the applicant will expend the grant funds awarded under the Program;