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## GENERAL MEMORANDUM 20-001

### Federal Communications Commission to Provide Rural Tribal Priority Window to License Spectrum

The Federal Communications Commission (FCC) recently announced that it will provide Tribes with an opportunity to license unclaimed 2.5GHz spectrum on their rural tribal lands from February 3, 2020 to August 3, 2020.<sup>1</sup> After this "Rural Tribal Priority Window," the FCC will auction off whatever spectrum Tribes have not claimed, licensing it to private companies. The Rural Tribal Priority Window presents an important opportunity for Tribes to claim spectrum, which is an increasingly valuable resource. The FCC is holding a workshop on the Rural Tribal Priority Window on January 14, 2020 in Washington, D.C.

The 2.5GHz band of spectrum can be used for either fixed or mobile wireless broadband deployment. With this spectrum, tribes can promote educational and business activities, support telehealth systems, or use the spectrum for a variety of other purposes.

The spectrum that is available during the Rural Tribal Priority Window is 2.5GHz spectrum that was previously set aside for Educational Broadband Services (EBS). Much of this spectrum was not utilized, and in July 2019 the FCC voted to remove the educational restrictions on this spectrum as part of its larger effort to speed the deployment of 5G technology.<sup>2</sup> This band of spectrum is in high demand. However, before private companies interested in deploying 5G will have the opportunity to bid on this spectrum, tribes can claim unused spectrum that is on rural tribal lands at no cost.

The spectrum that is available must be on "tribal lands," as defined in FCC regulations.<sup>3</sup> Spectrum must also be rural, which the FCC has defined for this particular tribal process as being "not part of an urbanized area or urban cluster area with a population equal to or greater than 50,000."<sup>4</sup> Finally, spectrum must also be currently unclaimed. The FCC has provided maps that show what tribal lands are eligible and whether unclaimed 2.5GHz spectrum is available on those lands.<sup>5</sup>

Once Tribes claim spectrum licenses, they are free to lease them to third parties,

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<sup>1</sup> FCC, Public Notice, DA 19-1226 (Dec. 2, 2019).

<sup>2</sup> FCC, Report and Order No. 19-62 (Jul. 11, 2019).

<sup>3</sup> See 47 C.F.R. §§ 54.400(e), 54.412.

<sup>4</sup> Report and Order No. 19-62, para. 58.

<sup>5</sup> See FCC.GOV, 2.5GHz Rural Tribal Window, <https://www.fcc.gov/25-ghz-rural-tribal-window>.

including private companies. The FCC has removed previous restrictions on the leasing of this spectrum.

Tribes will have buildout requirements for the 2.5GHz spectrum that they license. Within two years, Tribes must demonstrate that they are providing within their service area either: (1) 50 percent coverage for mobile or point-to-multipoint service; (2) one link per 50,000 people for fixed point-to-point service; or (3) 50 percent population coverage for broadcast service.<sup>6</sup> Tribes must then meet final buildout requirements within five years, and they can demonstrate compliance by showing: (1) 80% population coverage for mobile or point-to-multipoint service; (2) one link per 25,000 people for fixed point-to-point service; or (3) 80% population coverage for broadcast service.<sup>7</sup>

In setting buildout requirements, the FCC noted that the equipment necessary to provide service on the 2.5GHz band has decreased significantly in cost and difficulty of deployment over time.<sup>8</sup> The FCC, therefore, believes that the buildout requirements should not be onerous. After Tribes meet buildout requirements, they can assign or transfer control of their licenses to others.<sup>9</sup> This means that Tribes, once buildout requirements are met, will have authority to lease or sell spectrum rights to others should they choose.

Please let us know if we may provide additional information about the FCC's Rural Tribal Priority Window.

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<sup>6</sup> Report and Order No. 19-62, para. 101.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 108.

<sup>9</sup> *Id.* at 64.