

Understanding the 2.5 GHz Rural Tribal Priority Window

Presentation to Committee on Hawaiian Affairs and Committee on Technology

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What is the 2.5 GHz Rural Tribal Priority Window?

From **February 3 to August 3, 2020**, federally-recognized tribes, Alaska Native Villages, and entities owned and controlled by a federally-recognized tribe or Alaska Native Village can apply for a license to control the unlicensed spectrum in the 2.5 GHz Band over their tribal lands.

Eligible parties must submit an application with the Federal Communications Commission (FCC).

Spectrum that is not claimed will be auctioned to the highest bidder.

Timeline

May 2018 – 2.5 GHz Band previously known as EBS was reserved for use by entities with an educational purpose. FCC releases NPRM requesting public comment on proposals to remove the educational requirement, create the Rural Tribal Priority Window, and auction remaining spectrum.

July 2019 – FCC releases Report and Order, formally establishing the Window.

January 2020 – FCC's Wireless Telecommunications Bureau releases Procedures Notice establishing timeline and procedures for the Window.

Window Opens: February 3, 2020 at 9 AM Eastern Standard Time.

Window Closes: August 3, 2020 at 6 PM Eastern Daylight Time.

Applications Public Notice for public comment.

August 2020 – 2.5 GHz Spectrum Auction.

Eligibility Requirements

1. Applicant must be a:

- federally-recognized tribe or Alaska Native Village,
- consortium of federally-recognized tribes or Alaska Native Villages, or
- entity majority owned and controlled by a federally-recognized tribe or Alaska Native Village.

Eligibility Requirements

2. Rural land. Defined as land with a population of less than 50,000.

Eligibility Requirements

3. Tribal land.

“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 (85 Stat. 688) and Indian Allotments, see §54.400(e), as well as Hawaiian Home Lands—areas held in trust for native Hawaiians by the state of Hawaii, pursuant to the Hawaiian Homes Commission Act, 1920, July 9, 1921, 42 Stat 108, et. seq., as amended.”

Procedures Notice at para. 18. *See also* 47 CFR § 54.5 (FCC’s definition of tribal lands for Universal Service Fund programs).

Eligibility Requirements

4. Local Presence. Applicant must demonstrate that it has local presence throughout the tribal land for which it is applying, describe the nature of the presence and demonstrate it is physically located on the tribal land.

5. Unlicensed spectrum. Airwaves not licensed to another. Airwaves licensed to another, even if not in use, are not eligible.

Mutually Exclusive Applications

Applications that request a license for the same geographic area or the same spectrum, even if there is only a partial overlap, are mutually exclusive.

- 90-day settlement period where applicants involved in mutually exclusive applications will be allowed to resolve the mutual exclusivity.
- If no resolution, bid for the license at issue in a closed, single round, sealed bid auction.

Requirements to Keep the License

A licensee must meet build-out requirements by Year 2 and Year 5 in order to keep the license. The requirements vary by technology. Generally, the Licensee must cover:

50% of the population in the license area by Year 2

80% of the population in the license area by Year 5

- An applicant does not need to provide a build-out plan at the time of applying.
- An applicant awarded a license can work with others, such as an internet service provider, to meet the build-out requirements for its license.
- There is no monetary penalty for failing to meet the build-out requirements, but a licensee can lose the license.

Unique Situation for Native Hawaiians

While Hawaiian Homelands are recognized as tribal lands by the FCC, Native Hawaiians do not fall under the applicant eligibility categories for the Window.

- Letters from Department of Hawaiian Home Lands, Office of Hawaiian Affairs, and Governor David Ige.
- Petition to Reconsider by Burt Lum, Dept. of Business, Economic Development & Tourism.
- DHHL Waiver requesting to be considered an eligible applicant.

The DHHL waiver does not grant a license, but allows the department to apply. DHHL or any other potential applicant still has to submit an application in order to receive a license.