**Before the**

**Federal Communications Commission**

**Washington, D.C. 20554**

In the Matter of )

Rural Digital Opportunity Fund ) WC Docket No. 19-126

Connect America Fund ) WC Docket No. 10-90

**COMMENTS OF**

**INTERNET SOCIETY and**

Katie Jordan Matthew Rantanen

Senior Policy Advisor, North America Director

Internet Society SCTCA’s TRIBAL DIGITAL

jordan@isoc.org VILLAGE NETWORK

mrantanen@sctdv.net

Anna Higgins

Research Analyst, North America Mariel Triggs

Internet Society Chief Executive Officer

higgins@isoc.org MuralNet

mariel@muralnet.org

Mark Buell

Regional Bureau Director, North America

Internet Society

[buell@isoc.org](mailto:buell@isoc.org)

**September 20, 2019**

**Before the**

**Federal Communications Commission**

**Washington, D.C. 20554**

In the Matter of )

Rural Digital Opportunity Fund ) WC Docket No. 19-126

Connect America Fund ) WC Docket No. 10-90

**COMMENTS OF**

**INTERNET SOCIETY**

The Internet Society[[1]](#footnote-1), SCTCA’s Tribal Digital Village Network[[2]](#footnote-2), and MuralNet[[3]](#footnote-3) submit these comments in response to the Federal Communication Commission’s (the “Commission”) Notice of Proposed Rulemaking in the above captioned proceeding (the “NPRM). We seek to amend the NPRM such that Tribal, rural, small, and new Internet service providers may more easily apply for funding, and to ensure that Tribal and rural community members are consulted prior to any new builds resulting from the Rural Digital Opportunity Fund.

The Internet Society and the SCTCA’s Tribal Digital Village Network are supportive of the Commission’s efforts to close the digital divide in rural and Tribal America through the Rural Digital Opportunity Fund (the “Fund”). It is well known that rural areas, particularly rural Tribal areas, lag far behind their urban and suburban counterparts in terms of Internet access and speed. It is deeply unfortunate that in the areas where services such as telehealth and virtual learning could do the most to transform a community, they are unavailable due to lack of or poor access to the Internet. What’s more, the longer these communities are unconnected, the further they fall behind the rest of the country where Americans are spending an increasing amount of their time – in school, work, and home – online. This Fund is a critical step towards ensuring all communities have access to the Internet. But if distributed incorrectly, it could exacerbate the issues at hand as opposed to solving them.

Throughout the NPRM, the Commission defines broadband as 25/3Mbps. However, the Rural Digital Opportunity Fund would take place over a 10-year support term, in which time the Commission could change the definition of adequate broadband. With the current wording, the Rural Digital Opportunity Fund may set the threshold for adequate broadband lower for rural and Tribal areas in the future. The Commission could instead use the phrase, “broadband as defined by the Commission” to allow for compatibility with potential future definitions.

The Commission should expect incumbent ISPs to provide broadband speeds from deployment, while providing flexibility for new, small, rural, and/or Tribal providers. Newer ISPs should also be allowed to provide tiers of service at deployment, with a requirement that they scale from speeds attainable at the time of deployment (no lower than 10/1.5) to broadband speeds over the course of the grant’s lifespan. These newer ISPs should be required to provide a plan demonstrating how they would scale to broadband speeds. The Commission should also accelerate approval in backhaul licensing for Tribal providers.

The NPRM should also acknowledge that for many Tribal and rural communities, wired broadband may not be the most cost-effective way to get connected. All communities are unique, therefore different communities will require different technical solutions, and data caps could ultimately restrict community connectivity. As such, the Commission should prohibit Fund recipients from implementing caps on service.

The NPRM also seeks comment on the size of geographic units for bidding in the Rural Digital Opportunity Fund. One of the major issues with Form 477 data is that it relies on census blocks to demonstrate broadband access. Larger geographic units may make it more difficult for small and rural providers to apply for funding because they may have less specific broadband access data. Smaller geographic units may also encourage the creation and growth of new, local ISPs because they can better compete with larger ISPs. The smaller units allow for more granular data, which new, local ISPs can use to demonstrate how they would meet their community’s needs. These smaller ISPs know the resources available and the community’s needs better than large providers, and smaller geographic units can help them serve those needs.

As it is now written, the NPRM effectively excludes small, new, rural, and Tribally-owned and -operated service providers from applying for support. By prioritizing applicants that are able to serve nationwide and offer the highest speeds and lowest latencies, service providers that are specialized to provide access only within their community and the surrounding areas will be significantly less likely to receive financial support.

The NPRM also effectively prohibits new service providers from applying for funding. It requires applicants to either prove they have provided service for at least two years or to submit independently-audited financial statement and a letter of interest from a bank stating it will provide a letter of credit. We understand the desire to ensure that any provider awarded funding under the Rural Digital Opportunity Fund is able to prove it will carry out its obligations for deployment, but this provides a clear barrier to small, up-and-coming providers who wish to serve their communities.

Potential solutions to these prohibitive requirements could include a vouching system and validation of interest from a Tribal government rather than a bank. Under a vouching system, a third-party body could show support and validation of a new service providers’ plan. The Commission could also allow for a Tribal government to provide a letter of interest to vouch for the new ISP. The Commission could evaluate if these solutions are necessary on a case-by-case basis; the Commission should not use these solutions to create a loophole for incumbent providers to put in less work for funding, but it should be flexible in empowering new, Tribal providers to apply.

Another issue is that the bidding credit process may allow non-Tribal carriers to work with a tribe to provide services without any explicit guarantee of Tribal partnership. The bidding credit should include provisions that require community consultation to avoid situations in which a carrier provides services that a Tribe does not need (or in some cases, want) through the bidding credit. These consultations should include discussions of the Tribe’s goals, priorities, and intended usages for the network, and the non-Tribal carriers should provide information on their deployment processes, plans, and timelines. The bidding credit should also include provisions that ensure that non-Tribal carriers do not monopolize and over-charge when they partner with Tribes. The Commission could include a provision that gives ownership of the network to the Tribe with the option of leasing, loaning, or giving access to the partner ISP.

The Commission should encourage new, local, rural, and Tribal providers to apply, as they know their community and the area far better than any incumbent provider could. Community networks have the potential to provide service where traditional or commercial services do not reach and can be a key enabler of rural and Tribal communities’ self-empowerment. Networks such as these, which are built by and for the community, are more easily able to tailor services to the community’s needs, build local capacity, and increase community stability. These kinds of networks are able to more effectively work with community members to deploy and adopt Internet service, and bring the benefits of connectivity to life.

For example, the Supai village — part of the Havasupai Reservation at the bottom of the Grand Canyon — built its own private LTE network with plug-in consumer premises equipment (CPEs) and Educational Broadband Service (EBS) spectrum granted through a special temporary authorization (STA) permit from the Commission. The town of about 400 has already expanded its network twice. Supai attracts about 40,000 tourists a year who come to visit nearby waterfalls and the community is in the early stages of creating a business plan to begin its own Tribal ISP to offer temporary services to those visitors. The Supai village knows its own needs and what kind of technology and network would work for its people; the Commission should include provisions that seek to empower and facilitate small, local ISP such as this.

We support any additional measures the Commission is willing to take in order to ensure that rural and rural Tribal areas are able to benefit from this funding opportunity. The Tribal bidding credit is a good place to start, though as mentioned above, additional provisions could ensure that Tribal and rural, locally-owned providers are prioritized for funding. A Tribal Broadband Fund may be a more effective point of intervention if it provides a more Tribe-centric approach to planning and consulting before deploying a network.

Most importantly, the NPRM does not currently require applicants or awardees to consult the communities where they have been awarded funding to deploy service prior to or during that deployment. As participants of the Indigenous Connectivity Summit (ICS)[[4]](#footnote-4) emphasized during their creation of policy recommendations, “It is critical to consult with Indigenous communities and stakeholders to develop meaningful, relevant, and culturally appropriate connectivity solutions.” When working in Tribal communities, it is particularly important that the applicants and awardees consult Tribal councils.

Without consultation, it is likely that community members’ concerns about where and how service is deployed, or their desire to have it installed in the first place, may fall on deaf ears. This can cause challenges for both the community and the awardees attempting to deploy service in previously unconnected areas. If the community does not understand or trust the outside entity building on its land, it is unlikely to be supportive of, or adopt, that service. As a result, many of these bids may face difficulty upholding their obligations under the Fund.

Without community consultation, funding could have adverse effects. Companies that receive funding could build out with technologies or features that may not be best for the community, and the community could consequently not use the network to its full potential. With community consultation, companies can ensure that every dollar spent is going towards a solution that the community will use.

When an external entity consults a community from the early stages of deployment, it can build trust with the community and form new partnerships. These partnerships can ease the deployment and adoption of service as well as increase community empowerment and build capacity among locals.

In conclusion, we commend the Commission’s efforts to close the digital divide in rural America. However, the NPRM must be amended to ensure locally-owned, new, and small service providers are just as able to apply and be awarded funding as incumbent providers, and all awardees must be required to consult with community members where they will deploy service prior to and during their funded builds.

Respectfully submitted,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_/s/\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. Founded by Internet pioneers, the Internet Society is a non-profit organization dedicated to ensuring the open development, evolution and use of the Internet. Working through a global community of chapters and members, the Internet Society collaborates with a broad range of groups to promote the technologies that keep the Internet safe and secure, and advocates for policies that enable universal access. The Internet Society is also the organizational home of the Internet Engineering Task Force (IETF). [↑](#footnote-ref-1)
2. The Southern California Tribal Chairmen’s Association (SCTCA) is a multi-service non-profit corporation established in 1972 for a consortium of 20 federally-recognized Indian tribes in Southern California. The Tribal Digital Village(TDV) is an SCTCA program that spawned the TDV Network (TDVNet) back in 2001 to bring Internet services to key community buildings and programs in Tribal communities.  [↑](#footnote-ref-2)
3. MuralNet is a 501(c)(3) nonprofit whose purpose is to bring broadband to under-connected people on tribal lands on a grand scale. MuralNet helps bridge the digital divide by providing infrastructure and the legal, financial and educational resources so that tribal nations and tribally-controlled organizations can build their own networks. [↑](#footnote-ref-3)
4. Indigenous Connectivity Summits focus on supporting solutions for connecting Indigenous communities in North America to the Internet. They are community-led events intended as a forum for sharing success stories of Indigenous community networks in Canada, the United States, and around the globe. More information can be found on its website: <https://www.internetsociety.org/events/indigenous-connectivity-summit/>. [↑](#footnote-ref-4)