

MEMORANDUM OF UNDERSTANDING
REGARDING INFORMATION SHARING

dated as of May 9, 2022, between

the FEDERAL COMMUNICATIONS COMMISSION, U.S. DEPARTMENT OF AGRICULTURE, THE NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION OF THE U.S. DEPARTMENT OF COMMERCE, and the U.S. DEPARTMENT OF THE TREASURY

WHEREAS, the Federal Communications Commission (FCC), the U.S. Department of Agriculture (USDA), the National Telecommunications and Information Administration (NTIA), an agency of the U.S. Department of Commerce, and the U.S. Department of the Treasury (Treasury) (each hereinafter a Covered Agency and all collectively, the Covered Agencies), wish to collaborate around the collection and reporting of certain data and metrics relating to broadband derived from programs administered by the FCC, the programs administered by the Rural Utilities Service of USDA, the programs administered by or coordinated through NTIA, and the Coronavirus Capital Projects Fund (CPF) and the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) administered by Treasury (Covered Data);

WHEREAS, the Covered Agencies desire to enter into this Memorandum of Understanding (this MOU) to set forth their understanding of the treatment of information shared among the Covered Agencies;

NOW, THEREFORE, the Covered Agencies agree as follows:

1. Information Collection. The Covered Agencies shall work diligently to develop consistent, complementary, and, to the extent possible, uniform formats, standards, protocols and reporting processes to facilitate the collection of Covered Data in a standardized and efficient fashion.
2. Inter-Agency Information Sharing. The Covered Agencies shall share information with each other about certain projects that have received or will receive funds for broadband deployment, including but not limited to Covered Data and data derived from the information collection discussed in item 1 above, under programs administered by the FCC, the programs administered by the Rural Utilities Service of USDA, the programs administered by or coordinated through NTIA, and the CPF and SLFRF administered by Treasury.
3. Public Dissemination and Display. The Covered Agencies shall make Covered Data relating to post-award/authorization projects publicly available, using tools such as the ACCESS BROADBAND database and the FCC's Deployment Locations Map, to the maximum extent permissible by law, subject to reasonable exceptions for public safety and national security.
4. Restrictions on Disclosure. Except as provided below, each Covered Agency agrees to refrain from publicly disclosing any information designated as confidential by another Covered Agency (Confidential Information) and to maintain appropriate safeguards to protect the Confidential Information.

5. Third Party Requests. Subject to applicable law, if a Covered Agency receives a request from a third party for Confidential Information, such as a Freedom of Information Act (FOIA) request or subpoena, the Covered Agency will:

- a. unless prohibited by law, as soon as practicable, notify the appropriate Covered Agency of such request and any documents related thereto;
- b. upon receiving the request (Receiving Agency), coordinate the response, providing the Covered Agency(ies) from which the potentially responsive record(s) originated (Reviewing Agency) an opportunity to comment on the proposed response, such as any applicable exemptions. This can be done either through the consultation process, where the Receiving Agency will respond to the requester after receiving input from the Reviewing Agency, or through a referral to have the Reviewing Agency respond directly to the requester if the records consist solely of Reviewing Agency's records. If the Receiving Agency sends records to a Reviewing Agency for direct response to the requester, the Receiving Agency should notify the requester and provide a FOIA contact.

6. Congressional Requests, Subpoenas, and Court Orders. Nothing in this MOU shall prevent a Covered Agency from complying with a request or demand from a duly authorized committee of the U.S. Congress with authority to request and receive the Confidential Information, or a legally valid and enforceable subpoena, or order by a court of competent jurisdiction, for the Confidential Information or testimony related thereto if a Covered Agency:

- a. in the case of a subpoena or court order, (i) reasonably determines that efforts to quash, appeal, or resist compliance with the subpoena or order would be unsuccessful or against its interest, (ii) attempts, to the extent practicable, to secure a protective order to preserve, protect, and maintain the confidentiality of the Confidential Information and any privileges associated therewith, and (iii) as soon as practicable notifies the affected Covered Agency of its intent to comply with the subpoena or order and of any actions taken in compliance with the subpoena or order; and
- b. in the case of a request or demand from a duly authorized committee of the U.S. Congress, (i) advises such committee that the Confidential Information being produced belongs to the affected Covered Agency and (ii) uses its best efforts to obtain the commitment or agreement of such committee that it will maintain the confidentiality of the information.

7. Whistleblower Protections. This MOU shall not be construed to prohibit or restrict an employee or applicant for employment from disclosing to Congress, the Special Counsel, the Inspector General of an agency, or any other agency component responsible for internal investigation or review any information that relates to any violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or any other whistleblower protection.

8. Personally Identifiable Information (PII). The Covered Agencies will work together to ensure that all PII shared under this MOU is maintained in compliance with the Privacy Act of 1974, as amended from time to time.

9. Duration. The duration of this MOU is two (2) years from the date first above mentioned, which may be extended upon mutual consent of all Covered Agencies. Any Covered Agency may withdraw from this MOU by providing thirty (30) days written notice to the other Covered Agencies.

10. Other Agreement. This MOU is intended to be a separate agreement among the Covered Agencies and not to supersede, or otherwise impact the terms of, the Interagency Agreement entered into by the FCC, NTIA and USDA on June 25, 2021 (June 25, 2021 Agreement).

11. Notice. The Covered Agency contacts for this Agreement are:

For FCC:

Kirk Burgee, Chief of Staff, Wireline Competition Bureau
Kirk.Burgee@fcc.gov, (202) 418-1599

For USDA:

Shawn Arner, Deputy Assistant Administrator, RUS Telecommunications Program
Shawn.Arner@usda.gov, (202) 720-9556

For NTIA:

Doug Kinkoph, Associate Administrator, Office of Internet Connectivity and Growth (OICG)
DKinkoph@ntia.gov, (202) 482-4186

For Treasury:

Joseph Wender, Director, Capital Projects Fund
Joseph.Wender@treasury.gov, (202) 622-2000

The Covered Agencies agree that if there is a change regarding the contact information in this section, the Covered Agency making the change will notify the other Covered Agencies in writing of such change.

12. Amendment. This MOU may be revised or modified upon the written agreement of the Covered Agencies hereto.

13. Authority. Each Covered Agency represents that it has authority to enter into this MOU.

14. Counterparts. This MOU may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Each

counterpart may bear a penned or digital signature, which signature of or on behalf of the Covered Agency can be seen, and may be transmitted by mail, by hand, or electronically.

IN WITNESS WHEREOF, the Covered Agencies have caused this MOU to be executed as of the date first above mentioned.

APPROVED BY:

Federal Communications Commission:



Hon. Jessica Rosenworcel
Chairwoman

5/6/2022
Date

U.S. Department of Agriculture:

Hon. Tom Vilsack
U.S. Secretary of Agriculture

5/11/2022
Date

The National Telecommunications and Information Administration:



Hon. Alan Davidson
Assistant Secretary of Commerce
for Communications and Information

5/6/2022
Date

Department of the Treasury:



Jacob Leibenluft
Chief Recovery Officer

5/6/2022
Date