

# **MEETING NOTICE**

**OGLALA SIOUX TRIBAL COUNCIL**

**SPECIAL SESSION**

**Wednesday,  
March 6, 2024**

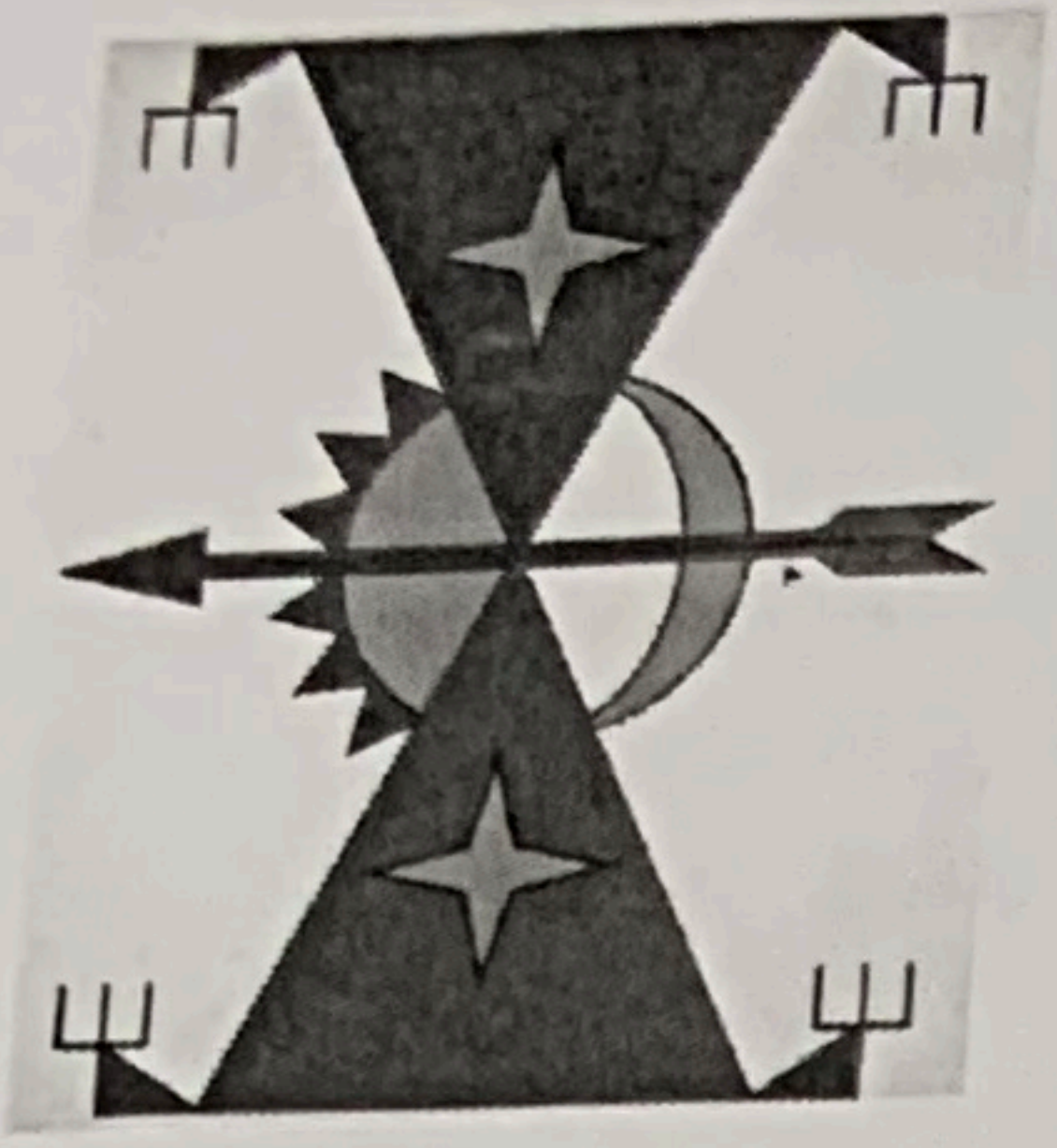
**10:00 A.M.**

**Location: OST Council Chambers  
Pine Ridge, SD**

## **AGENDA:**

OST Government-to-Government Consultation with the State of Nebraska and State of South Dakota regarding the NTIA Funded Broadband, Equity, Access and Deployment (BEAD).

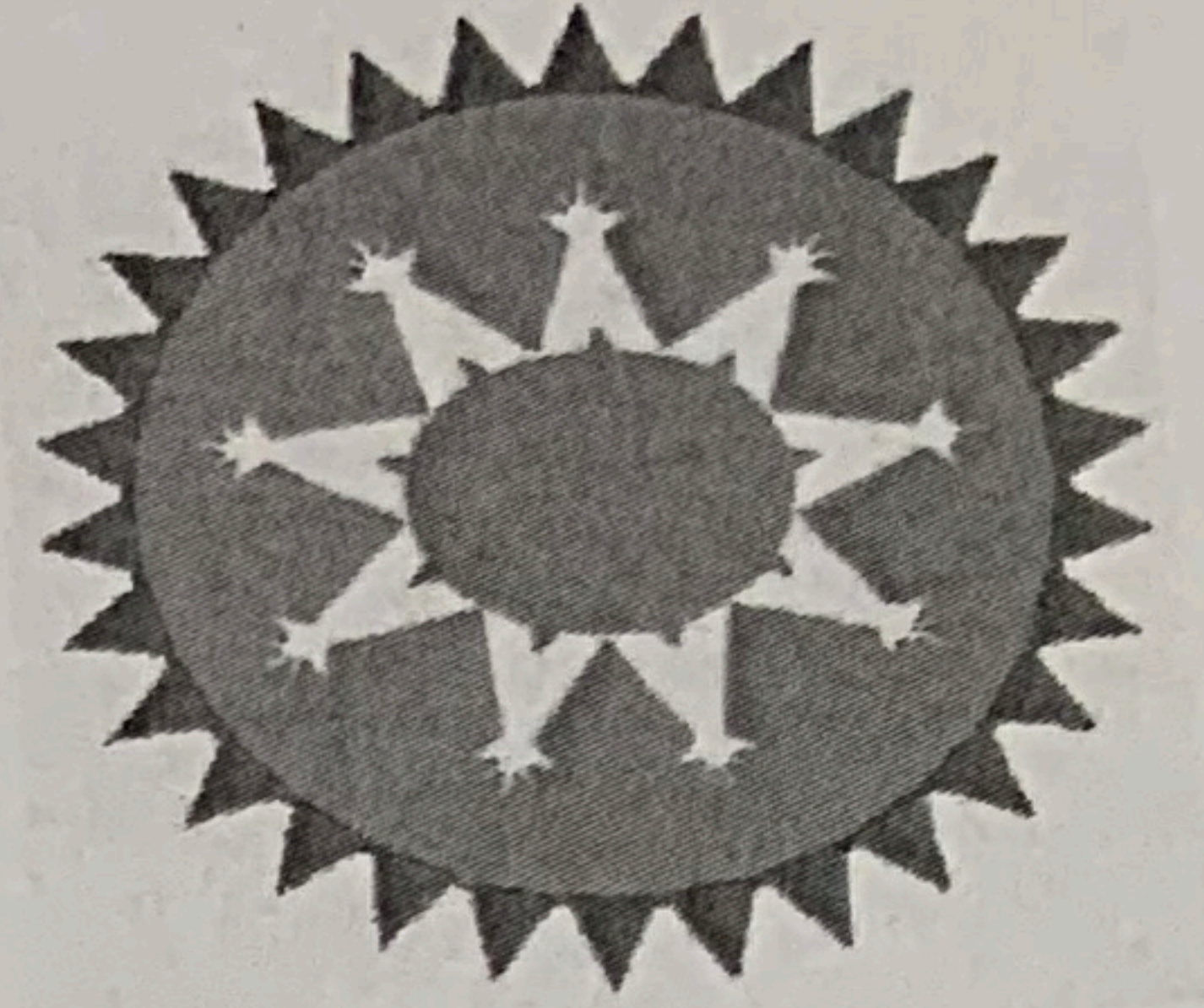
For More Information Contact:  
Stacy Two Lance, OST Secretary @ 605-867-8468/605-407-0502  
or Email: [stacytl@oglala.org](mailto:stacytl@oglala.org)



Star Comes Out/Mousseau  
Administration - 2022-2024

# Oglala Sioux Tribe

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Office of the Secretary  
Stacy L. Two Lance

UGLALA SIOUX TRIBAL COUNCIL MEETING  
March 6, 2024 - Special Session  
OST Council Chambers, Pine Ridge, SD

## - AGENDA -

1. CALL TO ORDER -
2. OPENING PRAYER -
3. WELCOME BY PRESIDENT STAR COMES OUT -
4. ROLL CALL -
5. APPROVAL OF AGENDA -
6. OST GOVERNMENT-TO-GOVERNMENT CONSULTATION - CONSULTATION WITH THE STATE OF NEBRASKA AND SOUTH DAKOTA ON THE NTIA FUNDED BROADBAND, EQUITY, ACCESS, AND DEPLOYMENT BEAD) - IN ACCORDANCE WITH RESOLUTION NO. 23-221 AND ORDINANCE NO. 11-10.
  - I. NTIA - Statement - Nicolas Courtney - Broadband Program Specialist Office of Internet Connectivity, & Growth
  - II. Introductions and Presentation by Nebraska on its BEAD Planning to Date
    - Patrick Redmond - NE Deputy Broadband Director
  - III. Introductions and Presentation by South Dakota on its BEAD Planning to Date
    - Mike Waldner - SD Broadband Program Manager
  - IV. Presentation of Oglala Sioux Tribe Proposal - Nebraska BEAD
    - a. Q&A and Discussion about Nebraska BEAD Plans and Oglala Sioux Tribe Proposal

AGENDA - March 6, 2024  
Special Session  
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(Consultation Continued) -

- V. Presentation of Oglala Sioux Tribe Proposal - South Dakota BEAD
  - a. Q& A and Discussion about South Dakota BEAD Plans and Oglala Sioux Tribe Proposal
- VI. Opportunity for Comment by NTIA
- VII. Next Steps
- VIII. Closing Statements
  - a. Nebraska
  - b. South Dakota
  - c. Oglala Sioux Tribe

7. ADJOURNMENT -

ORDINANCE OF THE OGLALA SIOUX TRIBAL COUNCIL  
OF THE OGLALA SIOUX TRIBE  
(An Unincorporated Tribe)

ORDINANCE OF THE OGLALA SIOUX TRIBAL COUNCIL ESTABLISHING PROCEDURES FOR GOVERNMENT-TO-GOVERNMENT CONSULTATION BETWEEN THE OGLALA SIOUX TRIBE AND THE UNITED STATES GOVERNMENT, AND OTHER GOVERNMENTS.

WHEREAS, the Government-to-Government relationship between the Oglala Sioux Tribe was established in the United States Constitution, Article 6 (Supremacy Clause); the Treaty of July 2, 1825, United States-Oglala Band of Sioux Nation, 7 Stat. 252; Rev. Stat. § 2116, 25 U.S.C. § 177 (codifying section 12 of the Trade and Intercourse Act of June 30, 1834, ch. 161, 4 Stat. 730); the Treaty of September 17, 1851, United States-Teton Division of Sioux Nation, *et al.*, 11 Stat. 749; the Treaty of April 29, 1868, United States-Sioux Nation, 15 Stat. 635; Rev. Stat. § 2079, 25 U.S.C. § 71 (codifying the Act of March 3, 1871, ch. 120, § 1, 16 Stat. 566), the Indian Reorganization Act of June 18, 1934, ch. 476, 48 Stat. 984, 25 U.S.C. § 461 *et seq.*, the Indian Self-Determination and Education Assistance Act of January 4, 1975, P.L. 93-638, 88 Stat. 2203, 25 U.S.C. § 450, *et seq.*, and other Congressional enactments, and

WHEREAS, the 1851 Treaty recognized title in the Oglala Band to 60 million acres of territory currently in the States of North Dakota, South Dakota, Nebraska, Montana and Wyoming for the Oglala Sioux Tribe and other Sioux tribes, and

WHEREAS, a permanent homeland was established within the 1851 Treaty territory for the "absolute and undisturbed use and occupation" of the Oglala Sioux Band and other Sioux bands, which homeland has been referred to as the "Great Sioux Reservation" and comprises substantially all of present day South Dakota west of the east bank of the Missouri River, and

WHEREAS, the Indian Claims Commission also found that the Oglala Band and other Sioux bands held aboriginal (non-treaty) title to 14 million acres east of the Missouri River in the States of North Dakota and South Dakota, and

WHEREAS, uncontested encroachments on the 1851 Treaty territory by the United States and its citizens resulted in the Powder River War of 1866-1868 between the United States and the Oglala band and other bands of Sioux Indians. as a result of which, peace was concluded between the United States and the Oglala Band and other Sioux bands by treaty on April 29, 1868, 15 Stat. 635 ("1868 Fort Laramie Treaty," which treaty was duly ratified by the United States on February 16, 1869 and proclaimed by the President on February 24, 1869, and

WHEREAS, the 1868 Treaty provided for a mutual demobilization of the United States and Oglala Band and other Sioux bands without terms of surrender on either side, and as a result thereof, the Oglala Band and other Sioux bands were never militarily conquered by the United States, and the Oglala Band has abided by the 1868 Treaty and resided on its reservation in accordance of the terms of the treaty since 1868, except for incidences in Montana in 1876 where the Oglala Band and other Sioux bands were legally exercising its 1868 Treaty, Article 11, hunting rights and yet had to defend themselves from attack by the United States Cavalry in violation of Articles 1 and 11 of the 1868 Treaty, and

WHEREAS, subsequent to ratification of the 1868 Treaty, no aboriginal or treaty territory of the Oglala Band was ever acquired by the United States in accordance with 25 U.S.C. § 177 or Article 12 of the 1868 Treaty, and all acquisitions of Oglala Band's territory was either confiscated by the United States or acquired with the requisite consent of the Band, and

WHEREAS, the "Oglala Band" reorganized in 1936 as the "Oglala Sioux Tribe of the Pine Ridge Indian Reservation" under Section 16 of the 1934 Indian Reorganization Act of June 18, 1934, ch. 576, 48 Stat. 987, 25 U.S.C. § 476, by adopting a constitution and bylaws approved by the Secretary of the Interior, and presently enjoys all of the rights and privileges guaranteed under its existing treaties with the United States in accordance with 25 U.S.C. § 478b

WHEREAS, as a result of its unique government-to-government relationship with the United States, and because the Oglala Band (now Oglala Sioux Tribe) is one of the few militarily unconquered Sioux tribes in the United States and all of its territory now in the possession of the United States was acquired without its consent, the Oglala Sioux Tribe still possesses very strong aboriginal rights within all the territory that comprised its aboriginal homeland, and as a result thereof, the Tribe has both a domestic and international rights to government-to-government consultations with the United States on the formulation of federal policies, or on all federal actions or undertakings that adversely affect its aboriginal and treaty territories, and

WHEREAS, the Executive Branch of the united States Government has recognized the right of government-to-government consultations with Indian Tribes in:

- a. President Clinton's Memorandum of April 29, 1994, which, among other things, directed agencies to:

- (i) "ensure that the department or agency operates within a government-to-government relationship with Federally-recognized Tribal government,"
  - (ii) "consult, to the greatest extent practicable ad to the extent permitted by law with Tribal governments prior to taking actions that affect Federally recognized tribes, to be open and candid so that all interested parties may evaluate for themselves the potential impact of relevant proposals," and
  - (iii) "assess the impacts of Federal government plans, projects, programs, and activities on tribal trust resources to assure that Tribal government rights and concerns are considered during the development of such plans, projects, and activities."
- b. President Clinton's Executive Order No. 13084 of May 19, 1998, which directed federal agencies to respect tribal self-government and sovereignty, tribal rights, and tribal responsibilities whenever they develop policies "significantly affecting Indian tribal governments,"
  - c. President Clinton's Executive Order No. 13175 of November 6, 2000, which directed all federal agencies to establish consultation and collaboration with tribal officials in the development of federal policies that have tribal implications, and
  - d. President Barak Obama Memorandum of November 5, 2009, to the heads of the Executive Department and federal agencies to submit plans of actions that the agencies will take to implement the policies and directives of President Clinton's Executive Order 13175,

and

WHEREAS, Congress has also mandated government-to-government consultation with Indian tribes, which have been implemented in statutes, orders, regulations, rules, policies, manuals, protocols and guidance, most of which are described in a document issued by the White House- Indian Affairs Executive Working Group (WH-IAEWG), dated January, 2009, and entitled "List of Federal Tribal Consultation Statutes, Orders, Regulations, rules, Policies, Manuals, protocols and guidance," and

WHEREAS, the Oglala Sioux Tribe has never enacted legislation (ordinances) establishing procedures for government-to-government consultation between the Tribe and the United States, and believes that such procedures are necessary to establish a clear process for documenting the nature and results of consultations between the Tribe and the United States and its agencies, now

THEREFORE BE IT ORDAINED, that the following sections relating to government-to-government consultations are hereby adopted for the Oglala Sioux Tribe.

**Section 1. Title.** This ordinance shall be known and referred to as the Oglala Sioux Tribe Consultation and Coordination Ordinance of 2001.

**Section 2. Definitions.** The following words and phrases used in this Election Code shall have the following meanings:

"Consultation" and/or "government-to-government" consultation shall mean the formal process of cooperation, negotiation, and mutual decision making between the Oglala Sioux Tribe and the United States Government, and other governments. It is the process through which sovereign governments develop a common understanding of technical and legal issues and use this understanding to formulate mutually agreeable decisions.

**Section 3. Scope.** This ordinance is intended to extend to:

- a. All of the aboriginal homeland of the Oglala Sioux Tribe, including, the 60 million acre territory Sioux territory described in Article 5 of the 1851 Ft. Laramie Treaty; the territory and the expanded hunting rights territory described in Articles 2, 11 and 16 of the 1868 Ft. Laramie Treaty;
- b. All of the aboriginal title (non-treaty) Sioux territory comprising 14 million acres located east of the Missouri River in the present states of North Dakota and South Dakota; and
- c. All undertakings and actions that adversely affect the Oglala Sioux Tribe's aboriginal, treaty or statutorily recognized rights and interests within its aboriginal and treaty recognized territories.

**Section 4. Purpose.** The primary purpose and intent of this ordinance is to:

- a. Establish a clear process for documenting the nature and results of government-to-government consultations between the Oglala Sioux Tribe and Federal Government and its agencies;
- b. Provide a consistent, orderly process to government-to-government consultation to make and ensure that government-to-government consultations are meaningful and effective, and
- c. Be applicable, to the fullest extent possible, for documenting the nature and results of government-to-government consultations between the Oglala Sioux Tribe and other Indian tribes, inter-tribal organizations and state governments and agencies.

**Section 5. Authority.** This ordinance is adopted pursuant to the Oglala Sioux Tribe's inherent sovereignty and Article IV, Section 1 (a) of the Amended Constitution of the Oglala Sioux Tribe, which empowers the Tribal Council "(a) To negotiate with the Federal, State, and local governments, on behalf of the tribe, and to advise and consult with representatives of the Interior Department on all activities of the Department that may affect the Pine Ridge Indian Reservation."

**Section 6. Principles and guidelines.** All government-to-government consultations between the Oglala Sioux Tribe and the Federal Government, and State or other tribal governments, shall be conducted with the Oglala Sioux Tribe under the following principles and guidelines:

- a. The Oglala Sioux Tribe is a sovereign government with attendant powers;
- b. All treaties between the Oglala Sioux Tribe and the United States must be honored and enforced to the fullest extent possible;
- c. The Oglala Sioux Tribe has never been militarily conquered by the United States, and has existed in a peaceful relationship with the United States since 1868, pursuant to Article I of the 1868 Ft. Laramie Treaty; and



- d. The Oglala Sioux Tribe and its territories are not possessions of the United States.

**Section 7. Procedures.** All consultation between the Oglala Sioux Tribe and the Federal Government, and State or other tribal governments, must:

**WHEN CONSULTATION IS REQUESTED BY  
THE FEDERAL GOVERNMENT OR OTHER GOVERNMENTS**

- a. Occur through a formal meeting with the Oglala Sioux Tribal Council. Neither the Executive Committee nor any Executive Committee member or staff member of the Tribe shall be authorized to engage in government-to-government consultations with any government or governmental agency;
- b. Accomplish the goals and objectives described in Section 8.
- c. Be initiated by serving a formal written request for government-to-government consultation with the Secretary of the Oglala Sioux Tribe. The request for consultation should describe the impending, proposed project or activity that may or may not affect the Oglala Sioux Tribe's interests in its aboriginal or treaty territory and/or rights or interests therein. This include the Tribes aboriginal and treaty territory both within and outside the exterior boundaries of the Pine Ridge Indian Reservation;
- d. It shall be the duty of the Tribal Secretary to immediately notify all members of the Executive Committee and Tribal Council of each request for consultation;
- e. Upon receipt of a request for consultation, the Tribal President, or council members under established procedures, shall call a special council meeting for the purpose of responding to the request for consultation. The Tribal Council shall:
- (i) Request by resolution a policy-level meeting, initiating government-to-government consultations;

- (ii) Authorize the Tribe's technical staff (and when appropriate the Tribe's attorneys) to meet with the responding government's technical staff to discern and define the issues that are subject to the request for consultation including how the proposed governmental undertaking or activity affects the tribe's aboriginal, treaty, statutory or other interests;
- (iii) Schedule a special council meeting in which the Tribe's technical staff (and when appropriate the Tribe's attorneys) can fully brief the Tribal council on the issues that are subject to consultation, with recommendations and opinions;
- (iv) Schedule a follow-up special council meeting in which the Tribe through the Tribal council shall engage in formal government-to-government consultation based on the recommendations and opinions of its staff (and attorneys); and
- (v) Pass a resolution fully articulating the Tribe's formal decision, which decision shall be consistent with the provisions of this ordinance.

**WHEN CONSULTATION IS REQUESTED BY THE OGLALA SIOUX TRIBE**

- a. Be initiated by passing a tribal council resolution requesting government -to-government consultation, which resolution shall be executed and sent by the Tribal President to appropriate official of the Federal Government or tribal or state government with which consultation is desired;
- b. Follow the procedure described in Subsections 7.e. (i) through (v) above; and
- c. Accomplish the same objectives described in Section 8.

**Section 8. Objectives.** All government-to-government consultations should ensure the following results:

- a. Tribal officers and officials proceed in a dignified, orderly manner, keeping in mind that the Oglala Sioux Tribe is engaging in the consultations as a sovereign government that maintains government-to-government relations with the United States Government and other governments. Tribal officials engaging in consultation should dress in appropriate attire during the consultation proceedings, and conduct themselves in a professional, dignified, and diplomatic manner;
- b. Tribal officers and officials fully understand the issues to be discussed prior to engaging in and consultation proceeding; this includes an understanding of tribal history, federal treaties and federal statutes, regulations and rules, that will be discussed at each consultation;
- c. Ensure that the Tribe's interest are fully protected, including interests in all tracts of land located within the Tribe's aboriginal and treaty territories, and interests therein, as well as tribal cultural resources, human remains, and any other tribal patrimony;
- d. Ensure compliance with federal treaties, statutes, regulations and rules and tribal policies (e.g., policy that the Black Hills Are Not For Sale and tribal land claims must include restoration of federally held lands to the Tribe);

**Section 9. Documentation.** Following any governmental-to-government consultation between the Oglala Sioux Tribe and the Federal government, or other governments, the Tribal Council shall:

- a. Achieve a bi-lateral decision between the Tribe and the United States, or other government;
- b. Adopt a resolution documenting the nature and results of the consultation and bilateral decision;
- c. Direct the Tribal Secretary to file a copy of the resolution and all backup documentation with the Tribal Records Department.

**Section 10. Representations.** Neither the Federal Government nor any agency thereof, nor any other government, shall legitimately represent to any other government or governmental entity, nor to any third party, that they have consulted with the Oglala Sioux Tribe unless they fully comply with the terms and conditions of this ordinance.

**Section 11. Effective Date.** This ordinance shall become effective immediately.

**Section 12. Repeal of inconsistent ordinances.** All previously enacted ordinances are hereby repealed to the extent that they are inconsistent with this ordinance.

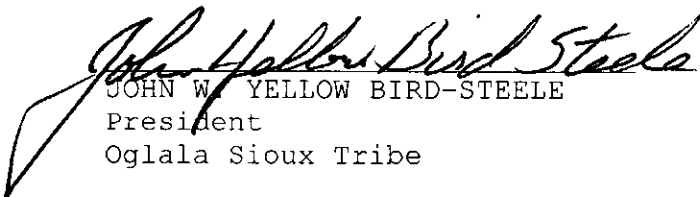
C-E-R-T-I-F-I-C-A-T-I-O-N

I, as undersigned Secretary of the Oglala Sioux Tribal Council of the Oglala Sioux Tribe, hereby certify that this Ordinance was adopted by a vote of: 13 For; 1 Against; 0 Abstain; and 0 Not Voting, during a SPECIAL SESSION held on the 7<sup>th</sup> day of JUNE, 2011.



RHONDA J. TWO EAGLE  
Secretary  
Oglala Sioux Tribe

A-T-T-E-S-T:



JOHN W. YELLOW BIRD-STEELE  
President  
Oglala Sioux Tribe

RESOLUTION OF THE OGLALA SIOUX TRIBAL COUNCIL  
OF THE OGLALA SIOUX TRIBE  
(An Unincorporated Tribe)

RESOLUTION OF THE OGLALA SIOUX TRIBAL COUNCIL OF THE OGLALA SIOUX TRIBE TO SCHEDULE SPECIAL COUNCIL MEETING FOR GOVERNMENT-TO-GOVERNMENT CONSULTATION WITH THE STATE OF SOUTH DAKOTA ON THE INTERNET FOR ALL BROADBAND EQUITY, ACCESS, AND DEPLOYMENT (BEAD) PROGRAM IN ACCORDANCE WITH THE TRIBE'S CONSULTATION ORDINANCE NO. 11-10.

WHEREAS, the Oglala Sioux Tribe is a sovereign tribal nation that has entered into treaties as the "supreme law of the land" with the United States government pursuant to the U.S. Constitution Article VI, and is a signatory to the Treaty of Fort Laramie of 1851, 1 Stat. 749 (Sept. 17, 1851), and the Treaty of Fort Laramie of 1868, 15 Stat. 635 (Apr. 29, 1868) and continues the nation to nation relationship with the federal government, and

WHEREAS, the Oglala Sioux Tribe organized under Section 16 of the Indian Reorganization Act of 1934 (25 U.S.C. § 5123), by adopting a federally approved Constitution and By-Laws, and under Article III of the Tribal Constitution, the Oglala Sioux Tribal Council is the governing body of the Tribe, and

WHEREAS, Article IV, Sections 1(f), 1(k), 1(m), and 1(w) empower the Tribal Council to manage the economic affairs of the Tribe, protect and preserve the property of the Tribe, adopt laws governing the conduct of persons on the Pine Ridge Indian Reservation, and adopt laws protecting and promoting the health and general welfare of the Oglala Sioux Tribe and its membership, and

WHEREAS, the United States Department of Commerce is currently administering the Broadband Equity, Access and Deployment (BEAD) Program, which provides \$42.45 billion to expand high-speed internet access by funding planning, infrastructure deployment, and adoption programs in all 50 states, the District of Columbia, and territories of the United States, and the State of South Dakota has received or is receiving significant funding through the BEAD Program for these purposes, and

WHEREAS, the United States Department of Commerce guidance states that the BEAD program specifically requires formal Tribal Consultation(s) as part of the grant process and that BEAD planning requirements necessitate documented engagement with Tribal Governments, including provisions regarding the Tribe's ability to comment on proposals and consent to deployment planned to serve tribal land, and

RESOLUTION NO. 23-221

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WHEREAS, the State of South Dakota has released its Initial Proposal for BEAD funds and in mid-November 2023 requested tribal consultation with the Tribe about these funds and the State's proposal, and

WHEREAS, the Oglala Sioux Tribe has a Consultation Ordinance, Ordinance No. 11-10, that articulates the specific requirements for tribal consultation with the Tribe, and

WHEREAS, the OST Economic and Business Development Committee has considered this matter and determined that it is a potential opportunity for the Tribe to obtain some of the State of South Dakota's BEAD funding for broadband deployment and, therefore, recommends that the Oglala Sioux Tribal Council schedule a Special Council meeting, as outlined in Ordinance No. 11-10 to conduct government-to-government consultation with the State of South Dakota on the BEAD issues; now

THEREFORE, BE IT RESOLVED, that the Oglala Sioux Tribal Council does hereby schedule a Special Council meeting for Tribal Consultation with the State of South Dakota on the BEAD issues pursuant to Section 7(e)(iv) of Ordinance No. 11-10 at a later date to be determined by the EBD Committee, and

BE IT FURTHER RESOLVED, that the Oglala Sioux Tribal Council does hereby authorize the Oglala Lakota Telecommunications, LLC, and the Tribe's attorneys to meet with the State of South Dakota's Broadband Program Manager to discern and define the issues that are subject to consultation including how the State of South Dakota's BEAD Initial Proposal affects the Tribe's aboriginal, treaty, statutory or other interests pursuant to Section 7(e)(ii) of Ordinance No. 11-10, and

BE IT FURTHER RESOLVED, that the Oglala Sioux Tribal Council does hereby schedule a prior Special Council meeting pursuant to Section 7(e)(iii) in which the Tribe's technical staff and attorneys can fully brief the Tribal Council on the issues that are subject to the consultation, with recommendations and opinions at a later date to be determined by the EBD Committee, and

BE IT FURTHER RESOLVED, that the Oglala Sioux Tribal Council acknowledges that issues related to the Digital Opportunity programs may also be discussed along with the BEAD issues at the aforementioned Special Council meetings.

RESOLUTION NO. 23-221


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C-E-R-T-I-F-I-C-A-T-I-O-N

I, as the undersigned Secretary of the Oglala Sioux Tribal Council of the Oglala Sioux Tribe hereby certify that this Ordinance was adopted by a vote of: 12 For; 0 Against; 0 Abstain; 5 Not Voting; during a SPECIAL SESSION held on the 11TH day of DECEMBER, 2023.

  
STACY I. TWO LANCE  
Secretary  
Oglala Sioux Tribe

A-T-T-E-S-T:

  
ALICIA MOUSSEAU  
Vice-President  
Oglala Sioux Tribe

**RECEIVED**

DEC 11 2023

BUREAU OF INDIAN AFFAIRS  
OFFICE OF THE SUPERINTENDENT



CONNECTSD  
BROADBAND DEVELOPMENT PROGRAM  
OST Government-to-Government Consultation



03/06/24: Government-to-Government Tribal Consultation with the State of South Dakota on the NTIA funded Broadband, Equity, Access, and Deployment (BEAD) – In accordance with Resolution No. 23-221.

Below are the prepared comments by Mike Waldner the State of South Dakota Broadband Project Manager. We also have a slide deck to accompany these comments.

RE: Fully describe your BEAD program to the Oglala Sioux Tribal Council

Thank you, President Star Comes Out and members of the council. We appreciate your time and the opportunity to give you a broadband update. My name is Mike Waldner, and I am the State Broadband Project Manager. I'm here to specifically give you an update on the National Telecommunications & Information Administration (NTIA) funded Broadband, Equity, Access, and Deployment (BEAD) program.

Broadband access has been a priority of the State of South Dakota for several decades. As early as 1996, South Dakota connected all public schools to high-speed internet with its Connecting the Schools project. South Dakota aims to ensure that every single South Dakotan is able to access broadband service that meets their needs. Through the BEAD Program, the State intends to connect the rest of the areas that have not yet been reached through the ConnectSD program, other federal programs, or organic growth from existing providers.

For some background let me briefly tell you the success of the ConnectSD program and broadband expansion for our state. Since 2019, the ConnectSD program has leveraged \$85 million dollars of state general funds along with \$89 million dollars of federal funds and over \$127 million dollars of private investment. These are matching funds from the broadband providers. These investments total almost \$301 million dollars in broadband expansion in our state over the past 5 years.

With these funds, we have awarded 106 grant awards or projects partnering with 25 different broadband providers. Through this public-private partnership, together we have connected or are in the process of connecting over 31,000 locations that either did not have Internet or were underserved before starting this program. Within these awards we have funded 9 different companies with 12 projects on 7 of the 9 tribal lands in South Dakota. Rosebud was the only area we did not have any application for and the Oglala project was ultimately completed without using ConnectSD funds. These awarded Telecommunication providers



have been great partners for the State of South Dakota and most importantly the citizens they have and are connecting.

As part of the ConnectSD and BEAD program, South Dakota will prioritize approving and funding future-proof, reliable fiber projects that are the gold standard for broadband deployment. Technologies such as DSL, fixed wireless, and satellite, while they have their place in the ecosystem, are considered temporary “stop-gap” or “the only option” technologies. These technologies are undesirable to the end user experience and therefore would only be approved for locations where the cost of fiber exceeds an “Extremely High-Cost Threshold.” The state’s belief is that all citizens, including tribal areas, deserve to have the gold standard of high-speed fiber broadband. The state will try to adhere to this policy for our citizens as much as possible while staying within the confines of the allowable activities, rules, and compliancy of the BEAD program.

A long-standing state government decision is that South Dakota does not own any of the telecommunications or broadband infrastructure in the state. Rather, South Dakota relies on the expertise of its Internet Service Providers (ISPs) to own, service, and maintain telecommunications infrastructure. In some cases the state acts in the capacity of an anchor tenant that has proven to provide economic development within the state. The state understands the true value in broadband is not in the connection but rather how it is used.

Typically, states do not get direct federal funding for broadband. Historically, funding has gone directly to the Internet Service Providers. South Dakota supports funding that comes through the state to ensure that funds are specifically directed to unserved citizens. This helps pinpoint truly unconnected locations that federal funding may miss. This is how the BEAD funding is being managed – through every state. Thus why you have two state’s meeting with you today.

We both (Nebraska/South Dakota) have to follow the NTIA rules of the grant program, and here is where we are in South Dakota. In June of 2023 it was announced that South Dakota received \$207 million for the BEAD program. It is important to know some of this funding pays for planning and administrating the program. In continued full transparency from the State of South Dakota on the ConnectSD and BEAD program, all of this information is on the G-O-E-D website. (<https://sdgoed.com/partners/connectsd/>) You can also get BEAD program specifics from NTIA on the Internet for All federal website (<https://www.internetforall.gov/>).

In a high level view all states have to submit documentation and have NTIA/NIST approvals before moving forward. This documentation and activities, which is taking around 2 years to complete, includes a 5 year plan, an Initial proposal, which is actually two volumes – so basically two individually reviewed and approved documents, and then a final proposal. Each

of these documents have required activities to accomplish and through this entire process, we have to follow all of the BEAD requirements and we do not move forward without compliance from NTIA and their approval process.

Volume 1 of South Dakota's BEAD Initial Proposal contains information on broadband-serviceable locations, Community Anchor Institutions (CAIs), and the public process for challenging these identified locations. We have a detailed methodology for determining underserved and unserved locations all in the attempt to find any location not connected and to not overspend tax payer funding by overbuilding an already committed or connected area.

Volume 2 document contains the framework for the state BEAD goals, outreach engagements (including tribal activities), coordination with stakeholders, the process we'll use to solicit applications from potential subgrantees, the application process we will use including the scoring process, we also document the BEAD requirements which are very onerous for an applicant, then we outline the disbursement of funds through the reimbursement process, including clawback provisions if subgrantees use funding outside the scope of the program, and we finish the document with the close-out requirements of all successful applicants to demonstrate completion of a successful project which includes both technical and financial information.

So where is South Dakota in the process? We have submitted our 5-year plan and received approval back in August of 2023 – again you can review all of this on our website. We are in the process of review and updates with NTIA on our Volume 1 & 2 Initial Proposal.

Upon successful review and approvals from NTIA for Volume 1 our next step will then begin what NTIA calls the challenge process. This is an important process as we get very granular to find all the last locations left to connect. While the NTIA utilizes the verbiage "Challenge Process" it must be noted that the state does not want our citizens to view this as a bad thing. Rather, our intentions are to be most prudent with the funding to "get it right." This is an opportunity for Oglala to engage with the process to help all of us get it right. We intend to find those last locations needing connectivity by using whatever means possible, including location-by-location record-keeping, end-user citizen input, and relying on boots on the ground local expertise.

To determine these broadband-serviceable locations we are required to utilize the NTIA Eligible Entity Planning Toolkit. Then we will deduplicate (basically remove) any locations of known and reported federal awards, tribal awards and state ConnectSD awards. These federal awards are called "federally enforceable commitments" and include for example, USDA Reconnect, NTIA's Tribal Broadband Connectivity Program, FCC's RDOF and Enhanced ACAM awards, etc. The remaining locations will be published as the BEAD eligible locations for

entities to submit applications for funding to connect. Again, remember that NTIA has final approval for this final list of BEAD eligible locations.

After the successful challenge process and approvals from NTIA for both the eligible locations and Volume 2 document we will go through the process to select subgrantees which includes fully documenting the data gathering of the selection process to award applicants to submit the final proposal for NTIA approval, again prior to moving forward. Then with award applicants selected we will work with the awardees over a 4+ year implementation to deploy broadband with compliancy requirements along the way.

We look forward to learning more about the broadband projects Oglala Sioux Tribe has going on, learning how we can work together, and including your work in the overall state broadband plans to connect all our citizens in South Dakota.



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**MIKE WALDNER | BROADBAND PROGRAM MANAGER**

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

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## NTIA Broadband Tribal Consultation with Oglala Meeting Minutes – 3/6/2024

**Note:** These minutes (and notes) are from various members of the ConnectSD team as best we can recall. Some are rough notes. They are intended to capture the discussion for possible action items, future meetings and for the NTIA BEAD Grant requirements.

### **Key Points from the meeting (There was a lot of good discussion – thus a longer than usual list of key points):**

- The Tribe wants to be in control of the Internet on the Reservation
  - Stated throughout the meeting, including President Frank Star Comes Out opening statements
  - South Dakota requests a copy of his prepared notes – SD Broadband Manager has sent his notes
- Main initiative of Tribe is to create an ISP first then connect locations from that created ISP
- NTIA BEAD program does not fund business/ISP creation.
  - Funding is for existing entities to submit applications to connect only the NTIA BEAD eligible Locations.
  - 1,033 locations on Oglala are BEAD eligible (at the time of the consultation)
- The state has been very transparent publicly stating all steps of the BEAD program.
  - We can only do what is eligible from the BEAD grant requirements – *We are actively following the steps.*
  - Sent multiple certified letters to all tribes (starting May of 2023) for stakeholder engagements
  - All information continues to be on our website and sent via social media and a public email listserv
  - ALL NTIA BEAD eligible locations (including tribal lands) are on our website and public maps
- Oglala can apply for BEAD funding
  - They need to apply and fulfill all the BEAD requirements like all applicants during the competitive process
  - South Dakota/NTIA cannot guarantee that the funding will go to Oglala if they apply as a sub awardee.
  - If someone else is awarded, they will need consent to serve Tribal lands.
    - If consent is not provided the locations could remain unconnected.
- All 3 existing incumbent providers are willing to connect all locations (with High-Speed Fiber)
  - This is at no cost to the tribe, state or federal
    - Council has denied them consent and has stopped their progress (*Per: LakotaTimes.com*)
- All 3 existing incumbent providers accepted federal FCC Enhanced ACAM service
  - In the meeting it was stated they have denied consent to build out per the FCC program
    - We will need documentation
  - We are waiting for ruling from NTIA/FCC if that removes the “federal enforceable commitment”
    - This could make the 1,033 “overbuild” locations to now be BEAD eligible
    - Essentially using two federal programs to pay twice for the same locations
  - From Nicholas (NTIA) – enforceable buildout commitment requires tribal consent. E-ACAM is an FCC award (Not South Dakota), FCC would need to give some kind of writing that the E-ACAM is not subject to the enforceable commitment.
  - Also Note: Just because you remove E-ACAM from FCC, does not guarantee that the funding will go to Oglala if they apply as a subawardee. They have to fulfill BEAD requirements. If someone else is awarded, they will need consent to serve Tribal lands.
- Tribe has received \$20Million from NTIA Tribal Broadband Connectivity Program
  - It is 50Mbps download so all these 1,821 locations will still be underserved if the program continues
    - Speeds/technology will be inferior as soon as it is installed
  - Need to confirm: The tribe may be looking to “Re-scope” this project to a Fiber to the Premise project?
  - Tribe will need to provide a Proposed Funding Service Area map in .kmz or shapefile file compatible

format. The file(s) must show via points and lines the specific locations to be served as well as include a shaded polygon giving the outline of the proposed funded service area.

- Need all the 1,821 locations from the Tribe to properly account for them
- Tribe has received \$6Million of ARPA allocation to be used for Broadband
  - Need information from the tribe on what this funding is being used for
    - How many locations (and where) have been connected with this funding?
  - We are aware of the Starlink Satellite Kit purchase program (\$350,000 dollars)
    - Need information from the tribe on what locations have received these satellites
- Tribe has received \$35Million from USDA ReConnect Program
  - At the time of consultation, it was not official but has since been publicly announced.
  - State has put the Proposed Funding Service Area map on our public map
  - It has removed 482 locations from the list of NTIA BEAD eligible locations
- Tribe has stated the maps (FCC/NTIA/State) of locations are inaccurate
  - Tribe will need to provide a map in .kmz or shapefile file compatible format for validations/accuracy.
- BEAD funding does not go to setting aside funds to correct damage from storms.
  - Awarded Entities (ISPs) have to show they can sustain their buildout after funding is spent.
- Tribe agrees consultation is not one and done, look forward to more conversations.
  - Another meeting staff to staff may be helpful.
- Council member asked: “For record, have NE and SD to say yes or no to further meeting and working together.”
  - NE – yes, we expect to have further conversations about the area and locations.
    - We all want the same thing, everyone having access to broadband.
  - SD – yes, we agree too and look forward to collaboration

#### BEAD Eligible Locations per NTIA – At time of consultation. (Snip from SLIDE DECK):



### Oglala

- NTIA Eligible Entity Planning Toolkit Data:
  - Total Broadband Serviceable Location (BSL): **5,058**
  - Served with Fiber or Cable Modem: **4,025**
  - Unserved locations (Less than 25/3): **828**
  - Underserved locations (Less than 100/20): **205**
  - Total BEAD Eligible (before deduplication): **1,033**



- **New data and analysis from our mapping team:** *There are 5,463 BSL locations inside the reservation, since we get some overlap of cable and fiber coverage that needs to be taken into account. That leaves us with 4,291 connected locations inside the reservation with cable and or fiber. The number of unserved locations is 1,172 for the entire reservation. Based on these numbers the reservation is **78.54% covered** as reported to the FCC in December of 2023.*
- **After removing locations in the USDA Reconnect award:** *There are 690 BSL locations inside the reservation that remain BEAD eligible. Based on these deduplications the reservation is **87% covered**.*

**The State will (or has) provide(d):**

- The state continues to welcome ongoing communication/coordination with Oglala IT/Technical department.
  - We can schedule phone calls, video calls, in-person meetings, etc.
- Open invitation for Oglala IT Director/CEO (Randy Hughes) to contact State Broadband Project Manager (Mike Waldner) any time as necessary.
  - During the consultation this invitation was also offered for any council member and president
- Spreadsheets of each location that is BEAD eligible on Oglala reservation area
  - Remember these are the ***ONLY*** locations eligible for BEAD funding in the application process
  - Both Unserved and Underserved BEAD Eligible locations
  - We also provided the locations that are currently served with Fiber or Cable
  - Maps are also available/provided in the slide deck and updated maps will be sent
- This information is also on our public map:
  - <https://experience.arcgis.com/experience/9179a8570def4bb0b5e574512df4b504>
- If needed, we will provide a KMZ/Shape GIS file format of each location
- Link to our website with more information and details where to sign up to our email listserv.
  - Main Website: <https://sdgoed.com/partners/connectsd/>
  - BEAD specific Information: <https://sdgoed.com/partners/connectsd/bead/>
- All application information, timelines, including deadlines will be announced through social media, the email listserv and listed on our website.

**For us to continue to give the best assistance to the tribe the state has asked for the following information:**

- South Dakota requests a copy of President Frank Star Comes Out opening statements
  - We have sent a copy of SD Broadband Project Manager, Mike Waldner's prepared comments
- Council Meeting Minutes of this meeting to ensure nothing was missed.
- Council Meeting Minutes of all meetings (Some from 2021 are/were online but we can't find recent documents
  - Or links to video recordings of meetings surrounding Broadband decisions, resolutions, policies
- Documentation of non-consent given to the ISP's, FCC or other federal programs.
  - We need this documentation during the challenge process as proof for NTIA and other federal agencies.
- Tribe has stated the maps (FCC/NTIA/State) of locations are inaccurate
  - Tribe will need to provide a map in .kmz or shapefile file compatible format for validations/accuracy.
  - Mapping Files (.KMZ/Shape file format) showing where they indicate FCC/NTIA/State maps are wrong
- Any information (Timelines/locations/etc) of existing NTIA TBCP, USDA, ARPA, etc. projects.
- How many paying ISP customers does the tribe have to date? Plan to have? Have you (as an ISP) organically built out any fiber to the home locations?

**Attendees (Both in person and Virtual):**

**South Dakota Governor's Office of Economic Development**

Mike Waldner, State of SD Broadband Program Manager  
Haleigh Overseth, State of SD BEAD Coordinator  
Sage Swenson, State of SD Broadband Intern

**South Dakota Department of Labor and Regulation:**

Kendra Ringstmeyer Director of Workforce Development (Unable to attend, excused).  
Bill Wendling, South Dakota Digital Opportunity Coordinator. NTIA Digital Equity Grant

**U.S. Department of Commerce - National Telecommunications and Information Administration (NTIA):**

Kim Owen, BEAD/DE Federal Program Officer for South Dakota  
Nick Courtney – Broadband Program Specialist  
Thomas Rolfe, BEAD/DE Federal Program Officer for Nebraska

**Oglala Tribe:** *Note: (We tried to get the correct spelling and titles – apologies if not accurate.)*

President, Frank Star Comes Out  
Austin Watkins, Council Member  
Wesley Hawkins  
Jim Meeks  
Howard Rooks  
Wendall Youngman JR  
Anna Halverson  
Ella Joncarlo  
George Dreamer Jr  
David Puyer  
Westbear  
Jackie Sears  
Garfield Littledog  
John Still Sr.  
Craig Dillon  
Mario Gonzalez, Tribal Attorney  
Jennifer Hughes, Tribal Attorney

**Nebraska:**

- Patrick Haggerty, Director NE Broadband
- Patrick Redmond, Deputy Director (Remote/Virtual)
- Diane Lowe
- Rachel Kilcoin

**Virtual:** *We believe these were all the folks on the Zoom connection – not sure what their titles are.*

OST Secretary's Office  
Mariel Triggs  
Patrick Redmond (Nebraska)  
Randy Hughes (was in person also)  
Akilah Kinnison  
Lisa Cummings

**Start**

- 1000 acres in Nebraska belong to Oglala
- Just worked out a deal to have electricity delivered to tribal locations
- Also have previously built a nursing home
- Nebraska worked with the tribe and Medicare/Medicaid. They now have no daily cap on expenses for that facility.
- Nebraska recognizes the treaties and sovereignty of the tribe.
  
- Frank Star Comes Out Intro
  - Broadband affects healthcare, education and tribal residents' ability to access tribal and government services and programs.
  - This is particularly urgent in emergency situations
  - Have been working diligently with Spectrum to create their own Oglala Lakota Telecommunications LLC to implement broadband deployment
  - Need to be able to exercise broadband sovereignty and have affordable service
  - Tribe must be in charge of the internet on the tribal lands
  - NTIA programs are fixed wireless, not fiber
  
- Roll Call
  
- Not sure who all was online also representing the Tribe or invited by the Tribe
  
- Introductions from Randy Hughes
  - Oglala Lakota Telecommunications, LLC Team
    - Randy Hughes, CEO
    - Tawny Zimiga, Program Manager
    - Marcus Palmier, Installer, Trainer, Veteran
    - Patrick Whitecowkiller, Network Administrator
    - Sonja Walin, Customer Service
    - Julia Spotted Bear, ?
  - Established in 2022 as an LLC
  - Implemented and stood up operating agreement
  - Established as an independent company
  - Adding 14 staff
  - Transferring staff from Spectrum telcom
  - Goal to provide fiber to the home
  - NTIA grant for Wireless network
  - ReConnect grant
  - Marcus from the team does not have telephone service or internet
  - Jenifer Hughes – Attorney
  - Mario Gonzalez – Attorney
  
- NTIA: Nicholas Courtney, citizen of McCaw Tribe, lives in Washington DC
  - NTIA goal and directive to connect every home to high speed internet
  - Way for states and tribes to come together for a common mission
  - TBCP \$19.6 mil to Oglala
  - NOFO out until 3/22/24 for 1 billion dollars left in new TBCP, Oglala is eligible for that funding – but as we found out later in the meeting they would be #7 on the priority list as they already have the \$19.6 Million TBCP grant.



- Nebraska – Patrick Haggerty, Director of Broadband – slides available on Nebraska’s website
    - Challenge Process
    - March 15<sup>th</sup> start, close April 13<sup>th</sup>, final determinations by May 12<sup>th</sup> based on rebuttals
    - Definitions of BEAD
    - Nebraska has their own BEAD Map
    - Run-through of Nebraska Initial Proposal, Challenge Process, and Mapping
    - Anticipate having all of Nebraska served by 2029
    - Volume 2 Run-through
    - Question from Anna Halverson –
      - Volume 1 – Treaties say they were guaranteed peace if utilities are provided, this includes broadband.
      - Concerned that Oglala was not consulted in planning stages, missing component in the first presentation
      - Why was Oglala not included in any subgrants?
      - Patrick’s new to the team but they sent certified letters and had consultations in NE before he started
      - Maps are done by 3<sup>rd</sup> party consultant
      - Some level of appropriations out by the end of the year
    - Continuing with slides from NE
      - Volume 2 goals and feedback
      - Broadband Workforce Plan – need to do more work to get skilled workforce in NE
      - Low cost has been offered equal to or more than ACP program parameters whether ACP continues or not
      - Letter of Intent submit first for background on company (subgrantee requirements)
      - Then application on project
      - NE is defining their own project areas, not ISPs
    - Questions:
      - Who is selecting the grantees, are there any native americans on the selection committee?
      - NE has not put together the makeup of their selection team yet, but will be found in the broadband office
      - What is the timeline for LOI?
        - Timing has been pushed back to June or July.
      - Some dates are not until 2029 – who is determining who doesn’t get served if money runs out?
        - Concern for potential applicants, inflation may cause funding overruns
        - BEAD requires projects to be completed by 2029
        - Money is there for the project once allocated
      - Is there a process where an entity can get money without the subgrantee process?
        - No
      - NE will get to unserved, possibly then underserved and CAIs
      - Funding keeps coming in from other sources, so the mapping has to keep getting updated
      - Treaty rights in 1851 Treaty has lines that are more Treaty area in NE
      - Other Treaties require tribal input for utilities
      - 1867 and 68 Treaties – indicates telegraph. NE took land resources and peace.
        - Tribes have contributed to establishing Creighton University and broadband in NE
      - Question – who did NE contract with to do mapping
        - High Street
- South Dakota – Mike’s slides and presentation
  - Opening BEAD comments
  - Overview of ConnectSD
    - Question – BEAD Funds from 2019? Doesn’t seem like any plans included consultations with

- tribes?
    - Will go over tribal lands, no BEAD funds until June 2023
- Further on ConnectSD
- Question on the ConnectSD awards in Oglala done by private ISPs
  - Yes, was award to ISPs
  - All mapping is online
- Question from Mario –
  - Exec Order 13175 requires Consultation of India Tribes
  - Historic preservation act have NEPA review (1972), tribes need to be consulted for digging
  - NEPA review process anytime there is land disturbed on Oglala land – everything west of the Missouri River all the way up to ND border line, should be NEPA review process when digging and trenching for fiber
    - Yes, we have to follow thru in BEAD with the NEPA reviews
- Question – SD has failed to consult with tribes for all the broadband projects.
  - Concern for Oglala that have not been consulted
  - We sent certified letters in May of 2023 and never received any response.
  - We have now been contacting Randall and building relationship with the tribe
  - Randy has been a good contact for us to share information
- Who makes the decisions on BEAD funding for SD?
  - Right now only 2 staff and 1 intern, looking to hire extra help
  - We look at the applications
  - We also have the Bureau of Information and Telecommunications (BIT) team for mapping consultation
  - Within the GOED office we have finance team who also examines the financial capabilities of an applicant to be fiscally strong enough to fund and sustain a project
  - We just want everyone connected to internet whether on tribal lands or not
- Question, private entity with NW corner and then all of Oglala filled in blue
  - Getting to that on the slides with mapping
- Question – How were points determined, what happens when there are new members to the tribe moving in?
  - FCC BSL Fabric used for NTIA BEAD points
  - This funding, once it's gone, it's gone. We reach everyone we can with what we have until there would be other new funding.
- Back to slides – Funding usually does not come through the states like BEAD
- Question – When they did the FCC application for license with FCC, they made sure original lands include Bennet county for Oglala tribal lands
  - Also have license just south of Hot Springs from FCC, some of that may be Oglala area
  - Mike – not positive, gets pretty granular. Use our online maps you can see more detailed data and land
- If we are trying to get the map right, how closely is SD working with Randy?
  - Very closely, have been communicating on locations and the mapping from Randy and the Telecom Team
  - We have asked for the Mapping data so we can overlay it with the FCC, NTIA, and our state mapping but have yet to receive anything from Randy.
- Question – looks like Oglala doesn't have anything on their land
  - BEAD cannot overbuild other federal programs
  - Don't think BEAD is interfering with other federal funding to Oglala
  - In the NOFO from NTIA, if there is a federal enforceable commitment, we cannot overbuild. We cannot pay for the same location twice. All of the awards listed on the slide are the federally enforceable commitments that we cannot award to.
- Jump to E-ACAM

- Turn to Jennifer Hughes
- Work with SD on how can we fulfill objectives of BEAD and getting everyone connected
- Issue tribe is looking at in the NTIA requirements, what is in the NTIA requirements is also tribal consent. Tribal view is that there is no enforceable commitment without tribal consent. Want to address the enforceable commitment issue.
- Tribe wants to work with the state to make sure everyone in SD is connected including tribes.
- Trying to come to a consent as to who is eligible for BEAD funding on Pine ridge
- Mike
  - Conversation with FCC on tribal consent. We have to follow BEAD program rules, we do not get a say in the overbuild issue.
  - Does not keep the tribe from getting other monies
- Tribe wants it on record their relationship with SD is not great
  - Enhanced A-CAM is a federally committed area, not eligible for BEAD funding
  - NTIA can step in if needed based on rules for the federally enforceable commitments
- Tribe has not consented to Golden West E-ACAM, so they do not recognize that funding
- Before BEAD program can authorize project on Indian land, they have to have tribal consent.
- Mike – Tribal consent is part of the BEAD application process for SD
  - \*Note, FCC issued A-CAM, not SD
- Reminder from Council – BEAD requirements that the state must submit proof of tribal consent on lands.
  - Yes, that is part of BEAD funding. Tribal consent must be given for any subgrantees.
  - If the FCC would say that E-ACAM is not valid, then we would change our map, but we do not have information or guidance from NTIA or FCC on this ruling over the E-ACAM.
  - At end of Challenge Process, we will post locations that are final for BEAD funding, that will have to be approved by NTIA.
- Follow up – disagreement from Tribe is that enforceable commitment does not exist if consent was not given because of the BEAD NOFO language.
- From Nicholas – enforceable buildout commitment requires tribal consent. E-ACAM is an FCC award, FCC would need to give some kind of writing that the E-ACAM is not subject to the enforceable commitment.
  - Just because you remove E-ACAM from FCC, does not guarantee that the funding will go to Oglala if they apply as a subawardee. They have to fulfill BEAD requirements. If someone else is awarded, they will need consent to serve Tribal lands.
  - TCBP is intended for the Tribal broadband directly, but right now the E-ACAM is available. If FCC award is removed, that does not guarantee money going to Oglala. Could go to other ISP that tribe does not consent to.
  - Keep having ongoing conversations with FCC and service providers.
- Tribe is trying to build an ISP, but can't do that if there is a competitor getting other funding. Policy of promoting tribal self determination and own tribal ISP system is nationwide, seems like NTIA is inconsistent with FCC goal.
  - NTIA – Nicholas – NTIA is separate from FCC. TCBP is best option for the broadband deployment for economically sustainable option that does include tribal consent. No one else can receive federal funding on that award. (only tribes)
- Question – State of SD climate assessment, needs to have climate assessment. Are they funds set aside for climate disasters tornadoes, climate and snow?
  - BEAD application process portion, it is part of the sections required from NTIA.
  - We have built into our Volumes the things we know about our climate and hazards.
  - This is why we have prioritized fiber, because it is more reliable to be buried tech than wireless.
  - BEAD funding does not go to setting aside funds to correct damage, ISPs have to show they can sustain their buildout after funding is spent.

## Parting Comments

- Hoping to have Challenge Process April 1 to mid April.
- Same guidelines for Vol 1 approval and Vol 2 process of NTIA approval process, same as NE.
- Both of ours were open for public comment, all documents are on our website.
- Looking at fundings end of this year and first quarter of 2025.
- Please make note that the compliance and rules with BEAD are making national ISPs shy away from funding. Make note of the BEAD requirements 25% match, reimbursement process for disbursement of funding.

## Questions

- What Reporting requirements does SD have for BEAD funding projects?
  - Reporting requirements go back to NTIA, anything we report is publicly available for anyone to read and review.
  - NTIA has awarded the BEAD grant, so they are who SD is responsible to for the reporting.

## Randy:

Thank you to Mike for visiting the Oglala Sioux Tribes.

- NE Portion
  - TBCP 1 is not enough to set up ISP they are trying to build.
  - Tribe has helped to build the infrastructure in NE, would want to have technical assistance through the BEAD program so they can be competitive in this environment.
- NE Patrick Haggerty
  - BEAD has provided their BSLs, residents or businesses. This funding is not for broadband systems, it is specific to addresses. Point that out in approaching the application.
- Tribe reiterating the Creighton utilities, without the treaty they would not have those utilities.
- Attended webinars for SD, did make a challenge for the locations that are in Oglala and Pine Ridge, bulk challenge of 4,500 plus points to the FCC. They had some of the fabric updated. There are 1,600 points that are not on the fabric for FCC, so we are missing points.
- Western side of the Pine Ridge Indian Reservation that does not fall under the TBCP ReConnect grants, there are 1,700 BSLs, many of which are underserved.
- Best opportunity is to build fiber network that would pass through Golden West and Great Plains Telecom. ConnectSD only funded Hansen, dba Fort Randall, Mt. Rushmore.
- What has been heard from the solid waste program for the Buffalo Gap Junction tried to get ISPs that are in the area to service the waste program and they have not.
  - 4 Years ago the tribe paid the ISPs to set up internet there, but still have not connected.
  - Have identified unserved and underserved BSLs not on the current FCC fabric.
  - Will sit down and seek technical assistance for how to provide service to all Pine Ridge Indian Reservation.
- Want to put that plan out as potential program – 50 million for the Route plan
- SD looks forward to looking at the mapping that Oglala has and getting the maps to match.
- BEAD funding is not for ISP set up, we can only fund the locations that are in the BEAD Eligible locations, but when it comes to application, we can only fund what locations come out of the Challenge Process.
- 25% match should be considered the 1851 treaty
- We have not yet heard back from NTIA on the waiver requests for the match and Line of Credit (LOC).
- Question – Clarifying question from NTIA Nicholas – number of households that TBCP funded was 1800, and Oglala has put forward an FCC fabric challenge for what are not on the map – are the 1,737 looking to fund overlapping with TCBP data and CostQuest data.
- Randy – FCC and TCBP covered points data have not yet been reconciled.

- Nick – Tribal Consultation closing comments
  - Thank you from the Dept. of Commerce, we hope to continue dialogue and relationship building.
  - The mapping element is important, will have to continue to work with FCC to correct map.
  - NTIA still have TCBP program 1 billion dollars, tribal infrastructure is priority group 3 and 4 for the funding.
  - NTIA considers Oglala to be fully funded, is in Group 7 based on having been fully funded.
- Tribe agrees consultation is not one and done, look forward to more conversations.
- Another meeting staff to staff may be helpful.
- For record, have NE and SD to say yes or no to further meeting and working together.
  - NE – yes, we expect to have further conversations about the area and locations.
    - We all want the same thing, everyone having access to broadband.
  - Matching funds question – NTIA is not concerned with where the match comes from privately. If a small rural provider wants to partner with a local bank to come up with that funding, they can.
  - Locations not in the fabric now have to come from the FCC. Once the Challenge Process is over and we have the amendments. We can continue to monitor mapping after Challenge Process.
  - Thank you for welcoming us here.
  - Thank you to the veterans.
  - SD – yes, we agree to and look forward to collaboration
    - We want to correct the map and get the locations right.
    - It takes boots on the ground to know where the locations are.
    - These meetings do help with interpretation of the NOFO and rules.
    - We all do want to connect everyone to the internet.
    - We want to create opportunities for ourselves and future generations.
- Randy Closing Remarks
  - We have a vision of what broadband should look like for technology and economy.
  - Adopting a technological environment. Want to build an ISP to bring technology and jobs to the tribes.
- President Star Comes Out Closing Remarks
  - When you go to Washington and talk about these broadband issues, they want to see the tribes succeed. They are encouraging tribes to have self-determination.
  - Randy has been doing a great job creating this network. Hopefully they can reach out to other tribes to continue the network.



**National Telecommunications and  
Information Administration**

United States Department of Commerce



SOUTH DAKOTA  
**DEPT. OF LABOR  
& REGULATION**

# **SOUTH DAKOTA/NTIA TRIBAL BROADBAND CONSULTATION**

## **OGLALA SIOUX TRIBAL COUNCIL**

BROADBAND EQUITY, ACCESS, AND DEPLOYMENT (BEAD)

AND

DIGITAL OPPORTUNITY (DO)

MARCH 6<sup>TH</sup> 2024

# CONNECT SOUTH DAKOTA

## PROGRAM OVERVIEW

INCLUDING

## MAPS & FUNDING

## SINCE 2019





# INTRODUCTIONS

- **SOUTH DAKOTA CONNECTSD TEAM**
  - Mike Waldner, Broadband Program Manager
  - Haleigh Overseth, BEAD Coordinator
  - Sage Swenson, Broadband Program Intern
- **DEPARTMENT OF LABOR AND REGULATIONS (DLR) TEAM**
  - Bill Wendling, Digital Opportunity Coordinator
  - Kendra Ringstmeyer, Director of Workforce Training
- **NTIA STAFF**
  - Kim Owen, Federal Program Officer



As of Feb 2024,

The ConnectSD program has leveraged ....

\$ 85 million dollars of state general funds

\$ 89 million dollars of federal funds

\$127 million dollars of private investment from the  
broadband providers

These investments total almost \$301 million dollars in  
broadband expansion in our state since Governor Noem  
took office in 2019.

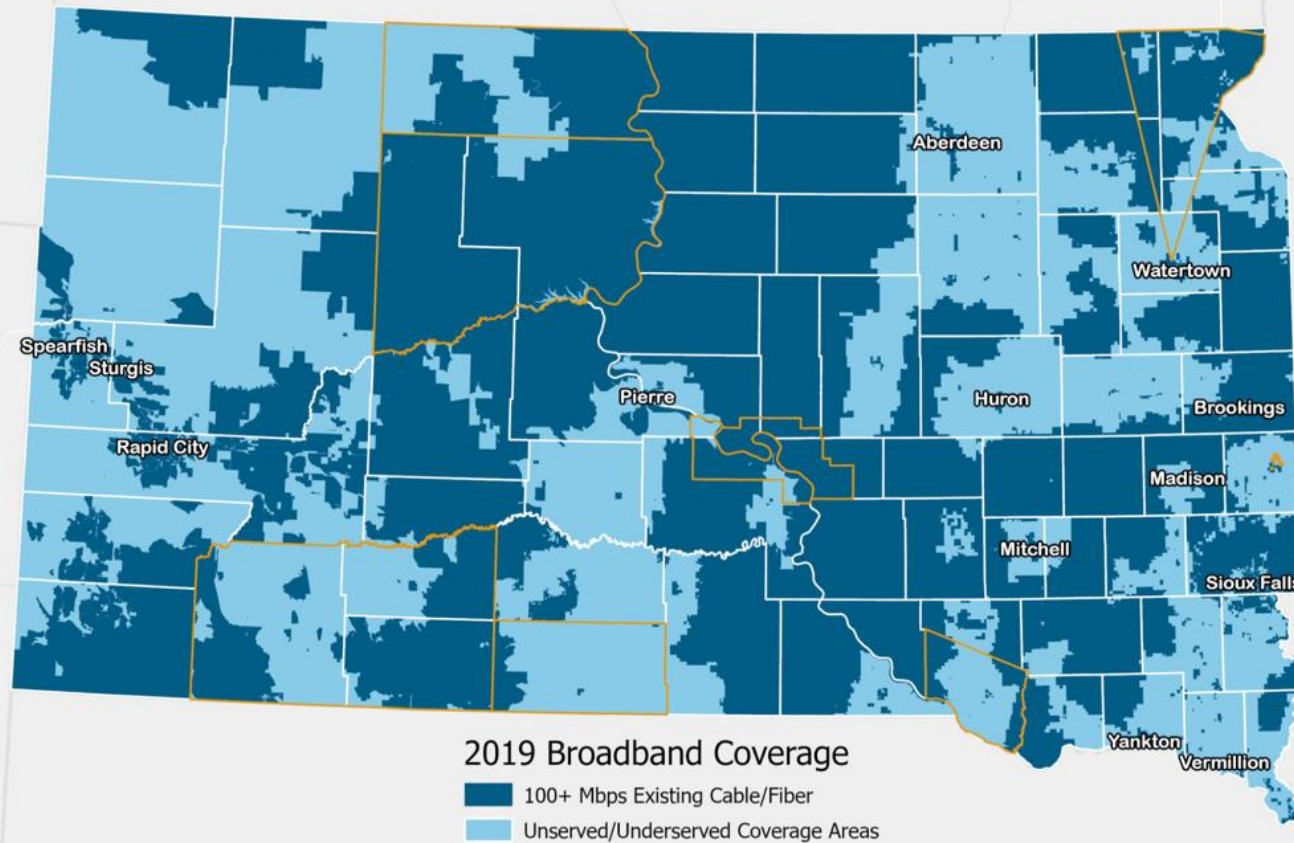
With these funds, we have awarded 106 grant awards or  
projects and have connected or are in the process of  
connecting over 31,000 locations that either did not have  
Internet or were underserved before starting this  
program.

## QUICK SUMMARY



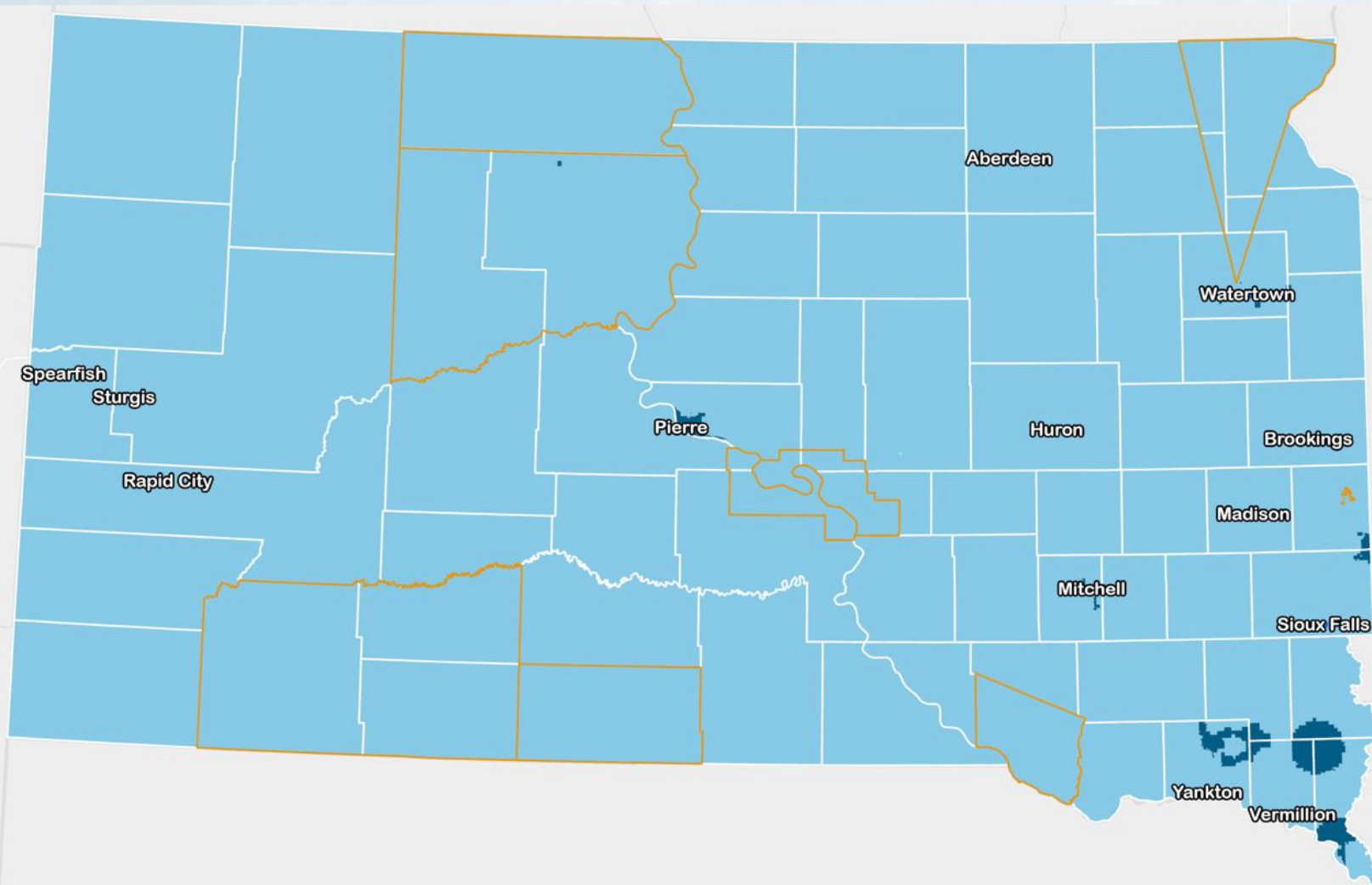
## WHERE WE STARTED IN 2019

- Cable/Fiber connected areas capable of minimum 100Mbps download



# 2019

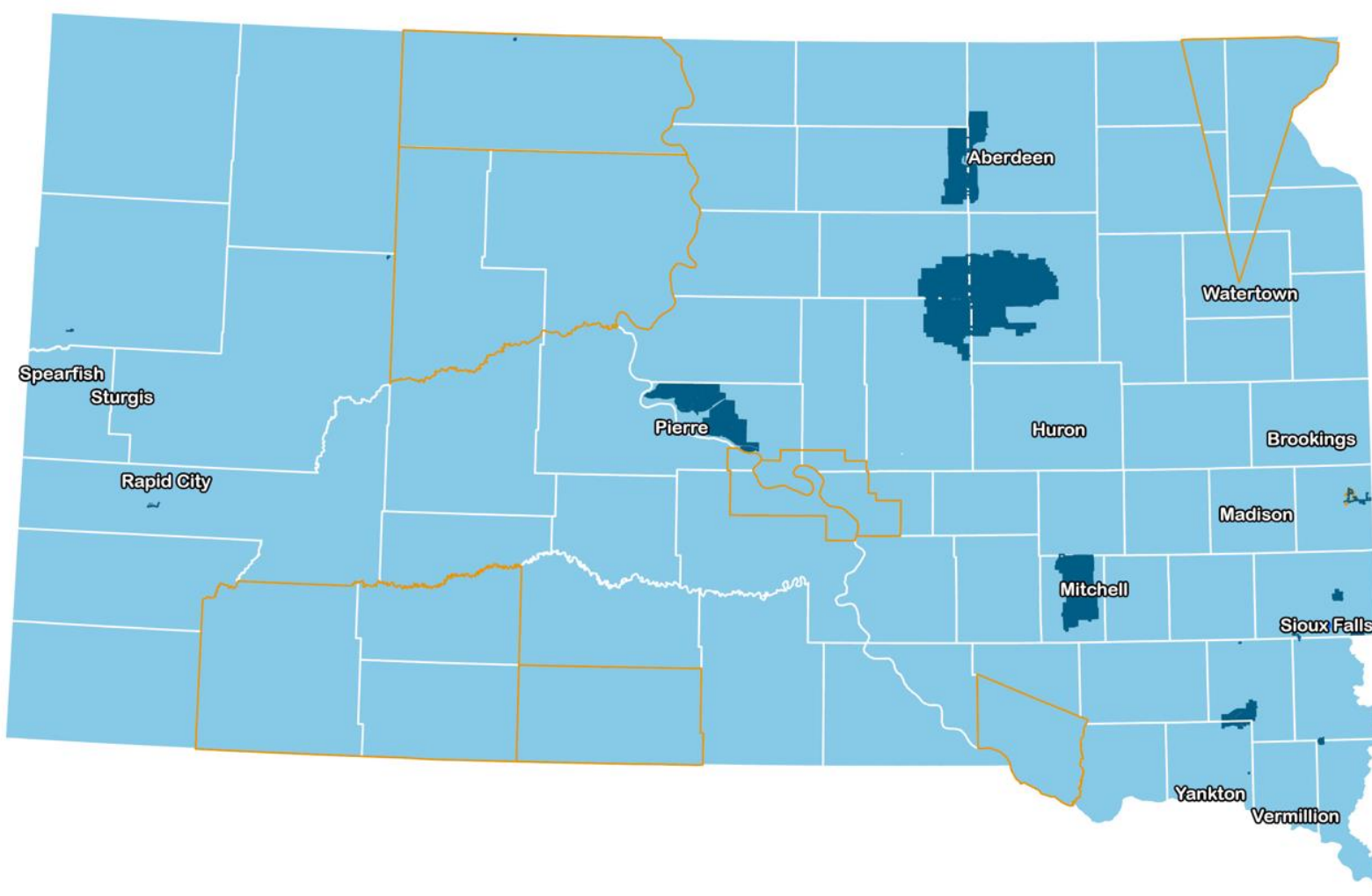
- Awarded \$5M
- 8 projects - 8 applicants
  - All spent in CY 2019
  - Projects complete
- Funding Source:
  - \$5M General Funds (No Bill)
  - Appropriated by Legislature to launch ConnectSD program



➔ 4,979 LOCATIONS CONNECTED



# 2020



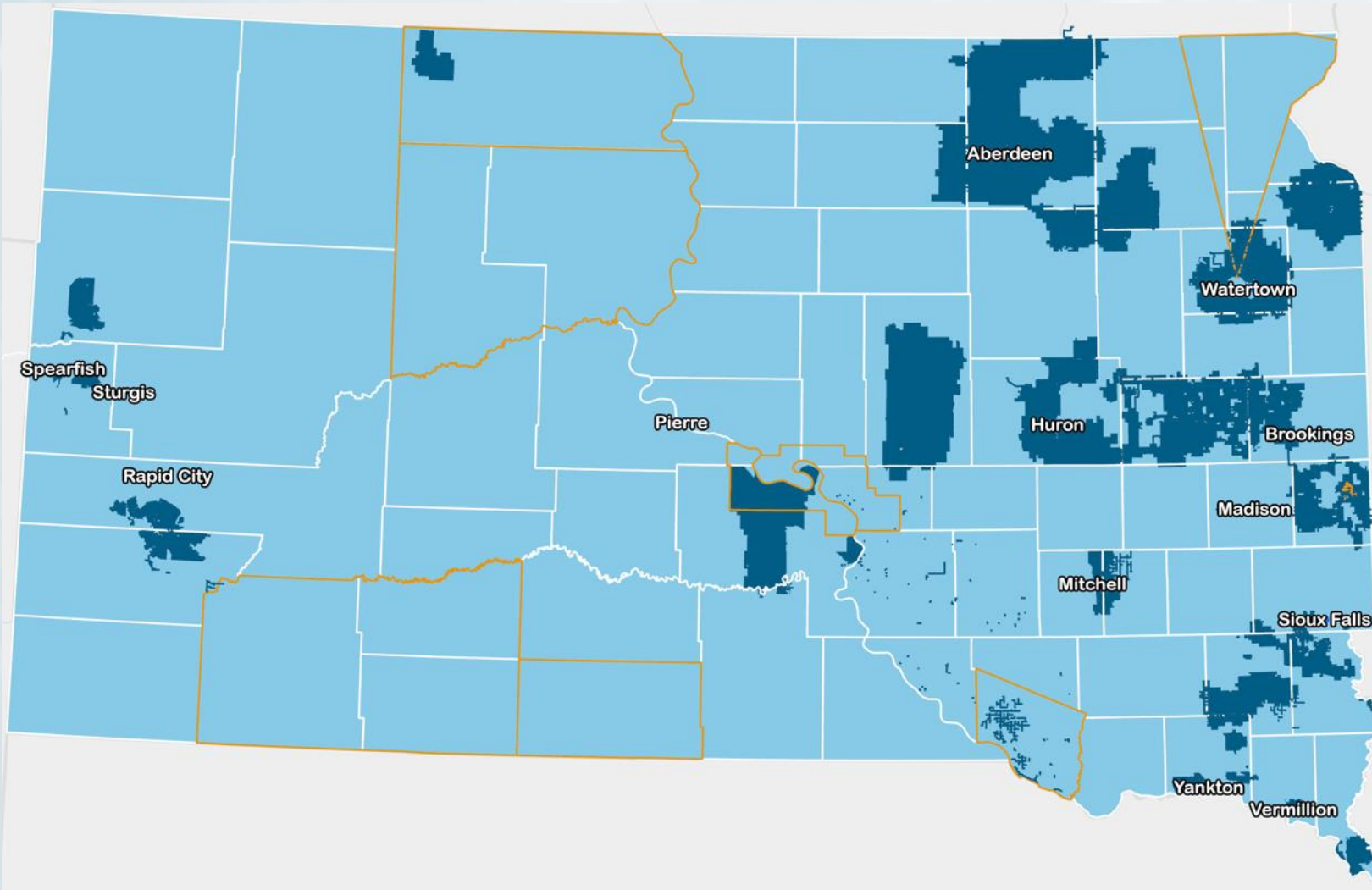
➔ **3,700 LOCATIONS CONNECTED**

- Awarded \$5M, 1,736 locations
  - 4 projects - 4 applicants
  - All spent in CY 2020
  - Projects complete
- Funding Source:
  - \$5M General Funds
  - Appropriated by legislature through Legislative Session 2020 HB 1189
- Awarded \$6.6M, 1,964 locations
  - 9 projects - 9 applicants
  - All spent in CY 2020
  - Projects complete
- Funding Source:
  - Governor allocated \$6.6M in Federal CARES Act funds



# 2021

- Received \$75M General Funds
- Appropriated by Legislature through Legislative Session 2021 - SB 34
  - \$200,000 set aside for administrative costs
- Awarded \$31.6M (March 2021)
  - 25 projects, 15 applicants, 7,047 locations
- Funding Source: CARES ACT Funds
  - All spent - Projects complete
- Awarded \$27.5M (June 2021)
  - 21 projects, 13 applicants, 6,144 locations
- Funding Source: General funds from 2021 SB 34
  - June 2022 sent amendments to awardees to optionally pay via SB 55(SLFRF/ARPA) funds
    - Amended 11 projects - 5 awardees
    - \$10M (\$9.7 actual) supplanted/switched from General Funds to SLFR/ARPA Federal Funds
    - \$18M of these June 21' awards remain being paid using the General Funds

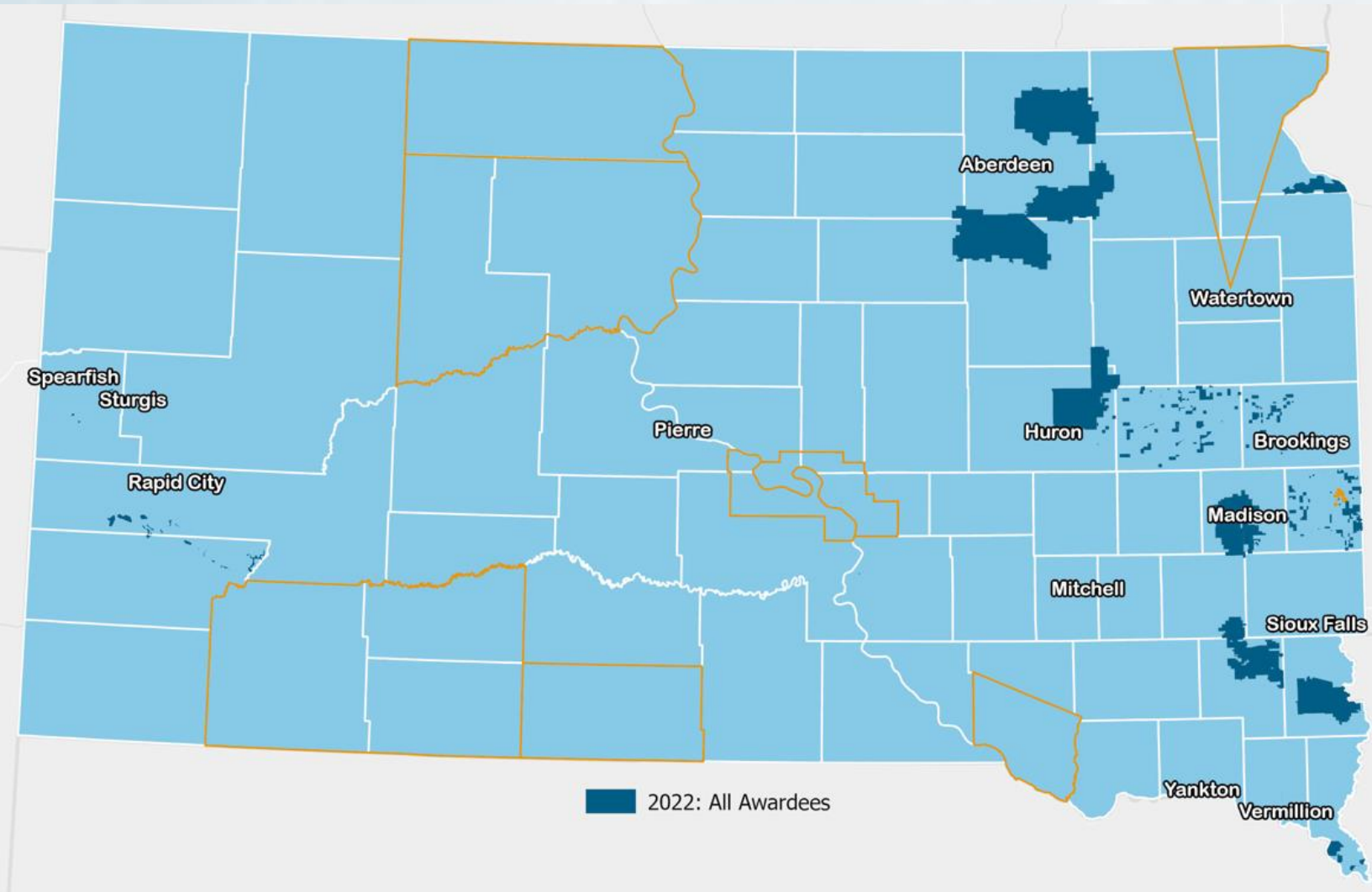


➔ **13,191 LOCATIONS CONNECTED**



# 2022

- Received \$50M in State Local Fiscal Recovery Funds (SLFRF/ARPA Federal Funds)
  - Appropriated by Legislature through Legislative Session 2022 - SB 55
- Awarded \$25.1M (March 22' awards)
  - 16 projects, 10 applicants, 4,467 locations
- Funding Source:
  - 2022: SB55 SLFRF/ARPA funds
- Awarded \$12.8M (July 22' awards)
  - 6 projects, 5 applicants, 1,209 locations
- Funding Source:
  - 2022: SB55 SLFRF/ARPA funds



➡ 5,676 LOCATIONS CONNECTED

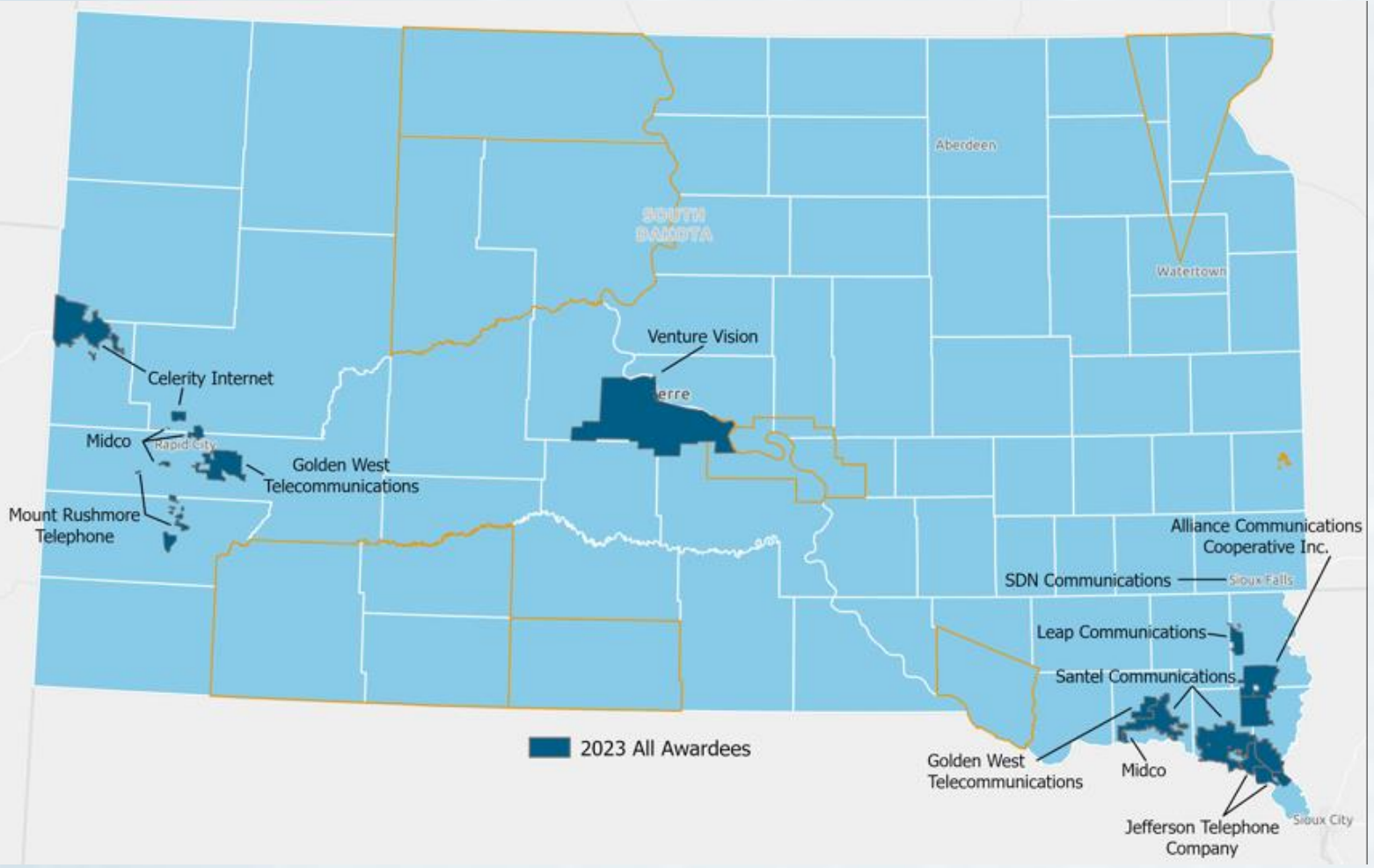




# TRIBAL FEDERAL BROADBAND FUNDING IN 2022

Date	Tribal Area	Project	Federal Program	Grant Amount	# Locations	Cost per location	Speeds	Technology
05/04/2022	Cheyenne River (CRSTTA)	Use & Adoption	NTIA Tribal Broadband Connectivity Program	\$ 2,367,685.00				
05/04/2022	Flandreau Santee Sioux Tribe	Use & Adoption	NTIA Tribal Broadband Connectivity Program	\$ 2,477,508.60				
05/04/2022	Sisseton Wahpeton Oyate of t	Use & Adoption	NTIA Tribal Broadband Connectivity Program	\$ 1,847,628.00				
08/23/2022	Oglala Sioux Tribe	Deployment	NTIA Tribal Broadband Connectivity Program	\$ 19,620,766.00	1,821	\$10,774.72	50Mbps/10Mbps	Fixed Wireless Fiber & Microwave backhaul
08/23/2022	Rosebud Sioux Tribe	Deployment	NTIA Tribal Broadband Connectivity Program	\$ 48,352,973.57	1,526	\$31,686.09	602 Mbps/102 Mbps	Fixed Wireless Fiber to Towers & Tribal Gov
10/06/2022	Standing Rock Telecom *Not sure how much in SD	Deployment	NTIA Tribal Broadband Connectivity Program	\$ 8,637,951.60	1,000	\$ 8,637.95	50 Mbps/10 Mbps	Fixed Wireless
10/27/2022	Cheyenne River (CRSTTA)	Deployment	USDA ReConnect - 3rd Round	\$ 16,957,883.00	280	\$60,563.87	1Gig/1Gig	Fiber to premises
11/17/2022	Lower Brule Sioux Tribe	Deployment	NTIA Tribal Broadband Connectivity Program	\$ 2,675,390.85	485	\$ 5,516.27	400Mbps/100Mbps	Wireless LTE
		<b>Total</b>		<b>\$ 102,937,786.62</b>	<b>5,112</b>	<b>\$20,136.50</b>		
			USDA Deployment Awards	\$ 16,957,883.00				
			NTIA Deployment Awards	\$ 79,287,082.02				
			Total:	\$ 96,244,965.02				
			NTIA Adoption and Usage (Digital Equity)	\$ 6,692,821.60				

# 2023



➔ **5,326 LOCATIONS CONNECTED**

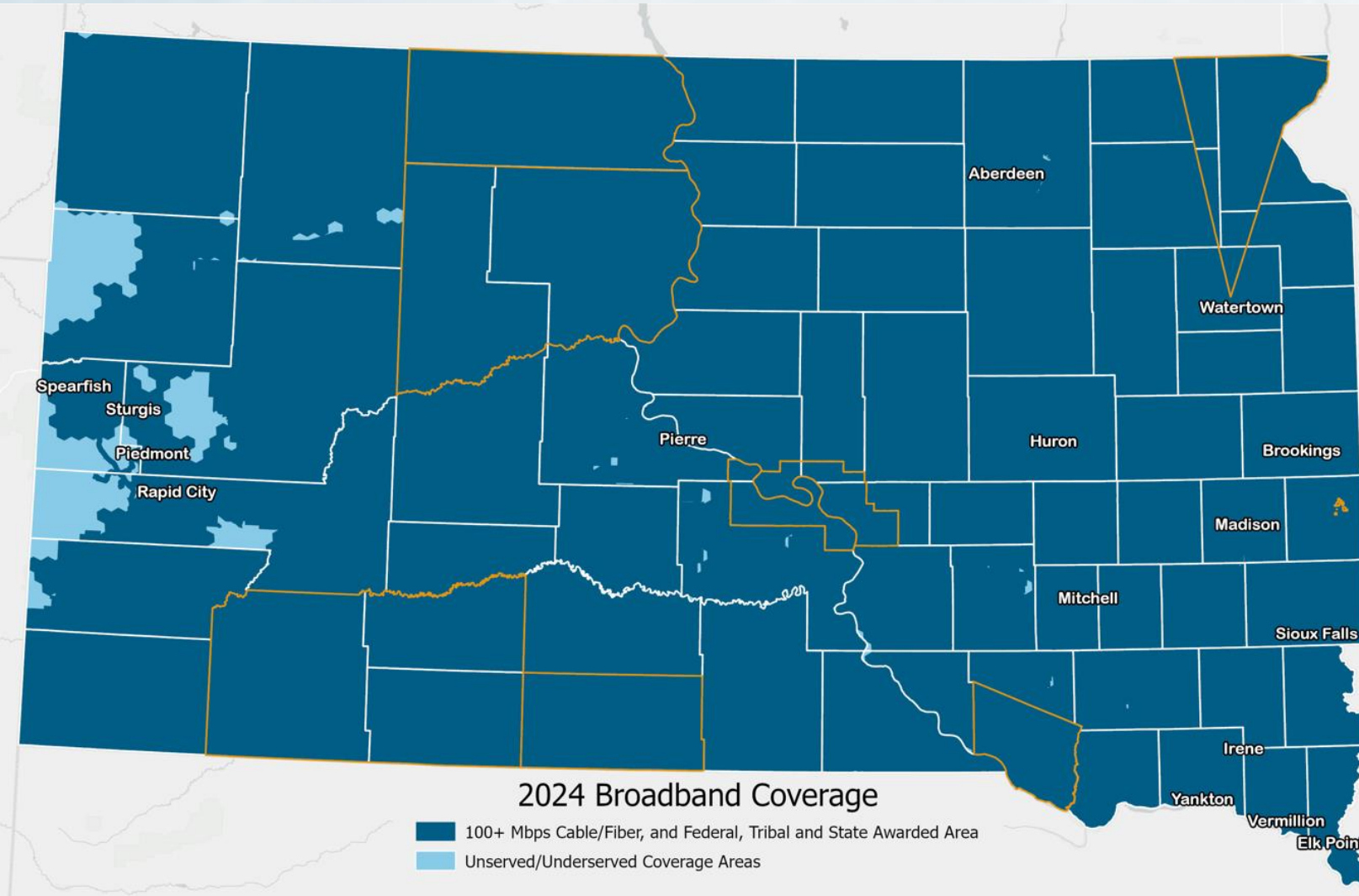
- Awarded \$32.5M (May 23' awards)
  - 13 projects, 9 applicants
  - 3,158 locations
  - 1,106 Miles of Fiber
  - 1,159 sq. miles of coverage
- Funding Source:
  - 2022: SB 55, \$50M SLFRF
    - 2 projects, 1 applicant, \$3.2M
  - 2021: SB 34, \$75M General funds
    - 11 projects, 8 applicants \$29.3M
- Awarded \$32.4M (Dec 23' awards)
  - 3 projects, 3 applicants
  - 2,168 locations
  - 803 Miles of Fiber
  - 502 sq. miles of coverage
- Funding Source:
  - 2021: SB 34, \$75M General funds





## WHERE WE ARE AFTER THE DEC 2023 AWARDS

- South Dakota Coverage in 2024
  - Compare: “Where we started in 2019”
- Cable/Fiber connected areas capable of minimum 100Mbps download
- These areas now (**or will**) have the potential of Gigabit speeds and faster.
- Includes all federal, tribal, state awards



# CONNECTSD FUNDING ON TRIBAL LANDS

- ConnectSD has funded 11 projects on 7 of our 9 tribal lands
  - *Red circles indicate location of projects*
  - *Nine (9) different companies awarded*

- Rosebud and Oglala are the only tribal lands without a project
  - *Rosebud: ConnectSD never had any applications*
  - *Oglala: The existing provider connected the locations with their own investment*





# BEAD & DIGITAL OPPORTUNITY PROGRAM OVERVIEW



## BROADBAND EQUITY, ACCESS, AND DEPLOYMENT (BEAD) PROGRAM

The Broadband Equity, Access, and Deployment (BEAD) Program provides \$42.45 billion from President Biden's Bipartisan Infrastructure Law to expand high-speed Internet access by funding planning, infrastructure deployment, and adoption programs across the country.

## DIGITAL EQUITY ACT PROGRAMS

The Digital Equity Act provides \$2.75 billion to establish **three grant programs** that promote digital equity and inclusion. They aim to ensure that all people and communities have the skills, technology, and capacity needed to reap the full benefits of our digital economy.

# South Dakota BEAD Program Framework

## Vision:

Through strategic investments, South Dakota will connect every rural and urban resident, agricultural and commercial business, and community anchor institution to high-speed broadband internet across all locations in the State, allowing every South Dakota citizen to fulfill their economic and social pursuits.

## Goals:

**1. Universal Access:** Provide every rural and urban resident, agricultural and commercial business, and community anchor institution with the means to access broadband by 2027.

**2. Economic Enhancement:** Support economic growth, job creation, and workforce development through expanded broadband access and adoption.

**3. Digital Citizenship:** Expand opportunity for South Dakotans to exercise competent civic engagement.

**4. Longevity:** Ensure broadband access continues beyond 2028.

## Objectives:

**1.1 Deployment:** Deploy broadband infrastructure throughout all regions of the State with the potential of minimum download speeds of at least 250 Mbps and upload speeds of at least 20 Mbps, with 500 Mbps symmetrical and beyond by 2027.

**1.2 Access:** Ensure every South Dakota citizen has reliable access to high-speed internet through personal devices or public access points.

**1.3 Affordability:** Provide affordable access to broadband that every South Dakota citizen needs for work, school, healthcare, and other aspects of daily life.

**1.4 Adoption:** Engage community stakeholders to determine roadblocks to broadband adoption in their respective communities and ways the State can address gaps or support the communities in overcoming these issues.

**1.5 Digital Equity:** Increase awareness around existing programs that address digital equity and initiatives established through the Digital Equity Act.

**2.1 Economic Development:** Encourage South Dakotans to realize economic benefits of expanded broadband access through associated increase in productive and innovation in areas such as education, healthcare services, and workforce development, among others.

**2.2 Job Creation:** Stimulate local job creation both for construction and development activities associated with the laying of broadband infrastructure, as well as creation of new jobs that require improved digital literacy and internet access.

**2.3 Workforce Development:** Coordinate with the Department of Labor and Regulation (DLR) to establish a long-term partnership to ensure the workforce has the required digital literacy to progress in its choice of career trajectory.

**3.1 Competent Use of Internet Education:** Build competent and responsible users of the internet through early and ongoing education, training, and other resources.

**3.2 Digital Government:** Provide access to government services online to improve the quality of life of every citizen and enhance the government's efficiency of service delivery.

**3.3 Public Safety:** Ensure public safety services have sufficient tools, training, and broadband access to effectively coordinate with one another and protect the general public.

**4.1 Broadband Deployment:** Create a strategy to establish fiber as the State's preferred type of broadband.

**4.2 Ongoing Digital Literacy:** Create resources to provide continued support to businesses and households to use broadband beyond 2028.

## BEAD Eligible locations per NTIA

RED dots: Unserved (Less than 25/3)  
YELLOW dots: Underserved (Less than 100/20)

# 2024 PLANS

- Continue finding the unserved locations
- Monitor ConnectSD projects
  - Close out of ConnectSD awards
  - 20 projects scheduled in 23'
- Continue "Internet for All" grant activities
  - Find all locations left to connect
  - Public Input/Challenge Process
  - May have a grant round if all grant activities are approved by NTIA/NIST
- Funding Source:
  - 2022/23: BEAD Internet for All grant
  - \$207M (For awards/planning/etc.)

**NOTE:** Per BEAD grant we must have a plan and account for all the dots on this map.



## Broadband Funding Summaries

### Federal Communications Commission

Connect America Fund Phase II

Enhanced Alternative Connect America Cost Model

Rural Digital Opportunity NTIA

Broadband Infrastructure Program

Tribal Broadband Connectivity Program NOFO 1

Rural Utilities Service

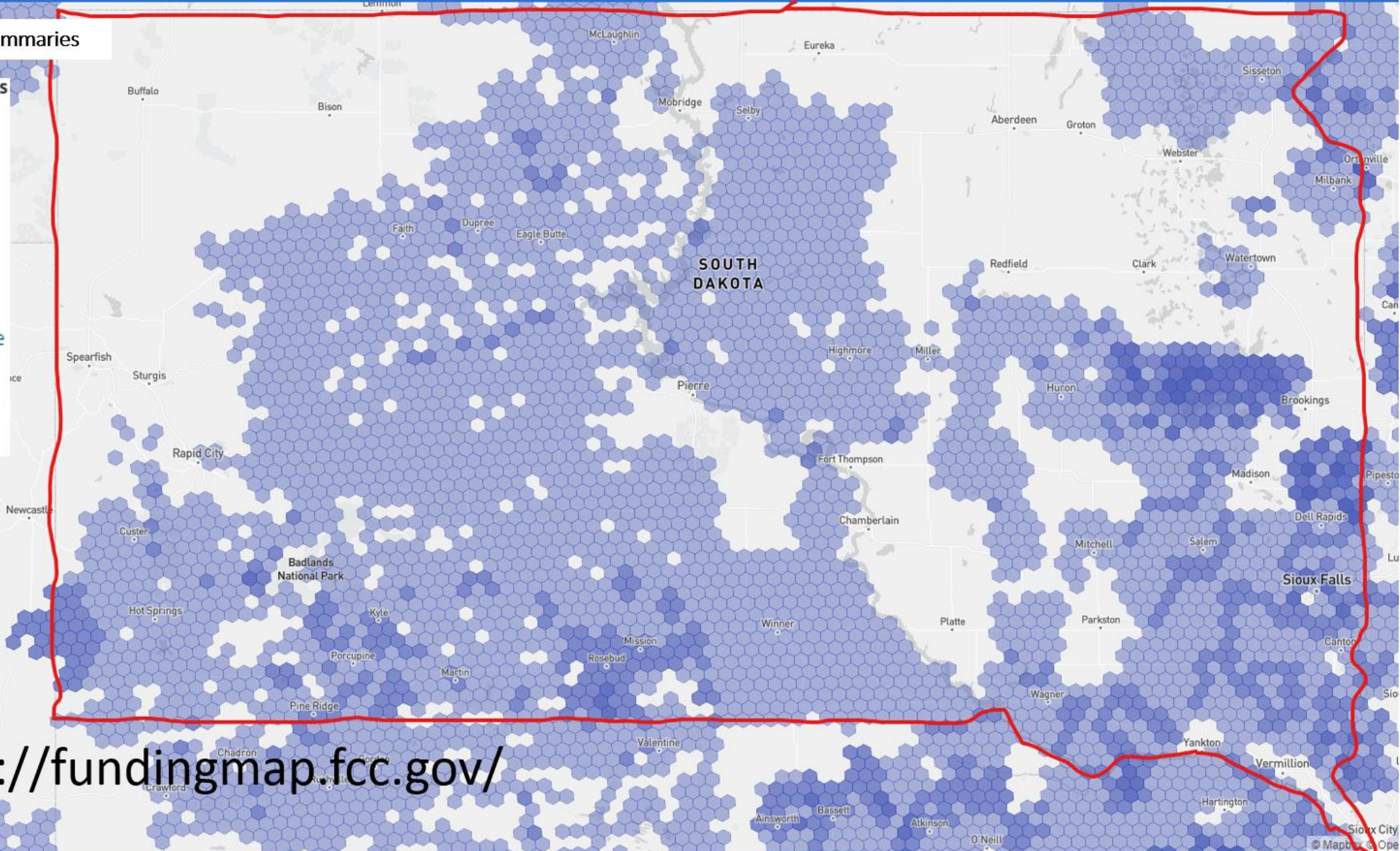
COMMUNITY CONNECT GRANT PROGRAM

RURAL ECONNECTIVITY PROGRAM

TELEPHONE LOAN PROGRAM

US Department of Treasury

Capital Projects Fund



• <https://fundingmap.fcc.gov/>

# BEAD Eligible locations per NTIA

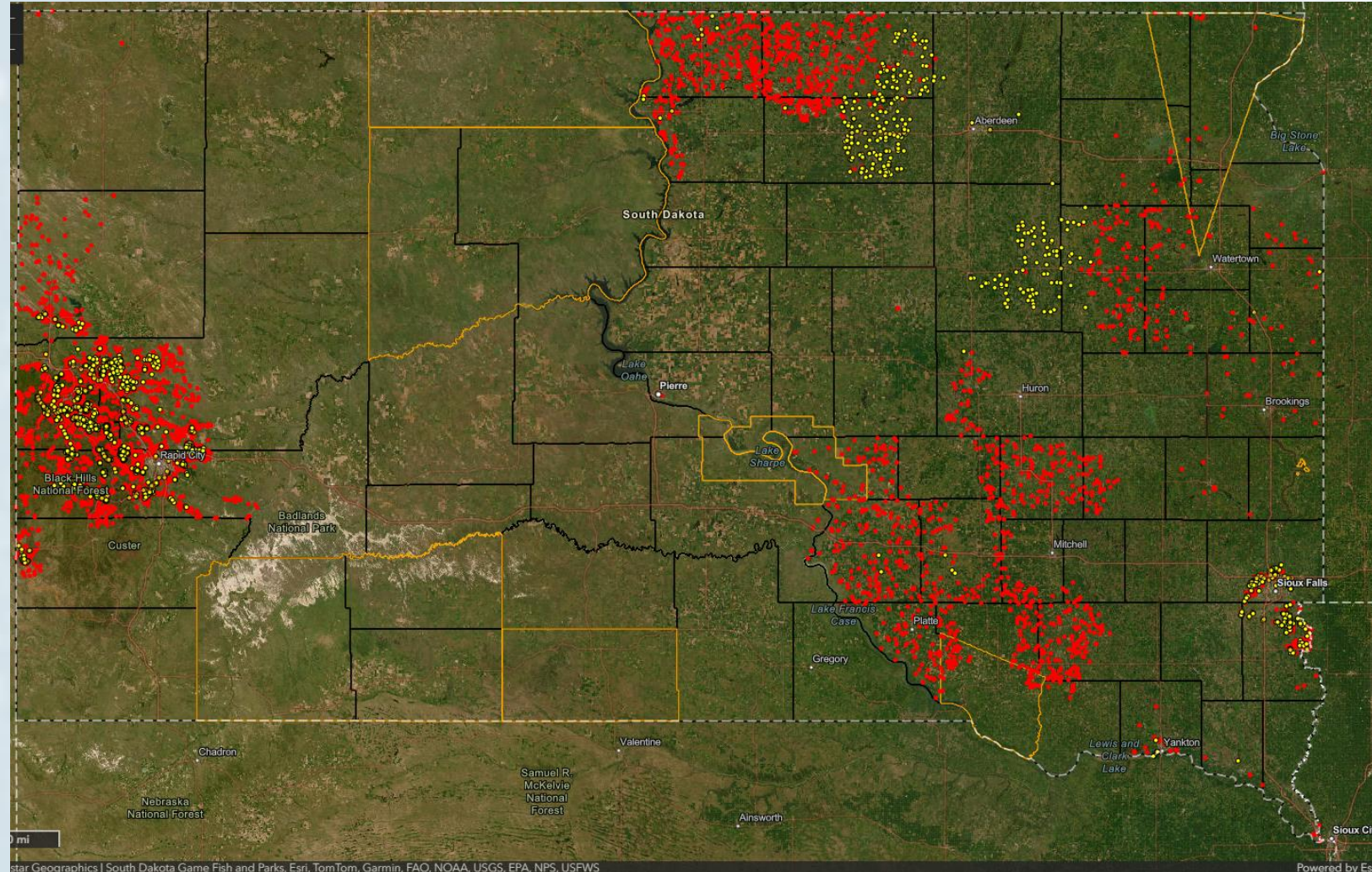
## 2024 BEAD PLANS

**NOTE:** Per BEAD NOFO grant we can not overbuild other federal programs.

**This map is generated with all known state and federal awards removed:**

- USDA Reconnect awards
- NTIA Tribal Broadband Connectivity
- ConnectSD awards
- FCC RDOF/E-ACAM

*Much deduplication will have to happen location by location.*



RED dots: Unserved (Less than 25/3)  
YELLOW dots: Underserved (Less than 100/20)





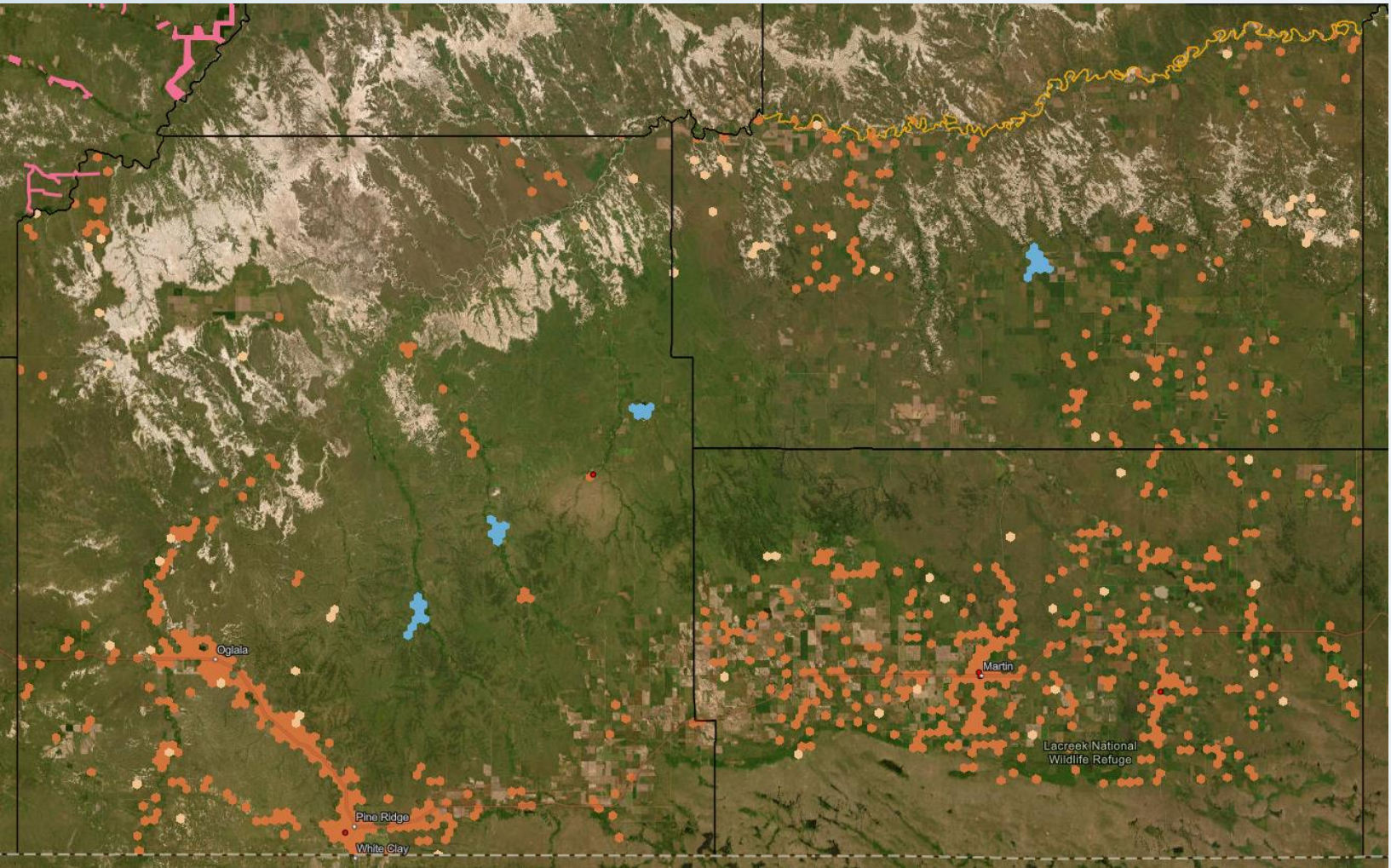


# Oglala

- NTIA Eligible Entity Planning Toolkit Data:
  - Total Broadband Serviceable Location (BSL): **5,058**
  - Served with Fiber or Cable Modem: **4,025**
  - Unserved locations (Less than 25/3): **828**
  - Underserved locations (Less than 100/20): **205**
  - Total BEAD Eligible (before deduplication): **1,033**



Providers	Website	Exchange Territory
Golden West Telecommunication Cooperative	<a href="http://www.goldenwest.com">www.goldenwest.com</a>	Pine Ridge, Oelrichs, Buffalo Gap, Kyle, Interior, Long Valley, Belvidere, Martin
Fort Randall Telephone Company	<a href="http://www.fortrandall.hcinet.net">www.fortrandall.hcinet.net</a>	Hermosa
Great Plains Communication (NE)	<a href="http://www.gpcom.com">www.gpcom.com</a>	Cody, Merriman, Gordon



Blue area: Cable Modem  
Orange: Fiber

# FIBER AND CABLE MODEM TODAY

SERVED WITH FIBER  
OR  
CABLE MODEM

4,025

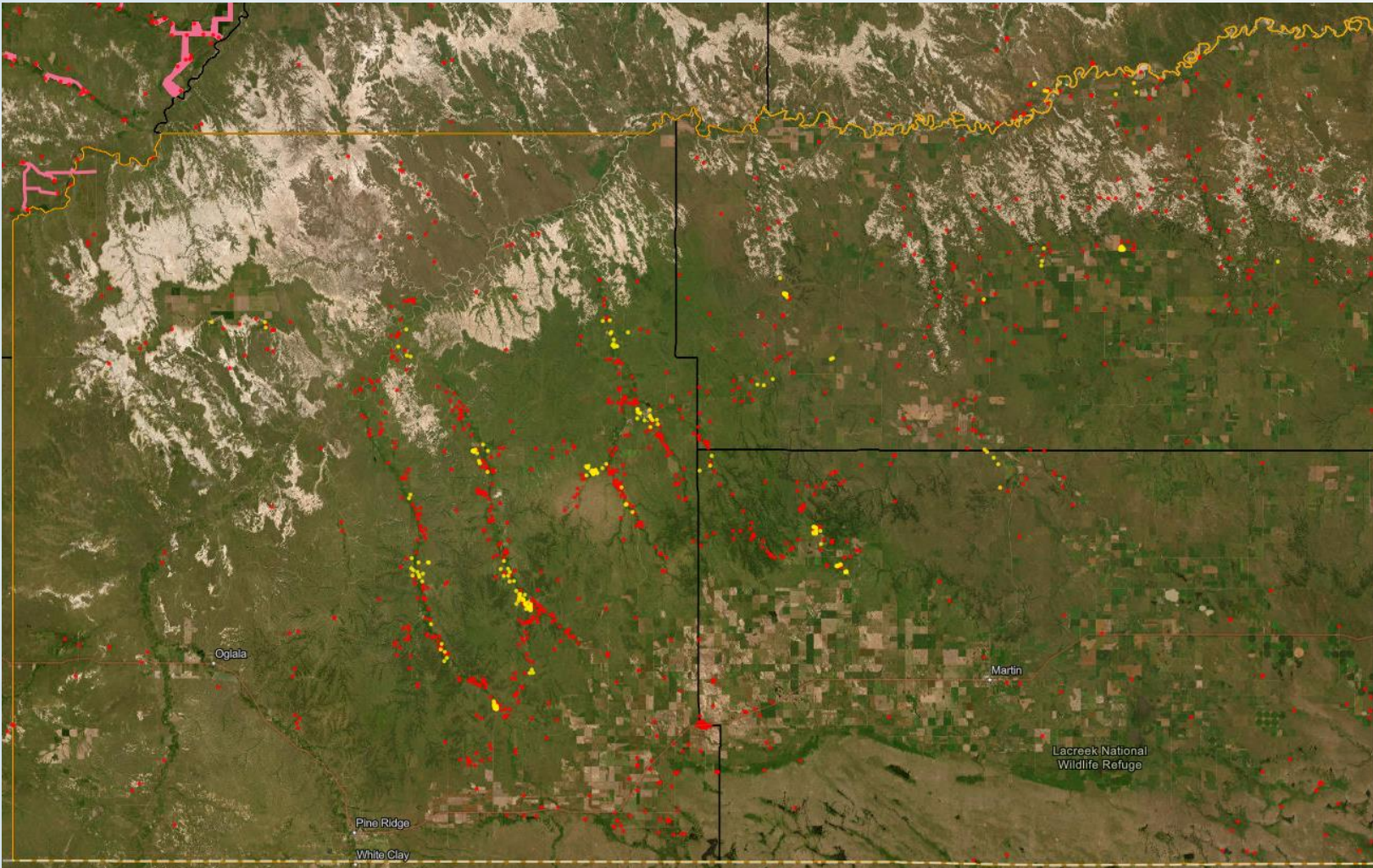


# BEAD ELIGIBLE LOCATIONS

Unserved locations  
(Less than 25/3):  
828

Underserved locations  
(Less than 100/20):  
205

**1,033 locations total**



Red: 828 Unserved Locations  
Yellow: 205 Underserved Locations





# Known Federal Broadband Funding to Oglala Sioux Tribe

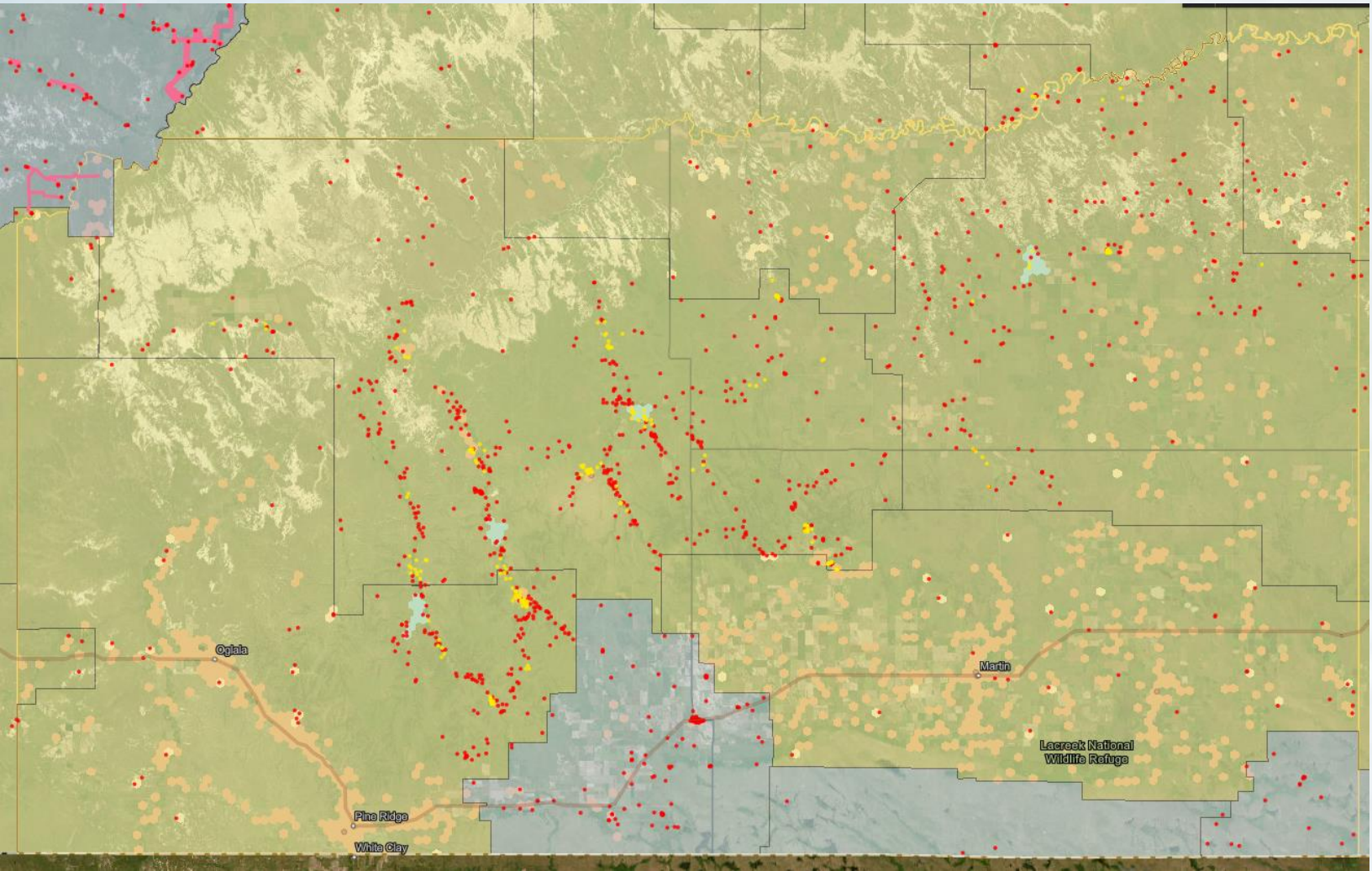
(Please confirm if inaccurate or of other funding)

Program	Information	Amount
2021? ARPA Allocation from Council FY2023  <a href="https://www.lakotatimes.com/">https://www.lakotatimes.com/</a>	OST Broadband Connectivity Project  Up to \$700 for Starlink Satellite Kits	\$6.4 Million  \$350,000
8/23/2022 NTIA Tribal Broadband Connectivity Program  <a href="https://www.internetforall.gov/funding-recipients/ogla-sioux-tribe">https://www.internetforall.gov/funding-recipients/ogla-sioux-tribe</a>	1,821 Locations	\$19,620,766.00
FY2023 USDA ReConnect (Under Review)  <a href="https://ruraldevelopment.maps.arcgis.com/apps/webappviewer/index.html?id=e2d4c909e06c46d3aa9577bea695a2b9">https://ruraldevelopment.maps.arcgis.com/apps/webappviewer/index.html?id=e2d4c909e06c46d3aa9577bea695a2b9</a>	485 Locations	\$34,999,264
9/29/2023 FCC: Model-based Enhanced A-CAM support • Golden West Telecommunications Cooperative • Fort Randall Telephone Company • Great Plains Communication (NE)	Obligated/committed to deploy 100/20 Mbps or faster broadband service to all required locations & currently served locations	Directly Funded Exact amount for tribal area is unknown

# ILEC PROVIDERS

Providers	Website	Exchange Territory
Golden West Telecommunication Cooperative	<a href="http://www.goldenwest.com">www.goldenwest.com</a>	Pine Ridge, Oelrichs, Buffalo Gap, Kyle, Interior, Long Valley, Belvidere, Martin
Fort Randall Telephone Company	<a href="http://www.fortrandall.hcinet.net">www.fortrandall.hcinet.net</a>	Hermosa
Great Plains Communication (NE)	<a href="http://www.gpcom.com">www.gpcom.com</a>	Cody, Merriman, Gordon





# FCC E-ACAM

## ENHANCED ALTERNATIVE CONNECT AMERICA COST MODEL (A-CAM)

All BEAD eligible locations within the FCC E-ACAM program area are “Federally enforceable commitments”



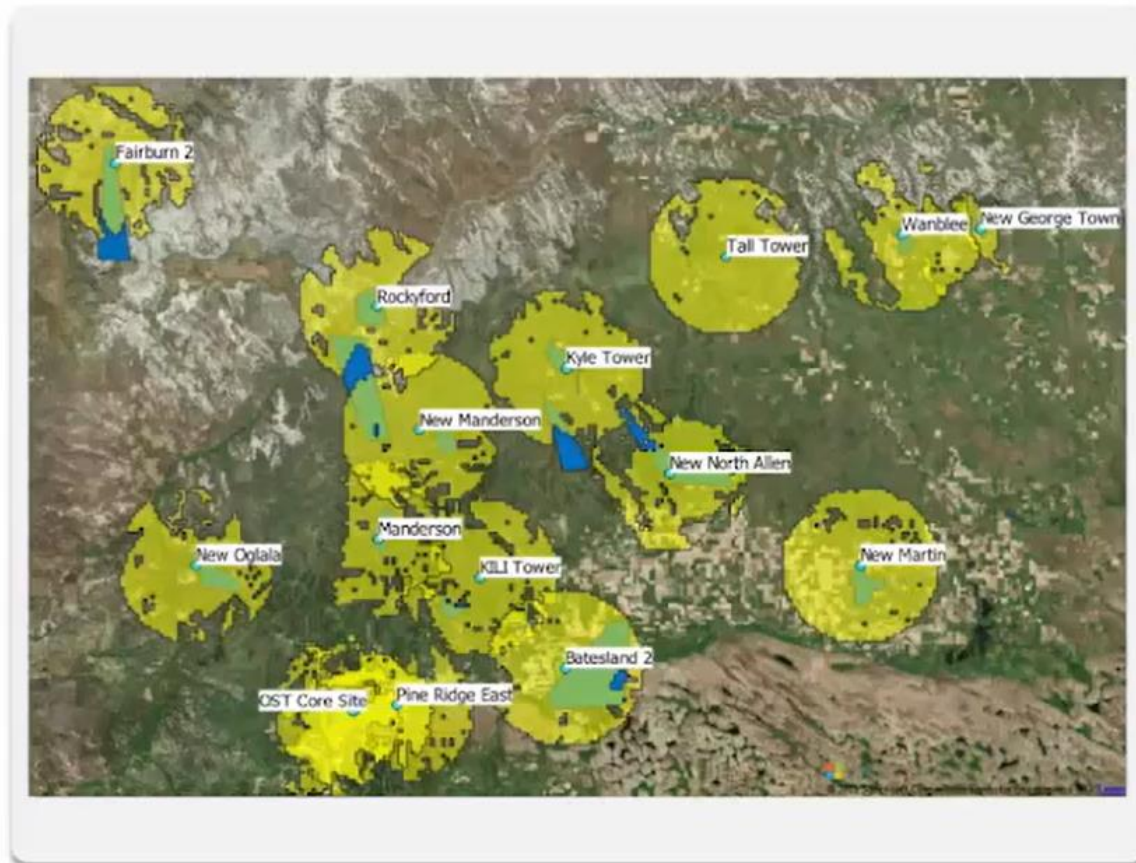
## Outline

- NTIA Tribal Broadband Connectivity Program
  - Fiber and Wireless
  - 25/3 Mbps and 50/10 Mbps across the Reservation
  - Budget and Timeline
- USDA ReConnect from March 2022
  - Fiber
  - 100/100 Mbps (broadband through 2026+) on parts of the Reservation
  - Future-proofing and network goals



## NTIA Network Design: Radio Access Network (RAN) Coverage

The RAN design provides coverage to 3125 households, approximately 99.9% of unserved households and households below 150% of the poverty line.



### RAN Coverage

 **3,125**  
Covered Homes

 **13 sites**  
w/ 4 Sectors

**2 sites**  
w/ 8 Sectors

 **7 sites**  
Existing Tower

**8 sites**  
New Towers

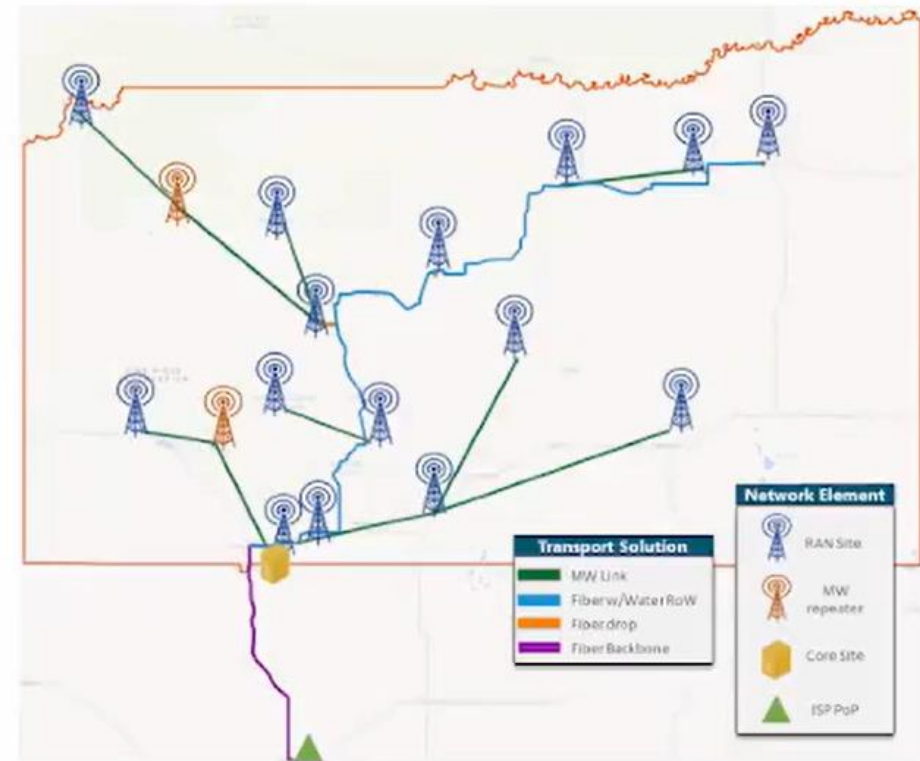
*\*Source data includes OST 2020 data book, and MS building database*





## NTIA Design: RAN Coverage

RAN Sites At-a-glance			
	Site Name	RAN Config	Type of Tower
1	OST Core Site	RAN 2	New Tower
2	Pine Ridge East	RAN 1	Existing
3	New Manderson		New Tower
4	Kyle Tower		Existing
5	Tall Tower		Existing
6	New George Town		New Tower
7	Batesland 2		Existing
8	New Martin		RAN 2
9	Fairburn 2	RAN 1	Existing
10	New North Allen		New Tower
11	New Oglala		New Tower
12	KILI Tower		Existing
13	Manderson		Existing
14	Rockyford		New Tower
15	Wanblee	New Tower	New Tower



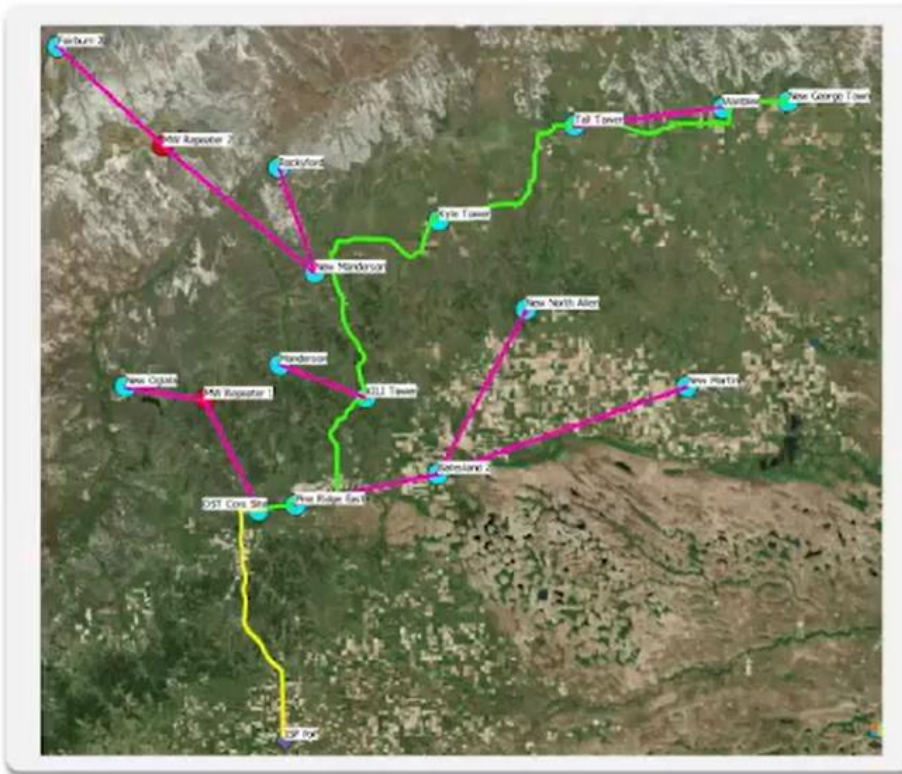
**RAN 1** 4-sector DC EBS w/ 90° sector antenna




**RAN 2** 8-sector DC EBS w/ 90° sector antenna



## NTIA Network Design: Backhaul & Backbone

The fiber backhaul network design provides connectivity to the RAN sites through fiber on existing RoW and microwave installation.

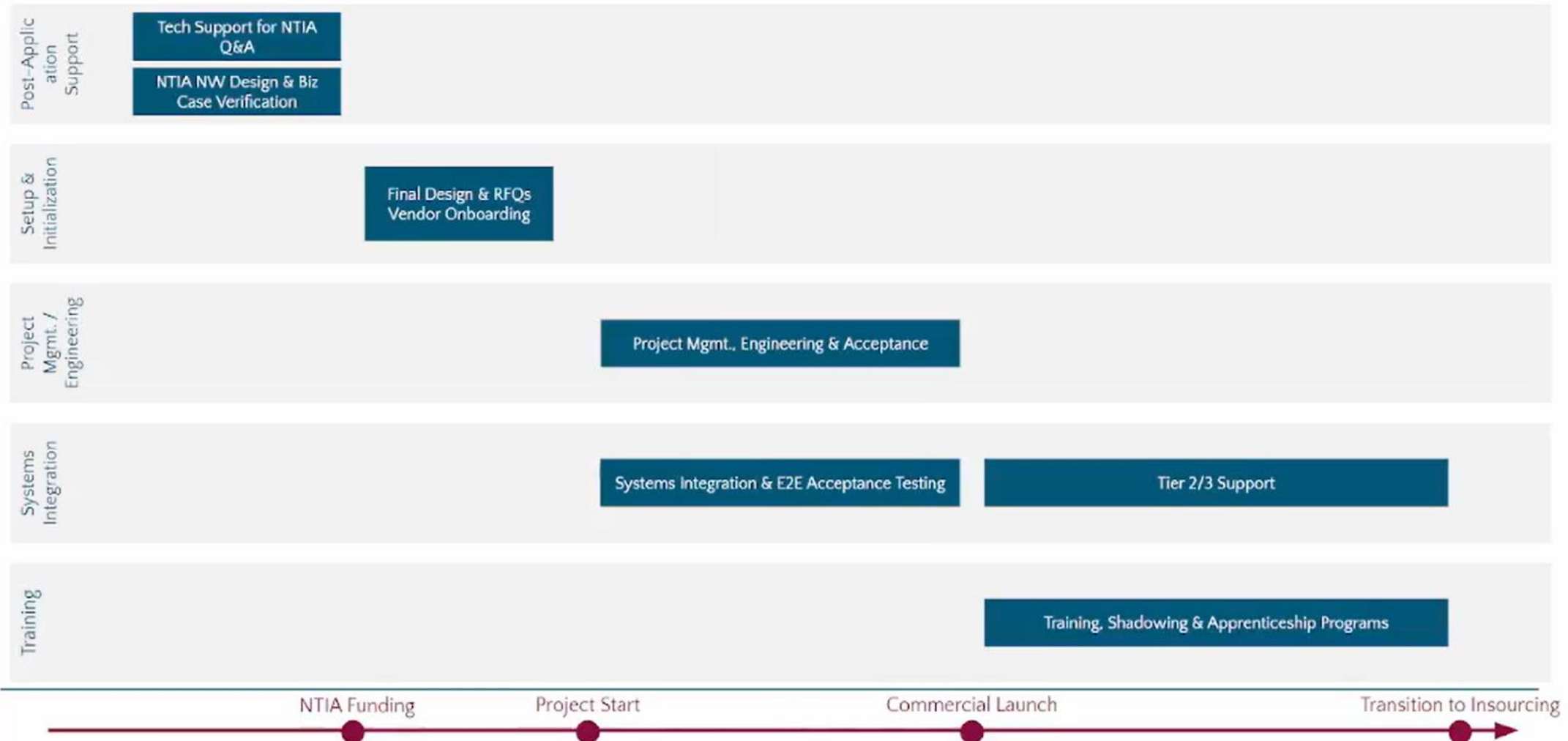


Backhaul Configurations		
 MW	Sites with Microwave (MW) Solution <b>8 Links</b>	Total MW Repeaters <b>2 Sites</b>
 FO	Sites with Fiber Optic (FO) Solution <b>7 Sites</b>	Total FO <b>93 miles</b>
 BB	FO Backbone (BB) Connectivity <b>Core Site to ISP PoP</b>	Total FO <b>25.5 miles</b>





## NTIA TBCP Funded Network Implementation Services and Timeline: Target 76 weeks



## NTIA TBCP: Budget Summary

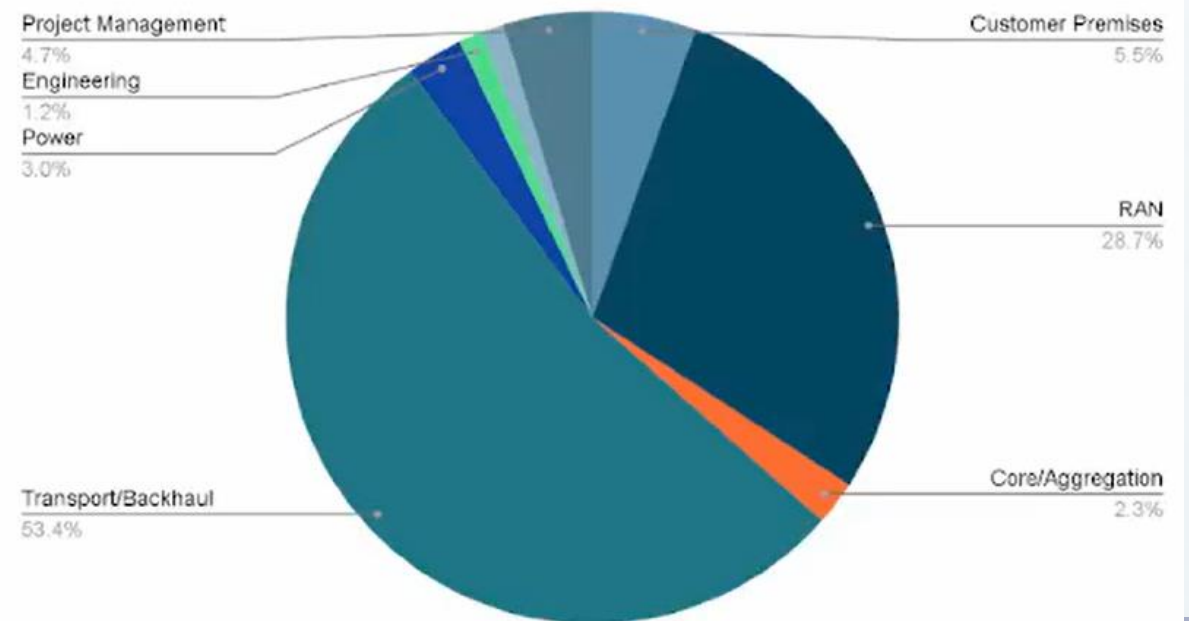
The total OST budget request is \$19.6 Million, aligned in accordance with eligible cost categories from NTIA NOFO.

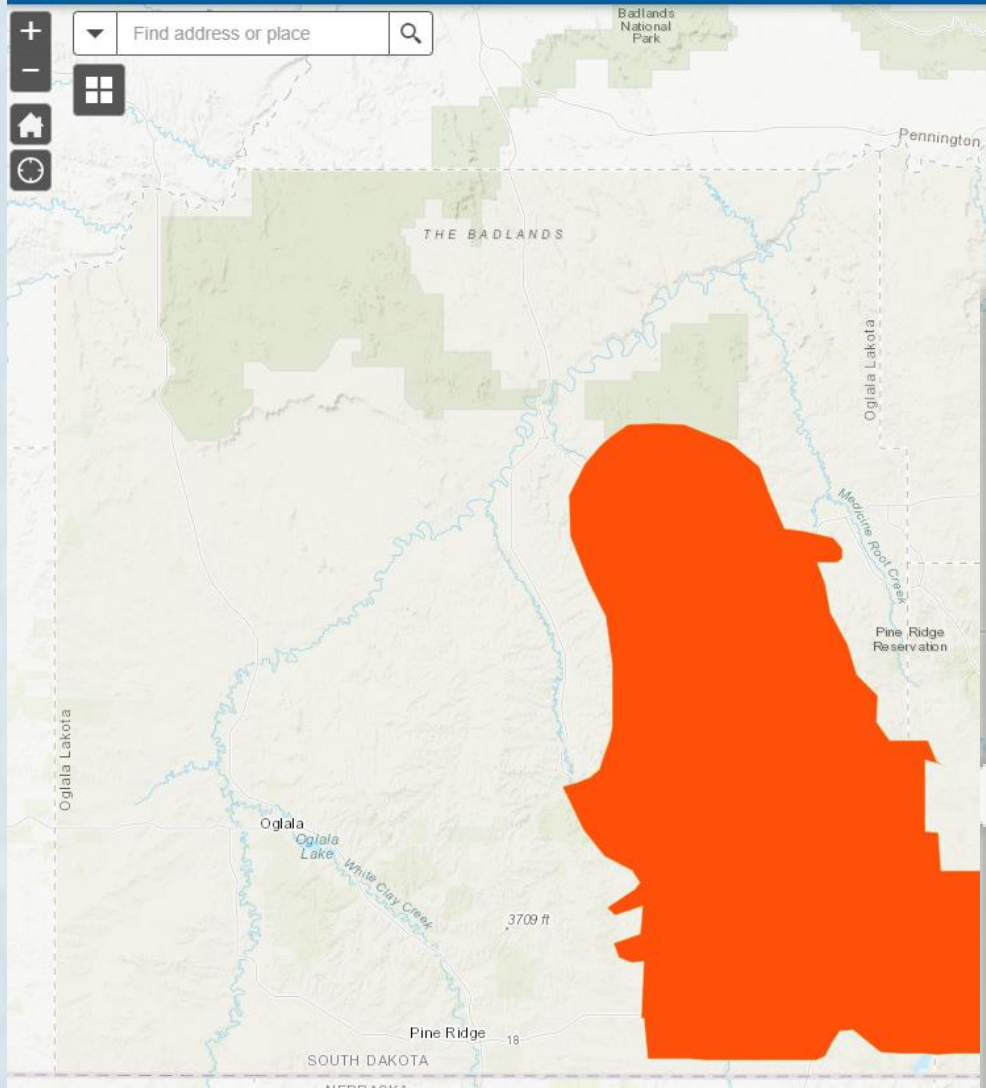
Eligible Cost Categories	Assigned Budget (USD)
Facilities & Telecommunications Equipment	\$ 16,740,773
Permitting & Environmental, historical, and cultural reviews	\$178,678
Long-term Leases	\$ 720,000
Workforce Training	\$ 150,621
Administrative, Legal, Grant Prep	\$ 339,012
Contingencies	\$ 1,491,682
<b>Total</b>	<b>\$ 19,620,766</b>

CAPEX represents 82% of the total NTIA Grant

CAPEX per Covered Home is \$5,120

### Facilities & Telecommunications Equipment Breakdown





**100% Grant Approved**

Project Details

**Applicant Name:** Oglala Sioux Tribe  
**Program Type:** ReConnect - FY2023  
**Funding Type:** 100% Grant for Alaska Native Corporations, Tribal Governments, Colonias, Persistent Poverty Areas and Socially Vulnerable Communities  
**Grant Amount Requested:** \$34,999,264  
**Loan Amount Requested:** \$0  
**Other Funds:** \$0  
**Matching Funds:** \$0  
**Total Project Cost:** \$34,999,264  
**Completion Status:** Under Review  
**Households w/out Sufficient Access to Broadband:** 816  
**Households:** 816  
**Population:** 3,322  
**Square Miles:** 533.19  
**Congressional Districts:** SD-00

[Zoom to](#)



**Square Miles:** 533.19  
**Congressional Districts:** SD-00

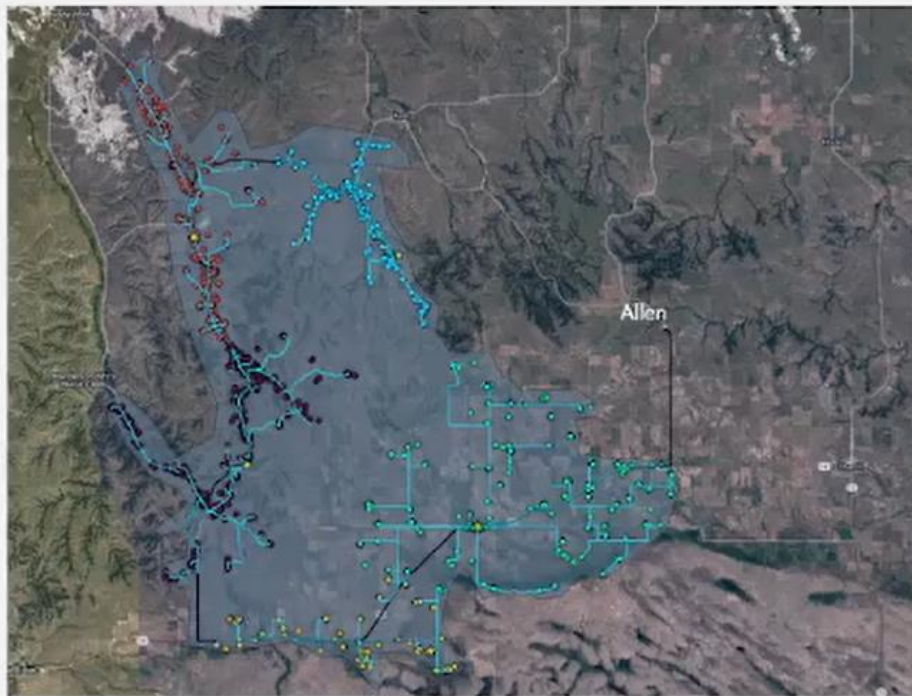
**Description of Project:** The Oglala Sioux Tribe (OST), a federally recognized Indian Tribe located on the Pine Ridge Indian Reservation in South Dakota, proposes to build an FTTH network to provide 100 Mbps symmetrical broadband service to 846 households, 13 businesses, and 9 institutions, 100% of which lack sufficient access to broadband. The project consists of the construction of middle-mile, distribution and drop fiber for a total of 338 route miles, and the deployment of the associated equipment and systems.

[Zoom to](#)



## USDA ReConnect: Reliable and Future-Proof Fiber to the Home and Groundwork

- Budget cap of \$35 Million as Priority areas are inside of FAR level 4 areas.
- Mid-mile connection to Allen
- FTTH Clusters are added until budget cap is reached starting at Batesland



ISP Connection in Allen



Budget: - \$ 34,500,000  
Cost per passed home: \$43,505

### Passed Households/Homes



Total: 762 homes, 13 businesses, 9 anchor institutions

### Fiber Route



FTTH: 299 miles

Backbone/Middle-mile : 83 miles



# BROADBAND EQUITY, ACCESS, AND DEPLOYMENT (BEAD) PROGRAM




ConnectSD Broadband Program  
100% Connected  
Quick Funding Overview



## FINAL NOTES

- NTIA Grant
  - We can/must only do the allowable activities
- The BEAD Application process will be difficult, very time consuming, and costly to applicants
- We will have a lot of compliance, reporting, and auditing along the way
- We will only have Deployment Funding in the BEAD program
  - Too many costly locations left
- Digital Opportunity funding will be known later in 2024





# CONNECT SOUTH DAKOTA

THANK YOU

[MIKE.WALDNER@STATE.SD.US](mailto:MIKE.WALDNER@STATE.SD.US)



# Cost Estimates for FTTP Network Construction

Prepared for the  
Oglala Sioux Tribe  
February 2024



 **OptiExpress™**

 **MuralNet**

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# Executive Summary

This report documents a high-level cost estimate for the Oglala Sioux Tribe of three transit fiber routes throughout the Western part of the Pine Ridge Indian Reservation and the deployment of a gigabit fiber-to-the-premises (FTTP) network to all broadband serviceable locations (BSLs) within one mile of the transit fiber.

## 1 Project Background

Data was collected from the Tribe, CostQuest, and federal agencies to identify the BSLs and assess service and funding sources. Based on these inputs and other guidance from the Tribe, we developed a conceptual, high-level FTTP network transit fiber routes and included BSLs within a mile of a transit fiber route. The FTTP network deployment costs over \$43 million for all BSLs and over \$11 million for all unserved and underserved BSLs, including anticipated construction labor, network electronics, materials, engineering, drop installation, customer premises equipment (CPE), and pole attachment licensing. This quote does not include outside plant (OSP) electronics, permitting, and testing.

# 1.1 Transit Fiber

At the Tribe's request, we prepared a high-level cost estimate for deploying a gigabit FTTP network. The cost estimate provides data relevant to assessing the funds necessary to bring all unserved and underserved BSLs within a mile of the three routes described below.

Route	Distance
1. Pine Ridge to Red Shirt	56 miles
2. Buffalo Gap Junction to Sharps Corner	26 miles
3. Loneman to Prairie Wind Casino	12 miles
Total	94 miles

Table 1: Proposed fiber routes and lengths

For this preliminary study, we estimated approximately 99% of transit fiber to be trenched, with the remainder of the route consisting of bored fiber. Much of the fiber can be plowed at a cheaper cost and we recommend a site survey to estimate how much of the route can be plowed versus trenched. For the sake of this study, the more expensive option is chosen.



Figure 1: Proposed fiber routes

## 1.2 BSLs Within 1 Mile of the Project Area

We identified 1,737 BSLs within 1 mile of the project area, most of which are in Pine Ridge. Interestingly, 314 of these BSLs exist in the Fabric data but have no corresponding location ID within the FCC availability data's January 25, 2024 release. These can be found where entries in the spreadsheet for maxdown are blank. Many of these BSLs, according to the FCC availability data, have 100 Mbps or higher speeds, leaving only 374 classified as unserved or underserved, including the missing location IDs.

The list of BSLs is listed on the shared spreadsheet ProjectBSLs.xlsx, and the Google Earth-compatible map is in the shared file Study.kmz.

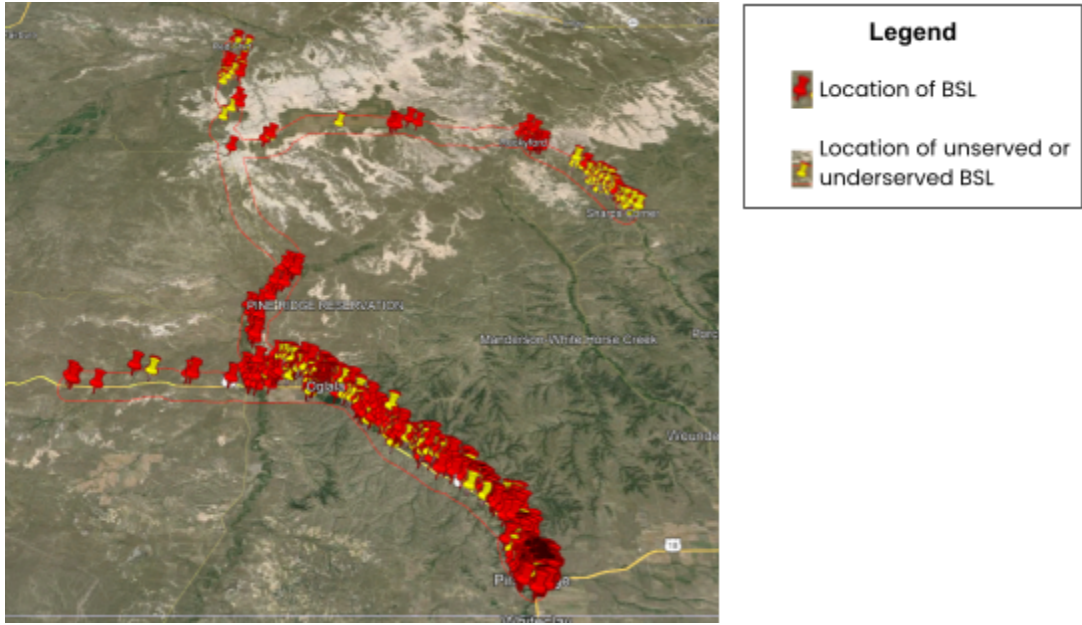


Figure 2: Map of BSLs

## 2. Project Costs

Our pricing estimates were based on similar projects historically in the area. The mileage numbers include the actual routes and extension spurs to provide passings to the BSLs in that model. The mileage estimates are pulled from the USGS road database, assuming all routes follow roadways.

Detailed spreadsheets that contain our cost modeling for a fiber-to-the-home project are available. We calculated costs on the following basis:

1. ALL BSL represents the cost if all BSLs in the study area were provided FTTH.
2. UNSERVED BSL represents the cost if only un/underserved BSLs in the study area were provided FTTH.

Below are the assumed costs based on pricing available at the time of this report. Overhead was estimated to be 20% of the total cost.

Item	Cost	Fiber Installation Type	Cost per Mile
Drop	\$1,200	Trenched/mile	\$115,000
Cabinet	\$60,000	Bored/mile	\$155,000
Board	\$3,000	Plowed/mile	\$44,000

Table 2: Costs Assumptions

### 2.1 All BSLs Connected

If all identified BSLs within a mile of the transit fiber are to be connected to the FTTH network, there would be 358 miles of fiber and 1737 locations connected. This leads to the following line item costs for \$43,374,180.

Fiber cost	\$41,313,200
Drops	\$2,084,400
Boards	\$522,000
Cabinets	\$360,000
Total	\$53,274,000

Table 3: Line item costs for all BSLs Connected

### 2.2 Unserved and Underserved BSLs Connected

If all identified BSLs within a mile of the transit fiber are to be connected to the FTTH network, there would be 94 miles of fiber and 376 locations connected. This leads to the following line item costs for \$11,273,355.

Fiber cost	\$10,797,978
Drops	\$451,200
Boards	\$114,000
Cabinets	\$120,000
Total	\$13,918,294

Table 4: Line item costs for all BSLs connected

## 2.3 Other Costs

The Tribe will also need a network operations center that acts as the main distribution frame and includes necessary office space. Depending on the square footage and design, this building can be expected to cost several millions of dollars. For this study's sake, electronics costs are estimated based on fiber networks of similar design and size. Assumptions are that there is an existing data center capable of being a network operations center (NOC) that meets the needs of the Tribe.

Item	Cost per Unit	Unit	# Units All BSLs	# Units Unserved BSLs
Core Network Equipment	\$3,000,000	Core Network	1	1
Gateway Manager per year	\$12,000	Years	5	5
Last Mile Network Equipment	\$450	Per residence	1737	376
Last Mile Network Costs	\$1,300	Per business	0	0
Last Mile Network Equipment	\$3,000	Per anchor institution	0	0

Table 5: Costs Assumptions for Electronics

Total electronics costs fluctuate based on the number and types of BSLs. Calculations are made based on all BSLs within a mile of transit fiber (1737 residences) and all identified unserved BSLs within 1 mile (376 residences).

Item	All BSLs	Unserved BSLs
Core Network Equipment, including OSP	\$3,000,000	\$3,000,000
Gateway Manager per year	\$60,000	\$60,000
Last Mile Equipment per Residence	\$781,650	\$169,200
Last Mile Equipment per Business	\$0	\$0
Last Mile Equipment per Anchor Institution	\$0	\$0
<b>Total</b>	<b>\$3,841,650</b>	<b>\$3,229,200</b>

Table 6: Estimated costs of electronics based on BSLs

Permitting, leases, legal assistance, and testing are significant costs beyond this study's scope. Detailed network design and high-level FTTP architecture are also beyond this study's scope.

### 3. Conclusion

Total Estimated costs are calculated below.

Item	All BSLs	Unserved BSLs
Fiber Installation Costs, Including Overhead	\$53,274,000	\$13,918,294
Electronics Costs	\$3,841,650	\$3,229,200
Total	\$57,115,650	\$17,147,494

Table 7: Estimated costs of Fiber Network: materials, fiber installation, electronics

Ground truthing should be done to verify service and affordability at each BSL. We believe more BSLs will need to be connected to meet the Tribe’s standards than what was identified as unserved and underserved. Also, to make the fiber fully functional to the Tribe’s standards, more infrastructure, such as the network operations center, is necessary. It is safe to say that the cost of the FTTH network will exceed \$11 million if only connecting unserved and underserved BSLs and \$43 million if connecting all identified BSLs.





ConnectSD  
Broadband Equity, Access, and Deployment (BEAD)

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Last Revision Date: 3/5/24

## Requirements of Note from the BEAD NOFO

Link to NOFO: <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>

This document lists some key elements of the Subgrantee Selection Requirements taken from the BEAD NOFO. You can also find these requirements in our Initial Proposal Volume 2. This is not a complete list of what will be required of applicants, rather it is meant to highlight requirements that many potential subgrantee applicants are finding to be the most challenging.

Application process requires potential subgrantees submit and/or certify the following items:

- **25% Match and Letter of Credit (p 72-73 NOFO)**
  - 25% Match is required from ISPs as well as a Letter of Credit from a bank or credit union to prove that those funds are available for implementation and deployment. While South Dakota has requested waivers and alternatives to these requirements specific to our state, NTIA has thus far only directed us to the existing programmatic waivers or new guidance coming out on a national level.
- **Audited financial statements (p. 73 NOFO)**
  - “Each prospective subgrantee shall submit to the Eligible Entity from which it seeks funding financial statements from the prior fiscal year that are audited by an independent certified public accountant.”
  - Business plans and related analyses, including cash flow and balance sheet projects, and including at least three years of operating costs and cash flow projections post targeted completion of the project.
- **Managerial Qualifications (p. 73-74 NOFO)**
  - Resumes of key management personnel
  - Organizational charts detailing all parents, subsidiaries and affiliates.
- **Technical Qualifications (p. 74 NOFO)**
  - A certification that the prospective subgrantee is technically qualified to complete and operate the project, that they are capable of carrying out the funded activities in a competent manner, and that they will use an appropriately skilled and credentialed workforce.
  - A network design, diagram, project costs, build out timeline, milestones for implementation, and a capital investment schedule evidencing complete build

## Requirements of Note from the BEAD NOFO

out and initiation of service within four years of the date the prospective subgrantee receives the subgrant.

- **Ownership Disclosure (p. 75 NOFO, points to 47 C.F.R. § 1.2112(a)(1)-(7).)**
  - *\*\*NTIA has not provided guidance as to what this would look like for a Tribal Government Entity. NTIA has only stated that all applicants must adhere to this requirement, Tribal Governments included.\*\**
  - List the real party or parties in interest in the applicant or application, including a complete disclosure of the identity and relationship of those persons or entities directly or indirectly owning or controlling (or both) the applicant;
  - List the name, address, and citizenship of any party holding 10 percent or more of stock in the applicant, whether voting or nonvoting, common or preferred, including the specific amount of the interest or percentage held;
  - List all parties holding indirect ownership interests in the applicant as determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain, that equals 10 percent or more of the applicant, except that if the ownership percentage for an interest in any link in the chain exceeds 50 percent or represents actual control, it shall be treated and reported as if it were a 100 percent interest; and
  - List any FCC-regulated entity or applicant for an FCC license, in which the applicant or any of the parties identified in paragraphs (a)(1) through (a)(5) of this section, owns 10 percent or more of stock, whether voting or nonvoting, common or preferred. This list must include a description of each such entity's principal business and a description of each such entity's relationship to the applicant (e.g., Company A owns 10 percent of Company B (the applicant) and 10 percent of Company C, then Companies A and C must be listed on Company B's application, where C is an FCC licensee and/or license applicant).
  
- **Existing Broadband Projects Using Public Funds (p. 75-76 NOFO)**
  - A list of all broadband deployment projects that the subgrantee or its affiliates are undertaken or have committed to undertake at the time of the application using public funds; and
    - For each of these broadband deployment projects, the following components must also be submitted
    - The speed and latency of the broadband service to be provided (as measured and/or reported under the applicable rules),
    - The geographic area to be covered,
    - The number of unserved and underserved locations committed to serve (or, if the commitment is to serve a percentage of locations within the specified geographic area, the relevant percentage),
    - The amount of public funding to be used,
    - The cost of service to the consumer, and

## Requirements of Note from the BEAD NOFO

- The matching commitment, if any, provided by the subgrantee or its affiliates.
- **Labor Standards and Protection (p. 56-57 NOFO)**
  - A narrative section regarding prospective subgrantees' record of past compliance with federal labor and employment laws, including the Occupational Safety and Health Act, Fair Labor Standards Act, or other applicable labor and employment laws over the preceding three years. The prospective subgrantee must certify that it and its contractors and subcontractors are currently in compliance with applicable laws. Additionally:
    - The prospective subgrantee must detail any such violations over the previous 3 years by the prospective subgrantee and any of its contractors and subcontractors, including when the violation occurred, the nature of the violation, and remedial actions taken following the violation; and
    - An Officer or Director-level employee of the prospective subgrantee must certify that all applicable violations during the previous 3 years by the prospective subgrantee and any of its contractors and subcontractors have been disclosed as part of the prospective subgrantee's applications.
    - New entrants without a record of labor and employment law compliance may mitigate this fact by making specific, forward-looking commitments to strong labor and employment standards and protections with respect to BEAD-funded projects.
- **Skilled Workforce (p. 58 NOFO)**
  - Applicants must provide the following information:
    - The ways in which the prospective subgrantee will ensure the use of an appropriately skilled workforce, e.g., through Registered Apprenticeships or other joint labor-management training programs that serve all workers;
    - The steps that will be taken to ensure that all members of the project workforce will have appropriate credentials, e.g., appropriate and relevant pre-existing occupational training, certification, and licensure;
    - Whether the workforce is unionized;
    - Whether the workforce will be directly employed or whether work will be performed by a subcontracted workforce; and
    - The entities that the proposed subgrantee plans to contract and subcontract with in carrying out the proposed work.
  - If the project workforce or any subgrantee's, contractor's, or subcontractor's workforce is not unionized, the subgrantee must also provide with respect to the non-union workforce:
    - The job titles and size of the workforce (FTE positions, including for contractors and subcontractors) required to carry out the proposed work over the course of the project and the entity that will employ each portion of the workforce;

## Requirements of Note from the BEAD NOFO

- For each job title required to carry out the proposed work (including contractors and subcontractors), a description of:
  - Safety training, certification, and/or licensure requirements (e.g., OSHA 10, OSHA 30, confined space, traffic control, or other training as relevant depending on title and work), including whether there is a robust in-house training program with established requirements tied to certifications, titles; and
  - Information on the professional certifications and/or in-house training in place to ensure that deployment is done at a high standard.
- **Cybersecurity (p. 70 NOFO)**
  - The prospective subgrantee has a cybersecurity risk management plan (the plan) in place that is either:
    - operational, if the prospective subgrantee is providing service prior to the award of the grant; or
    - ready to be operationalized upon providing service, if the prospective subgrantee is not yet providing service prior to the grant award;
  - The plan reflects the latest version of the National Institute of Standards and Technology (NIST) Framework for Improving Critical Infrastructure Cybersecurity (currently Version 1.1) and the standards and controls set forth in Executive Order 14028 and specifies the security and privacy controls being implemented;
  - The plan will be reevaluated and updated on a periodic basis and as events warrant; and
  - The plan will be submitted to the Eligible Entity prior to the allocation of funds. If the subgrantee makes any substantive changes to the plan, a new version will be submitted to the Eligible Entity within 30 days.
- **Supply Chain Risk Management (p. 70-71)**
  - The prospective subgrantee has a SCRM plan in place that is either:
    - operational, if the prospective subgrantee is already providing service at the time of the grant; or
    - ready to be operationalized, if the prospective subgrantee is not yet providing service at the time of grant award;
  - The plan is based upon the key practices discussed in the NIST publication NISTIR 8276, Key Practices in Cyber Supply Chain Risk Management: Observations from Industry and related SCRM guidance from NIST, including NIST 800-161, Cybersecurity Supply Chain Risk Management Practices for Systems and Organizations and specifies the supply chain risk management controls being implemented;
  - The plan will be reevaluated and updated on a periodic basis and as events warrant; and
  - The plan will be submitted to the Eligible Entity prior to the allocation of funds. If the subgrantee makes any

## Requirements of Note from the BEAD NOFO

substantive changes to the plan, a new version will be submitted to the Eligible Entity within 30 days. The Eligible Entity must provide a subgrantee's plan to NTIA upon NTIA's request.

### Additional Considerations:

- NTIA has determined that the Federal Interest Period for BEAD funding and any work done with BEAD funding is 10 years beyond the program.
  - This means that any recipient of BEAD funds is subject to monitoring and auditing of work done and reimbursements issued until 2037.
  - This also means that any work found to be non-compliant with BEAD NOFO requirements is subject to Clawback Provisions until 2037.
  - For example: If a resident emails the State and is not connected or receiving the 100/20mbps and their location was reported to have been connected by BEAD funds, the State will have to audit and report to NTIA that location that was paid for by BEAD funding and is not connected, therefore cost for that location ID would be owed back to NTIA.
- If selected as a subgrantee for BEAD funding, funds will be disbursed on a reimbursement basis.
  - Expenses for equipment, supplies, completed work, etc., are paid by the subgrantee.
  - Receipts and invoices for these items paid for by the subgrantee are submitted to the Broadband office for review.
  - Once all invoiced items or receipts are found to be compliant with BEAD contract, subgrantee will be reimbursed for those dollar amounts they have already spent in deployment activities.
- The Challenge Process (Volume 1) is where Tribal Governments, Municipal Governments, ISPs and Non-profits can challenge BEAD Eligible locations that are served or underserved.
  - BSL locations cannot be removed from or added to the fabric.
  - Any challenge submitted (such as a challenge that would state a location is not going to be covered by known existing funding) needs to be supported by evidence (example, a kmz file of locations being challenged).
  - Any location challenge to an existing ISP award or service area must be reported to that ISP so that they have an opportunity to submit a rebuttal to that challenge.
  - South Dakota must follow NTIA BEAD programmatic guidance while reviewing and approving or denying challenges to BEAD Eligible locations.
  - The final list of post-Challenge Process BEAD Eligible locations must be submitted to NTIA for approval.