



## TRIBAL SPECTRUM LICENSE OPPORTUNITY

***TRIBAL PRIORITY FILING WINDOW: FEBRUARY 3, 2020 – AUGUST 3, 2020***

### **What is 2.5 GHz spectrum?**

2.5 GHz spectrum is mid-band spectrum suitable for advanced wireless services, such as mobile and fixed wireless services. 2.5 GHz used to be reserved for educational uses, but the spectrum was largely unused west of the Mississippi. So, the Federal Communications Commission (FCC) recently eliminated the use restrictions and is making the spectrum available first to Tribal Nations through a Tribal Priority filing window.

### **What is the Tribal Priority window?**

Usually, spectrum licenses are auctioned by the FCC, with the highest bidder winning the license. For 2.5 GHz spectrum licenses, however, the FCC has established a Tribal Priority filing window, in which eligible Tribal Nations and Tribal entities will get the first opportunity to obtain available licenses – ***at no cost for the license***. This is a unique opportunity for Tribes to gain access to spectrum over their lands. Any spectrum not claimed during the Tribal Priority window will be auctioned, most likely for a great deal of money.

### **What are the requirements to participate in the Tribal Priority window?**

There are four major requirements to participate in the Tribal Priority window.

- (1) ***Eligible applicant.*** An applicant must be:
  - A federally recognized Tribe or Alaska Native Village;
  - A consortium of federally recognized Tribes; or
  - An entity that is majority owned and controlled by a federally recognized Tribe or Alaska Native Village or a consortium of federally recognized Tribes or Alaska Native Villages.
  - *Alaska-specific rule:* Alaska Native Corporations (ANCs) are not eligible to file in the Tribal Priority window because they are not entities owned and controlled by a federally recognized Tribe or Alaska Native Village or a consortium of federally recognized Tribes and Alaska Native Villages.
  
- (2) ***Eligible Tribal land.*** An applicant must provide service on eligible Tribal lands, which are defined as:
  - Any federally recognized Indian Tribe's reservation, pueblo, or colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act, and Indian allotments;
  - Hawaiian Home Lands – areas held in trust for native Hawaiians by the state of Hawaii, pursuant to the Hawaiian Homes Commission Act; and
  - Any lands designated prior to July 10, 2019 as Tribal lands pursuant to the designation process contained in Section 54.412 of the FCC's rules.

- (3) **Rural.** Only rural Tribal lands are eligible, and are defined as:
- Not being part of an urbanized area or urban cluster with a population equal to or greater than 50,000.
- (4) **Local presence.** An applicant must demonstrate that it has a local presence throughout the Tribal land for which it is applying, which means the applicant must:
- Specifically describe the nature of the local presence; and
  - Demonstrate that the applicant is physically located on the Tribal land.
  - *Alaska-specific rule:* An applicant seeking to apply for a license in one of the 12 Native regional corporation areas must demonstrate local presence throughout the portion of the regional corporation area for which it seeks a license. Local presence in one area, for example, is not sufficient to establish local presence throughout a Native regional corporation area.

### **What is mutual exclusivity and why should Tribes avoid it?**

Mutually exclusive applications request a spectrum license for the same geographic area, even if there is only a partial overlap. If mutually exclusive licenses are not resolved, that spectrum will go to auction and will not be allocated through the Tribal Priority window. So, to avoid this problem, communicating within and among Tribal governments and other business entities is critically important, as well as communicating with neighboring Tribal governments and their associated business entities.

### **What are the requirements if a Tribe is awarded a license?**

There are both interim and final build-out requirements associated with 2.5 GHz spectrum licenses. The requirements themselves are different, depending on whether a Tribe plans to deploy mobile or fixed wireless service. But these timelines apply to both kinds of deployment.

- *After 2 years:* Must demonstrate compliance with interim build-out requirements.
- *After 5 years:* Must demonstrate compliance with final build-out requirements.
- If the final build-out requirements are not met, the license will automatically terminate.

### **Questions?**

Please reach out to Irene Flannery, Director, AMERIND Critical Infrastructure. We are working together with a number of other groups to get the word out and help with the filing process.

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