

CONNECT NEW MEXICO COUNCIL

Hybrid Meeting

March 21, 2024, 1:30 – 3:30 PM

In-Person location: 411 S. Capitol St., Santa Fe, NM 87501, Room 311

1. WELCOME AND CALL TO ORDER

Video recording time: Not available

The meeting of the Connect New Mexico Council was called to order by Shawna Rosales, at 1:37 pm, on Thursday, March 21, 2024, in Santa Fe, New Mexico. Ms. Narvaiz introduced herself and reviewed general rules and procedures regarding the meeting, in particular those pertaining to the Zoom application.

MEMBERS PRESENT-

Kimball Sekaquaptewa, Chair	Leonard Manzanares
Peter Mantos	Eli Guinnee
Ovidiu Viorica	Launa Waller
Jim Ruybal	Steve Grey
Godfrey Enjady	Joseph Navarette

MEMBERS ABSENT-

Luis Reyes	Katherine Crociata
Nora Sackett	Tico Charlee
Bogi Malecki	

OTHERS PRESENT

Shawna Rosales, Broadband Admin.

Renee Narvaiz, DoIT, PIO

Natalie Runyan, GIS

Drew Lovelace, OBAE Acting Director

Erica Valdez (OBAE), Richard Govea (OBAE), Sandeep Taxali (OBAE), Valerie Quintana (OBAE), Bo Ford (NM State Library), John Campbell, Kitty Clemens, Paul Donovan, Johnny Montoya, Jerry Smith, Alison Riley, Kate Sneed, Jose Lovato (Kit Carson Internet), Stuart Wormington, KS Korte, Regan Williams, Matejka Santillanes, Jay Santillanes, Jose Betancourt, A Terry, Mitch Hibbard, Jerome Block, Rosalie Trujillo, Jerrold _____

2. APPROVAL OF MEETING AGENDA AND MINUTES

Video recording time: Not available

MOTION: Ms. Rosales called for a motion to approve the agenda. An amendment to the Agenda to include a presentation by the Mapping Working Group was suggested by Mr. Viorica. Mr. Mantos, Chair of that Working Group agreed to this. Mr. Viorica moved to approve the agenda as amended, seconded by Mr. Godfrey.

VOTE There being no opposition the Agenda was approved as amended.

MOTION: Ms. Rosales called for a motion to approve the minutes of the 02/29/2024 meeting. Mr. Viorica so moved, seconded by Ms. Waller.

VOTE There being no opposition the minutes were approved.

3. CHAIR UPDATES/COMMENTS – Kimball Sekaquaptewa

Video recording time: Not available

Chair Sekaquaptewa welcomed everyone to the meeting. Ms. Sekaquaptewa noted that there was not as much success in the recent legislative session as had been hoped for in terms of issues relative to broadband, however, work is ongoing with respect to the Connect New Mexico Council grant applications and the processes involved there. She also commented about the ongoing work related to BEAD. She expressed her appreciation of the Council's understanding concerning her absence over the past month due to a family matter, especially to those who stepped in to facility meetings, etc.

4. Working Group Updates

Video recording time: Not available

a) Digital Equity – Eli Guinnee

Mr. Guinnee stated that this Working Group is currently chaired by himself, Ms. Crociata and new member Bo Ford, who has been overseeing their week-to-week scheduling of agendas, and very active in connecting digital equity champions across the state. Meetings have been well attended with 20-25 people per call. There was a good showing at Broadband Day. They have been very active with respect to the Digital Equity Plan draft, submitting responses as the Working Group, with individuals also submitting more specific comments. Recent hot topics have been the Affordable Connectivity Program, telemedicine, etc. Mr. Guinnee asked Mr. Ford if he would introduce himself.

Mr. Ford introduced himself as the NM State Library Digital Equity program manager, having begun this role last October. He recapped Mr. Guinnee's comments about his role in the Working Group, orchestrating the opportunities for digital stakeholders to meet and discuss relevant topics.

Mr. Guinnee noted that the Working Group gets an update from OBAE at each of their meetings, to make sure they are maintaining good communication with OBAE.

Chair Sekaquaptewa thanked Mr. Guinnee for the report and welcomed Mr. Ford to the State Library team.

Mr. Enjady had a question about digital equity/inclusion implementation, especially with respect to tribes, in particular the Mescalero-Apache tribe, as far as the State Library system would be concerned. He also asked if the issue of digital sovereignty would be addressed at some point.

Mr. Guinnee thanked Mr. Enjady for his questions, noting he believes these are important issues. With regard to digital equity funding it appears that there will be another application process once funding is allocated and additional information is available, but he would defer to OBAE on this process.

Mr. Guinnee stated that the State Library has had a long running, 20+ year tribal libraries program, with two full time staff assigned to this; Cassandra Osterloh, working with the pueblos, Apache and Navajo nations, and Raeshelle Largo, who works on the Navajo Nation, and will be visiting all of the chapters of the Navajo Nation, working with them on digital equity issues, with work in process at this time to get computers and iPads out to them. Part of Mr. Ford's responsibilities also include work toward improving telehealth services, especially in rural and tribal areas, and providing support, with a USDA Distance Learning and Telemedicine Grant to help with some of these expenses. Mr. Ford is also investigating digital equity training programs, with the possibility of digital navigator programs which would serve tribal libraries and public libraries statewide. Mr. Guinnee deferred to anyone from OBAE who would want to discuss the process of getting digital equity funding distributed.

Mr. Enjady asked if the State Library could assist the Mescalero Apache library with the application for the USDA grant for libraries to obtain equipment. Mr. Guinnee replied that he does have contact information and they are familiar with the process. He cautioned that process is fairly onerous, with a lot of different parts, however he would be happy to assist.

Mr. Viorica emphasized the importance of digital equity and how a robust digital equity program is essential for the success of the BEAD project. He commended the State Library staff for taking the leadership role(s) in this endeavor. He then asked what this Council could do to help inform and encourage applicants for funding that may be forthcoming both at the state and federal levels and enable them to submit successful applications.

Mr. Guinnee replied that they are very aware of this need and that the competitive grant process will require working with other organizations in the state and the ones who are attending their meetings. They will endeavor to provide access to resources and grant writing workshops to help them submit very strong applications.

Director Lovelace addressed the need to look beyond the state funding and explore how to bring some foundations to the table, which is a role the Governor's Office is taking on. He hopes to be able to give better information about this later. He did note that in the digital equity curing process the first round had 16 questions but the second round only had one question. They are currently waiting to see if additional curing will occur, so the digital equity curing process appears to be going well.

Mr. Guinnee noted back to Mr. Enjady's question that the State Library is working with Mescalero on e-rate applications for both their category 1, their monthly internet bill, and upgrading their network equipment, category 2.

Chair Sekaquaptewa gave a reminder that the e-rate 471 applications are due on the 27th. She noted that Mr. Govea continues to work very closely with the tribal libraries and recognized the significant work that is ongoing to support the anchor institutions such as these libraries.

Mr. Enjady had an additional comment with respect to the USDA grant(s) for equipment in addition to the grants for e-rate **(lost audio here)**

b) Mapping – Peter Mantos

Mr. Mantos gave some background about the maps and how the maps can be challenged, as well as the question of granting amnesty for existing grantees. He noted that the working group is having good discussions and that virtual office hours are now being offered, which Ms. Runyan is overseeing. They are continuing to look for opportunities to reach out and conduct workshops for those needing assistance. He noted the recent Tribal Convening in Ruidoso which they did attend.

Mr. Mantos described the situation involving the existing RDOF grants which are influencing the FCC coverage map, causing truly "unserved" areas to be designated as "served" areas and reviewed a slide describing the process by which FCC has requested input on this issue, which could involve amnesty with or without penalty for these grantees. The question has arisen whether this Council or the New Mexico OBAE should respond to this FCC request, and what that response should be.

Video recording time: 0:00:32

Another issue concerns sharing data. All of the data being collected for use on these maps cannot be shared due to a third party license requirement. Those wishing to access this data simply need to apply for this license, which has already been paid for, and Ms. Runyan has that application information.

Mr. Mantos introduced Ms. Runyan and explained there are many maps currently available and Ms. Runyan can provide links to those.

Ms. Runyan stated she would put a link in the Zoom chat after her presentation, which is <https://maps.connect.nm.gov>. She screenshared the Grant Award map and noted that the Connect New Mexico Fund has completed the application cycle, so this map will be changing to show the funded areas, and will provide information for studying the funded areas as it has a zoom feature allowing for detailed information about the grant funding. She reviewed other features of this map which include proposed funded areas, etc.

She then screenshared and reviewed the Service Availability map, which shows the service status of individual locations as well as pie charts representing specific criteria. She stated that this is the FCC official map, which is the latest public version of the locations the FCC considers valid broadband serviceable locations. The name of this map will be updated to say "Current Status" and "FCC Official". She reviewed the different pie charts on this map and the information they represent, and demonstrated the different layers available in the map. She commented that the "New Mexico Best" layer is very important for providing context for all the incoming challenges, but will not be updated as quickly as had been anticipated since information about ongoing challenges is not available during the challenge process.

Ms. Runyan noted that on the map web page there is a tab that says "I want to challenge the map", which is where the latest information on dates is available, as well as a description of the ongoing FCC data challenges and information on the Connect New Mexico Fund challenge, with links to all of the challenges and their appropriate dates.

Mr. Mantos thanked Ms. Runyan for this review. He noted that this working group meets every other Friday, but not this week, at 11:00 a.m., and the public and any interested parties are invited to attend.

Mr. Enjady had a question on how to compile or prepare evidence for a challenge and if there are reason codes for the challenge process. Is there assistance available for this process?

Mr. Mantos deferred to Ms. Runyan. Ms. Runyan noted that there are two different types of challenges, location challenges and availability challenges. She gave a brief review of the challenge process and stated that she has some guidance documents and other resources for this process. She noted that the BEAD challenge process is a state-based challenge and reviewed that process as well, which is through a portal that is very user interactive. She shared that there is also an internal standard operating procedure which is being used to review these challenges, which will be used in the planned workshops, which will be on alternating Tuesdays and Thursdays each week, during the entire 30 day challenge period. She added that there will be a four business week challenge window as well as a four business week rebuttal window, and the plan is to have office hours every week during this eight-week period to provide assistance for submitting better evidence, etc.

Mr. Enjady asked if the OBAE team will be looking at the state level challenges and making those determinations, or will this ultimately go back to the FCC.

Ms. Runyan replied that the state level team will make a recommendation on their final determination as to whether they accept the evidence and it is valid, despite what the FCC map may show and they have local evidence to the contrary. Then there is a final review by NTIA, so there is a federal level of review. She added that after the state challenge process is completed there is one other opportunity to take all of the updated data from both federal and state grant programs as well as the FCC's service availability, including any challenges adjudicated through the FCC, so there is an option to also accept those challenges. Once NTIA approval is obtained the portal system does allow for export of all this information for submission as a package to the FCC as a set of challenges to their data.

Director Lovelace shared that the review team consists of three individuals; a contracted engineer, a project manager familiar with the state and the various regions, and a GIS specialist. This combination provides good subject matter expertise in the fields needed for these reviews.

Mr. Viorica expressed his congratulations and appreciation to the mapping working group for their work. Mr. Viorica then provided comment on three areas:

- 1) RDOF program grants and how these affect the broadband project.
- 2) BEAD challenge process which will be starting in approximately 2-3 weeks, a 30 day period to submit challenges.
- 3) His opinion is that it is unrealistic to expect 100% success rate for all these types of programs. There are many unknowns, regardless of planning efforts.

He encouraged this group, as well as the state, to keep up this work for the long-term, and develop a plan for modifications that may be necessary along the way.

Mr. Mantos asked if the Council would give the Working Group permission to submit a response to the FCC, within their request for comment, to at least say that this Council is supportive of amnesty for those programs/grantees which know they will not be building out, to allow other entities to cover these areas.

Chair Sekaquaptewa stated she would appreciate the Working Group drafting this for the Council to review.

Mr. Mantos noted that the Council is not scheduled to meet before the window for comment expires. He requested permission to send this out electronically.

Director Lovelace cautioned that a letter such as this would probably require a vote by the Council, which would mean scheduling a special meeting.

Discussion followed with comments by Mr. Mantos, Mr. Enjady, Mr. Viorica, Director Lovelace and Chair Sekaquaptewa about the content of this letter and the mechanism necessary to accomplish this. Given the requirement of 72 hour notice for a special meeting Chair Sekaquaptewa asked that notice be posted tomorrow, 03/22/24, for a special meeting on 03/25/24, and asked Mr. Mantos to draft the letter. Mr. Mantos stated the draft of the letter would be ready for distribution to the Council by noon tomorrow, 03/22/24.

5. Rulemaking Update / Vote – Erica Valdez, OBAE paralegal

Video Recording time: 00:29:51

Chair Sekaquaptewa commented about the process regarding the rulemaking and the amount of time and work that has been involved in that process. She deferred to the legal team to describe what this document seeks to accomplish.

Ms. Valdez reviewed the amended rules for Title 1, Chapter 12, parts 21, sections 8 and 10 of the New Mexico Administrative Code. She described how this amendment was needed to better align the rule with SB377, which appropriates funds for OBAE. She noted that there are two parts to this amendment, the first part affecting the general rules of the grant and the second part which affects the assistance grants. The first part refers to competitive grants, and adds section 8 to part 21, to be in compliance with the New Mexico State Tribal Collaboration Act. The second part amends section 10, which affects the non-competitive assistance grants, and expands the definition of grantees to now include telephone and electric cooperatives. She stated that everything is now in place to have the rule changes adopted if approved by the Council. She reviewed this process, which included public rulemaking notice, a 30 day comment period, the rulemaking hearing and the report received from the hearing officer which was sent out to Council members. She then outlined the next steps if the Council adopts this today; the order adopting the amendments will be sent out to Council members, which will need to be signed by the Council Chair, the Director of OBAE and the Secretary of DoIT, which then will be published in the next issue of the New Mexico Register, the deadline for which is 03/28/24. Once this is published on 04/09/24, the rule will become effective. The review team will then start going through the applications and once they make their decisions there will be a 21 day notice, after which the awards will go out.

Chair Sekaquaptewa noted a comment had been received asking for clarification in that the BEAD NOFO does not require tribal consent, whereas this rulemaking does. One interpretation has been offered by OBAE that this is a non-issue because this comment had to do with BEAD and this rulemaking pertained to the Connect New Mexico Council Fund. She called attention to the language in the general rules which states "these rules govern all subject grant programs", and asked if all subject grants includes broadband. She added further details regarding different funding sources, emphasizing the need for consistency. She then noted the language that refers to collaboration between DoIT, OBAE and the Council on the development, award and administration of a program subject to a specific or generally applicable memorandum of understanding, and queried whether due diligence has been completed with respect to this MOU and what liability might exist without this MOU having been drafted or adopted.

Mr. Mantos noted that Secretary Sambandam and DoIT are very interested in collaborating and not having three different sets of rules, and if not using the same rules then certainly making them consistent.

Director Lovelace gave the reminder that state law cannot necessarily supersede federal law, they must work hand-in-hand. With respect to the BEAD program this must follow federal guidelines and with development of the IPV2 a lot of points about tribal sovereignty were considered, so he is not sure if this represents any inconsistencies. Ultimately the BEAD program has to be authorized by NTIA, similar to the process in which the ARPA funds for the Connect New Mexico Pilot Project had to be authorized by Treasury, and must fall within those guidelines. He stated that making sure to be clear about where the authority lies in these programatics is very important.

Chair Sekaquaptewa stated that she did not think this rulemaking precludes following those accountabilities and compliance measures, but consistency is very important. In reference to the comment concerning the tribal consent issue she asked if there was going to be a change about whether or not tribal consent would be required.

Director Lovelace stated that at no time was documentation submitted that did not have the requirement of tribal consent and he would be shocked if this point were to be cured from the IPV2 when it is approved by NTIA, given the verbal input he has received from NTIA and the state broadband leaders network. He noted that holistically the FCC and NTIA have been moving in this direction and the USDA has discussed moving their programatics to require this in the near future. He does not believe removing this requirement has been contemplated by the office, nor will be contemplated in the future by the federal program.

Chair Sekaquaptewa asked if other edits could be made to IPV2 during the curing process, if something was found to be obviously and blatantly inconsistent with this rulemaking framework.

Director Lovelace replied that he did not know if this is possible. He did state that some inconsistencies have been found with the guidance provided by NTIA and these have been corrected to align with this guidance based on comments from NTIA in the curing process, but he has not seen or heard of any states making changes after submission which are not directly related to issues raised by NTIA. Director Lovelace added that during the public comment period for IPV1 and IPV2 all of the Council's recommendations were very seriously examined, as well as all other public comments received, with many of the suggestions adopted.

Chair Sekaquaptewa noted that one of the challenges encountered when composing this document is the relationship between DoIT, OBAE and the Council. She stated her belief that there is great interest in collaboration and this has not been well defined, which could be accomplished with the MOU outlining these roles and responsibilities, so this needs to be addressed. She noted the good work done on the RACI document. She asked what RACI stands for.

Mr. Mantos commented that they had listed several elements, with questions related to who would be **R**esponsible, **A**ccountable or **C**onsulted to do this work, and who would simply be **I**nformed to do this work. He noted that he was the Secretary Designate at the time this RACI was developed and this document would form a very good basis for the MOU, however, the RACI should be reviewed as there are different players involved at this time. He added that this RACI was constructed so that the MOU would not have to be changed, but the MOU states that the parties involved will act according to the RACI, which can be changed at any time.

Mr. Enjady asked if the MOU has been implemented as he has not seen a draft of this.

Mr. Mantos stated this was the intent of the RACI, but he did not recall whether an MOU was ever executed based on this RACI.

Mr. Enjady encouraged the Council, DoIT and OBAE to work on this MOU as soon as possible.

Chair Sekaquaptewa stated that she believed the RACI got to about 95% completion, but as Mr. Mantos stated the players changed. However, she believes the questions related to this could be straightened out fairly quickly.

Director Lovelace stated that there does appear to be a gap here as there is no MOU in place and this should absolutely be addressed at the next meeting of the Rulemaking Committee. He will consult with General Counsel Vanessa Willock to research the files looking for any draft regarding this.

Mr. Viorica asked if the current modification of the rules would affect the issue of the MOU. He commented that he believed the goal is still to put in place the changes to the rules which would allow the Office of Broadband to move forward with awards for the grant writing and have the cooperatives eligible, so this entire program can move forward. The second modification would be to support and reinforce the tribal engagement and involvement. He queried whether the Council should be able to move forward with this.

Mr. Mantos stated that in light of Director Lovelace's comments and his understanding of the willingness of DoIT, he sees nothing inconsistent with the Council moving forward.

Chair Sekaquaptewa asked Director Lovelace and Mr. Taxali what the role of the Council is with respect to the Connect New Mexico Council Funds, once the cure is complete and OBAE makes their recommendations, before this goes to the Governor's Office.

Director Lovelace stated that his understanding, under his predecessor, Director Schlegel, was that the projects would be reviewed and scored, and then reviewed with the Council. He stated the need to work on the MOU as soon as possible to define this process and that it is important that the Connect New Mexico Funds have a process of going through the Connect New Mexico Council. He reiterated that this will be a priority of the Rulemaking Committee.

Chair Sekaquaptewa thanked Director Lovelace for his response and that this answered her questions.

Director Lovelace added that the process is pretty well laid out in the assistance grants, but he is not legal counsel, however, he does not believe there is any liability as the process for the assistance grants is quite clear and was meant to be a very straightforward application.

MOTION: Chair Sekaquaptewa called for a motion regarding the adoption of the rulemaking changes. Mr. Mantos moved to support the rulemaking changes, seconded by Mr. Viorica. Roll call vote was conducted by Ms. Rosales. Motion carried unanimously. The rulemaking changes were adopted.

6. **OBAE Update – Drew Lovelace**

Video Recording time: 00:57:08

Director Lovelace stated that Ms. Runyan had covered many of the updates and he had previously commented with regard to Digital Equity.

He stated that IPV1 has unofficially been approved by NTIA, but this does require official NIST approval, and explained that NIST is the administrative body responsible for distributing a lot of the NTIA materials, and that the official approval is expected in the next 10 days, or so, but the official timeline is unclear. Once that is received the challenge process will begin, as described by Ms. Runyan, which is expected to be at the end of the first week of April.

IPV2 is still in the first round of the curing process, and the responses to this should be submitted by this afternoon.

Hopefully Digital Equity is near completion and will be approved in the near future.

With respect to the Connect New Mexico Funds the deadline was extended to the 19th, after hearing from multiple applicants requesting extra time to file their applications. Additional guidance on budgets and timelines for projects were provided based on adjustments made to align with timelines appropriated by the Legislature, so the extension was made until the 18th. However, on the 18th multiple parties had difficulties uploading documents and seeing some of the embedded Excel files, so an extension was made for an additional day due to technical difficulties. All of these issues were addressed through work with Submittable and the applications were officially closed on the 19th. The review process begins now and all decisions will need to be made by late May and any enforceable commitments or contracts signed by June 30th to meet the BEAD deadline and align with the challenge process.

No new staff members have been added since last meeting, with the total now at 23. He did note that they had previously announced the hiring of the new tribal coordinator, Valerie Quintana, but he was not sure if she had been formally introduced to the Council. Ms. Quintana stated that she was happy to meet everyone. She expressed her appreciation for being invited to today's meeting and stated she looks forward to working with the Council. Director Lovelace noted that the addition of Ms. Quintana completes the program team at this time. He did note that multiple jobs have been posted, one of which is for a second lawyer, which may help address the representation issue, and that having a second lawyer on staff will also be of benefit with regard to contract needs, etc.

Chair Sekaquaptewa asked Director Lovelace to report on Friday's press conference.

Director Lovelace stated that this press conference was in regard to the ARPA funds which were awarded to New Mexico out of the American Rescue Plan Act, with \$10 million appropriated to the Public Education Department. The Public Education Department had been working with IAD on and off, and when there was a lot of staff turnover funds were subsequently reverted to PED. PED then put together a program awarding funding to multiple entities, including Sandia Pueblo, Santo Domingo Pueblo, Nambe Pueblo, Jicarilla Apache and Laguna Pueblo. He noted that most of the appropriation went to Sandia Pueblo for their Child Development Center, as the appropriation was specifically for tribal libraries, and that the library is a large element within the Sandia Child Development Center. He added that this was not an OBAE directly awarded fund.

Chair Sekaquaptewa commented that she had seen this covered in the media and queried if something could be sent out or put into the chat. She asked Director Lovelace who some of the other attendees were. He responded this was a federal level event and noted that Gene Spurling, the senior economic advisor to the President, was in attendance along with Governor Lujan-Grisham and the Governors of all the awarded tribal entities. He added that there were other Representatives and Senators present, along with members of the media and several Cabinet Secretaries. Chair Sekaquaptewa congratulated Director Lovelace on the successful event. Director Lovelace thanked Chair Sekaquaptewa for this, but the congratulations should really go to PED.

7. Public Comment – Kimball Sekaquaptewa

Video recording time: 01:05:50

No public comment offered.

8. Adjournment – Shawna Rosales

Video recording time: 01:05:58

Chair Sekaquaptewa called for a motion to adjourn. Mr. Viorica so moved, seconded by Mr. Godfrey. There being no opposition and no further business before the Council the meeting was adjourned at 3:21 p.m.