

Request for Information (RFI) on Advancing Privacy Enhancing Technologies

Western Governors' Association

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June 23, 2022

Dr. Alondra Nelson
Director
Office Of Science and Technology Policy
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

RE: Request for Information on Advancing Privacy-Enhancing Technologies (87 FR 35250)

Dear Director Nelson:

In response to the Office of Science and Technology Policy's (OSTP) Request for Information (RFI) on Advancing Privacy-Enhancing Technologies (PETs) ([87 FR 35250](#)), attached please find the following Western Governors' Association (WGA) policy resolutions:

- 2021-02, Utilizing State Data in Federal Decision Making;
- 2021-01, Strengthening the State-Federal Relationship; and
- 2020-07, Rural Development.

In these policy resolutions, Western Governors address the following Topics included in the RFI:

- 3. Specific sectors, applications, or types of analysis that would particularly benefit from the adoption of PETs;
- 5. Specific laws that could be used, modified, or introduced to advance PETs;
- 6. Specific mechanisms, not covered above, that could be used, modified, or introduced to advance PETs;
- 7. Risks related to the adoption of PETs; and
- 9. Existing barriers, not covered above, to the adoption of PETs.

Specifically, in WGA Policy Resolution [2021-02, Utilizing State Data in Federal Decision Making](#), Western Governors urge the federal government to consult with states and state agencies as partners – rather than ordinary stakeholders – in the collection, stewardship, analysis, and use of data to inform federal decision-making processes. Further, federal agencies should consult with states to develop policies that more effectively and consistently incorporate state data into federal decision making. The resolution also recognizes: the importance of state privacy and data stewardship laws; the need for federal consultation with states on the development of data and data sharing policies; and the advisability of uniformity in data standards and stewardship policies across all levels of government.

I appreciate your consideration of these comments as they articulate Western Governors' bipartisan policy positions and recommendations on these important issues.

Western Governors submit these remarks through the public notice and comment process for administrative recordkeeping purposes. The Governors, however, maintain that this process is an insufficient channel for state-federal communication on federal actions that may affect state

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authority or administrative activity. Western Governors strongly urge you to engage in meaningful, substantive, and ongoing consultation with states in advance of prospective decisions or related public processes. Such consultation will result in more effective, efficient, and resilient federal policy benefiting the Western Governors', and the OSTP's, constituents.

Please contact me if you have any questions or require further information. In the meantime, with warm regards and best wishes, I am

Respectfully,

James D. Ogsbury
Executive Director

Attachments



Policy Resolution 2021-02

Utilizing State Data in Federal Decision Making

A. **BACKGROUND**

1. State and federal agencies increasingly rely on quantitative and qualitative data to inform evidence-based policymaking, improve service delivery, more effectively manage resources, improve regulatory enforcement, and more accurately measure program performance and effectiveness.
2. States serve a critical function as a primary sources and stewards of economic, social, geospatial, scientific, technical, and other datasets that support a wide array of federal agencies and programs. State agencies often have the best available science, expertise, and other institutional data resources for purposes of federal decision-making processes.
3. States are both sovereignties and the primary administrators of numerous federal administrative and regulatory programs under a system of cooperative federalism, which distinguishes them from other non-federal sources of data.
4. State agencies also rely on timely access to current and accurate federal datasets to inform their own decision-making processes, develop more effective policy, improve service delivery and public communication, and to administer federally-delegated administrative programs.
5. In addition to federal laws and regulations, state agencies operate under their own privacy and data stewardship laws, regulations, and policies that protect personal and confidential information from public disclosure or other inappropriate use or disclosure. These protections help establish public trust that ultimately improves government effectiveness.
6. Public access to datasets that serve as the basis for federal agency actions promotes transparency and accountability in the decision-making process. Nevertheless, blanket requirements to make publicly available all data considered by federal agencies – particularly if this data consists of raw data provided by states – may infringe upon states' statutory imperatives to protect personally identifiable and otherwise sensitive information. It may also infringe upon fundamental privacy and data stewardship principles like purpose specification and data minimization. Even where there is no state legal barrier to disclosure of raw data, state agencies may maintain significant reservations about the public release of raw data.
7. The 2019 Federal Data Strategy directs federal agencies to “[e]ffectively, routinely, transparently, and appropriately use data in policy, planning, and operations to guide decision-making [and] share the data and analyses behind those decisions.” Additionally, agencies are directed to “[f]acilitate data sharing between state, local, and tribal governments and the Federal Government, where relevant and appropriate and with

proper protections, particularly for programs that are federally funded and locally administered, to enable richer analyses for more informed decision-making.”

8. Improvements in intergovernmental data sharing, stewardship, integration, protection, and utilization will require robust federal investments in a modern data infrastructure, technology, and training.

B. GOVERNORS' POLICY STATEMENT

1. State data serves a critical role in the successful implementation of a variety of federal programs and in federal agencies' fulfillment of their statutory missions and directives.
2. Subject to state laws and other requirements for data protection and transparency, federal agencies should be required to incorporate state and local data and expertise into their analysis and decision-making processes. This data should include geospatial, scientific, technical, economic, social, and other information relevant to issues the agency is trying to address.
3. Congress and the Executive Branch should look to states and state agencies as partners – rather than ordinary stakeholders – in the collection, stewardship, analysis, and use of data to inform federal decision-making processes. Federal agencies should recognize the existence and limitations of state privacy and data stewardship laws, regulations, and policies and work with states to develop strategies that encourage effective state-federal data sharing while appropriately protecting data according to state law.
4. State data – particularly non-aggregated raw data – is subject to differing levels of protection under various state laws, regulations, and policies. Western Governors encourage Congress and federal agencies to recognize the limitations on complete transparency of state data in federal decision making and to work with states to identify ways in which protected data can inform federal decision-making processes without conflicting with applicable state laws, regulations, or policies.
5. Federal agencies should consult with states – on a government-to-government basis – in the development and implementation of policies, programs, and strategies to more effectively and consistently incorporate state data into federal decision making, including implementation of applicable federal statutes and programs, as well as the Federal Data Strategy and development of annual Federal Data Strategy Action Plans.
6. Federal agencies should also consult with states to ensure that state and local partners have access to timely and reliable federal datasets for purposes of informing state and local decision-making processes.
7. Congress and the Executive Branch should support, and work with state toward, the modernization of our nation's data infrastructure and intergovernmental data-sharing and analysis capabilities. Data infrastructure should be based on best practices for data stewardship and must properly protect personal and confidential information in accordance with state and federal law. Federal agencies should consult with states to develop guidelines for intergovernmental data-sharing agreements and other protocols that include commitments to fundamental privacy and data stewardship principles like purpose specification and data minimization.

8. Federal agencies should work with state and local partners to develop uniform data standards, where appropriate, to maximize data quality and facilitate intergovernmental data use, access, sharing, and interoperability.
9. Western Governors support congressional efforts to broaden statutory exemptions under the Freedom of Information Act to protect personally identifiable and sensitive state-shared data from disclosure.
10. Western Governors urge the Executive Branch to develop uniform privacy and data stewardship policies based on best practices and uniform interpretations of federal privacy and data stewardship laws, regulations, policies, and other directives applicable to data received from states, as well as other non-federal sources.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. The Governors direct WGA staff to work with congressional committees of jurisdiction, the Executive Branch, and other entities, where appropriate, to achieve the objectives of this resolution.
2. Furthermore, the Governors direct WGA staff to consult with the Staff Advisory Council regarding its efforts to realize the objectives of this resolution and to keep the Governors apprised of its progress in this regard.

This resolution will expire in December 2023. Western Governors enact new policy resolutions and amend existing resolutions on a semiannual basis. Please consult <http://www.westgov.org/resolutions> for the most current copy of a resolution and a list of all current WGA policy resolutions.



Policy Resolution 2021-01

Strengthening the State-Federal Relationship

A. **BACKGROUND**

1. Western Governors are proud of their unique role in governing and serving the citizens of this great nation. As the chief elected officials of sovereign states, they bear enormous responsibility and have tremendous opportunity. Moreover, the faithful discharge of their obligations is central to the success of the Great American Experiment.
2. It was the states that confederated to form a more perfect union by creating a national government with specific responsibilities for common interests. In this union, the states retained their sovereignty and much of their authority.¹
3. Under the American version of federalism, the powers of the federal government are narrow, enumerated and defined. The powers of the states, on the other hand, are vast and indefinite and encompass all powers of governance not specifically bestowed to the federal government by the U.S. Constitution. This principle is memorialized in the Tenth Amendment, which states: “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”
4. This reservation of power to the states respects the differences between regions and peoples, recognizes a right to self-determination at a local level, and provides for flexible, tailored solutions to policy challenges. It also requires the federal government to engage with states – our nation’s dynamic laboratories of democracy – on a government-to-government basis befitting their co-sovereign status.
5. In addition to states’ reserved sovereign authorities, Congress has recognized state authority in federal statute by: (1) directing the federal government to defer to state authority, including such authority over land and water use, education, domestic relations, criminal law, property law, local government, taxation, and fish and wildlife; and (2) delegating federal authority to states, including the regulation of water quality, air quality, and solid and hazardous waste.
6. [Executive Order 13132](#), Federalism, reinforces these constitutional, statutory, and judicial principles and directs federal agencies to have an accountable process to ensure meaningful and timely input from state officials in developing policies with federalism implications.
7. The relationship between state and federal authority is complex and multi-dimensional. There are various contexts in which these authorities manifest and intersect:

¹ The U.S. Supreme Court has confirmed that, “[d]ual sovereignty is a defining feature of our Nation’s constitutional blueprint” and “States entered the Union with their sovereignty intact.” *See, e.g., Sossamon v. Texas*, 563 U.S. 277, 283 (2011).

- a) **State Primacy** – All powers not specifically delegated to the federal government in the Constitution. In the absence of Constitutional delegation of authority to the federal government, state authority should be presumed sovereign. *Examples: groundwater, wildlife management (outside of the Endangered Species Act), natural resources management, electric transmission siting.*
 - b) **Shared State-Federal Authority** – Fact patterns in which federal authority and state primacy intersect. *Examples: wild horses and burros on federal lands, interstate water compacts.*
 - c) **Federal Authority Delegated to States** – Federal authority that Congress has delegated to states by statute. Many such statutes require federal agencies to set federal standards (and ensure those standards are met) but authorize states to implement those standards. *Examples: water and air quality, solid and hazardous waste.*
 - d) **Federal Statutory or Other Obligations to States** – Where the federal government has a statutory, historical, or moral obligation to states. *Examples: Payments in Lieu of Taxes; Secure Rural Schools Act; shared mineral royalties; agreements to clean up radioactive waste that was generated by federal nuclear weapons production.*
 - e) **Exclusive Federal Authority** – Powers enumerated in the Constitution as exclusive powers of the federal government. In areas of exclusive federal authority, state law can be preempted if Congress clearly and unambiguously articulates an intent to occupy a given field or to the extent it conflicts with state law. *Examples: national defense, production of money.*
8. In contravention of the Founders’ design, the balance of power has shifted toward the federal government and away from the states. Increasingly prescriptive regulations tie the hands of states and local governments, dampen innovation, and impair on-the-ground problem-solving. Failures of the federal government to consult with states reflect insufficient appreciation for local knowledge, preferences, and competencies. In many cases, these federal actions encroach on state legal prerogatives, neglect state expertise, and/or infringe on state authority.
 9. The federal government often requires states to execute policy initiatives without providing the funding necessary for their implementation. State governments cannot function as full partners if the federal government requires them to devote their limited resources to compliance with unfunded federal mandates.
 10. State authority and autonomy is also eroded when prescribed federal policies become effectively mandatory through the contingency of federal funding streams that states depend on to deliver critical services.
 11. Too often, federal agencies: solicit input from states after a decision is already made or a public process is started; ask states to provide feedback on a proposed action without providing details or documents regarding what the agency is proposing; or do not respond to state input or incorporate feedback from states into their decisions. This does not afford states with the respect and communication required by law, and states currently have no

recourse for an agency's failure to consult except for litigation on the merits of a federal decision.

12. Congress and Executive Order 13132 currently require federal agencies to document the effects of their actions on states in certain circumstances. In practice, federal agencies rarely prepare these prescribed federalism assessments or statements. Even when federal agencies prepare such documents, they are not ordinarily informed by input from affected states. In addition, these documentation requirements only apply at the end of the rulemaking process and cannot substitute for early and meaningful consultation with states.
13. Federal agencies have suggested to states that there are legal or other barriers to state consultation, such as: federal agency policies restricting ex parte communications; concerns about the applicability of Federal Advisory Committee Act (FACA) procedures to meetings between state and federal officials; and issues with sharing information that would otherwise be exempt from disclosure under the Freedom of Information Act (FOIA).
14. Federal agencies do not adequately incorporate state data and expertise into their decisions. This can result in duplication, inefficiency, and federal decisions that do not reflect on-the-ground conditions. Consideration and incorporation of state, tribal, and local data and analysis will result in federal actions that are better-informed, more effectively coordinated among all levels of government, and tailored to the communities they affect.
15. Many of these issues stem from a profound misunderstanding throughout the federal government regarding the role and legal status of states. Over the past several years, Western Governors have worked to improve the federal government's understanding of state sovereignty, authority, and state-federal consultation; meaningful structural change, however, has yet to occur.

B. GOVERNORS' POLICY STATEMENT

1. A good faith partnership between states and the federal government will result in more efficient, economic, effective, and durable policy, benefiting the Governors' and the federal government's shared constituents and resulting in a nation that is stronger, more resilient, and more united.
2. Improving state-federal communication and coordination is a goal that transcends party lines, and it is among the Governors' highest priorities. The Governors urge Congress and the Executive Branch to make fundamental changes to realign and improve the state-federal paradigm.

State Sovereignty and Authority

3. States are co-sovereigns with the federal government pursuant to the Tenth Amendment of the U.S. Constitution and other federal law. Congress and federal agencies must recognize state sovereignty and must not conflate states with other entities or units of government. States should not be treated as stakeholders or members of the public.
4. State authority is presumed sovereign in the absence of Constitutional delegation of authority to the federal government.

- a) Federal legislative and regulatory actions should be limited to issues of national significance or scope, pursuant to federal constitutional authority. Preemption of state laws should be limited to instances of necessity.
 - b) Where Congress preempts state law (acting pursuant to federal constitutional authority), federal law should accommodate state laws, regulations, and policies before its enactment and permit states that have developed alternate standards to continue to enforce and adhere to them.
 - c) Federal agencies should construe federal law to preempt state law only when a statute contains an express preemption provision or there is some other compelling evidence that Congress intended to preempt state law.
5. Congress and federal agencies should respect the authority of states to determine the allocation of state administrative and financial responsibilities in accordance with state constitutions and statutes. It should further:
- a) Ensure that federal government monitoring is outcome-oriented;
 - b) Minimize federal reporting requirements; and
 - c) Refrain from dictating state or local government organization.
6. When a state is meeting the requirements of a delegated program, the role of a federal agency should be limited to the provision of funding, technical assistance and research support. States should have the maximum discretion to develop implementation and enforcement approaches within their jurisdiction without federal intervention. Federal agencies should recognize and credit states' proactive actions.
7. Congress and federal agencies should avoid imposing unfunded federal mandates on states. In addition:
- a) Federal assistance funds, including funds that will be passed through to local governments, should flow through states according to state laws and procedures;
 - b) States should have the flexibility to transfer a limited amount of funds from one grant program to another and to coordinate the administration of related grants;
 - c) Federal funds should provide maximum state flexibility without specific set-asides; and
 - d) Governors should have the authority to require coordination among state executive branch agencies, or between levels or units of government, as a condition of the allocation or pass-through of funds.
8. Congress and the Executive Branch should create or re-establish entities to discuss and act on federalism issues, such as the Speaker's Task Force on Intergovernmental Affairs, the U.S. Advisory Committee on Intergovernmental Relations, the Subcommittee on Intergovernmental Affairs, or a federalism office within the White House. These entities should have the ability and resources to make recommendations to improve the state-

federal relationship and include states in their membership or actively involve states in their discussions.

State-Federal Consultation

9. Federal agencies must engage in consultation with states on a government-to-government basis in accordance with states' legal status. Congress should clarify and promote the need for state-federal consultation.
10. Improving state-federal consultation will result in more effective, efficient, and long-lasting federal policy for the following reasons:
 - a) Governors have specialized knowledge of their states' environments, resources, laws, cultures, and economies that is essential to informed federal decision-making;
 - b) Federal agencies can reduce duplication through the use and incorporation of state expertise, data and documentation;
 - c) Authentic communication and information exchange will help federal agencies determine whether an issue is best addressed at the federal level; and
 - d) Through meaningful dialogues with affected states, federal agencies can also avoid unintended consequences and address or resolve state concerns.
11. Each Executive department and agency should have a clear and accountable process to provide each state – through its Governor or their designees – with early, meaningful, substantive, and ongoing consultation in the development of federal policies that affect states. The extent of the consultation process should be determined by engaging with affected states. At a minimum, this process must involve:
 - a) Conducting consultation through federal representatives who can speak or act on behalf of an agency;
 - b) Inviting states to provide input outside of a public process and before proposals are finalized;
 - c) Enabling states to engage with federal agencies on an ongoing basis to seek refinements to proposed federal actions prior to finalization;
 - d) Providing robust information and documents (including non-final, non-public, draft, and supporting documents) about potential federal actions, including proposed rules, to Governors or their designees;
 - e) Addressing or resolving, where possible, state issues, concerns, or other input unless precluded by law;
 - f) Documenting how state concerns were resolved or why they were unable to be resolved in final decisions; and

- g) Making reasonable efforts to achieve consistency and avoid conflicts between federal and state objectives, plans, policies, and programs.
12. Governors affirm their reciprocal role in advancing a clear, predictable, timely, and accountable consultation process. Governors or their designees must continue to provide clear expectations for the appropriate scope and scale of consultation and must work with federal agencies to make consultation processes as efficient as practicable. As chief executives, Governors must also ensure the views of the state are clearly and consistently conveyed throughout the consultation process by prioritizing significant issues and resolving competing viewpoints across state government.
13. In many cases, federal agencies are required – whether by statute, executive order, regulation, policy, or other mandate – to consult, cooperate, and coordinate with states before taking action. However, due to states’ unique legal status, the need for federal-state engagement is not limited to express directives and should extend to any federal actions that may have direct effects on states, on the relationship between the federal government and states, or on the distribution of power or responsibilities among the various levels of government. Federal agencies should consult with states regarding what types of agency actions typically affect states and the extent of consultation required for these types of actions.
- a) These actions include the implementation of federal statutes and the development, prioritization, and implementation of agency policies, rules, programs, reviews (e.g., Governor’s Consistency Reviews), plans (e.g., resource management plans), budget proposals and processes, strategic planning efforts (e.g., reorganization), and federal litigation or adjudication that affects states.
 - b) When a federal agency proposes to enter into any agreement or settlement that affects states, the agency should provide all affected Governors or their designees with notice of the proposal and consult with, and seek the concurrence of, Governors or their designees who respond to the notice.
14. Congress and the Executive Branch should require federal agencies to promulgate regulations in consultation with Governors, setting forth their procedures to ensure meaningful, substantive consultation with states on federal actions that affect states. This direction should also clarify that, for rulemakings affecting states:
- a) An agency’s satisfaction of rulemaking requirements under the Administrative Procedure Act (including the solicitation of public comments) does not satisfy an agency’s obligation to consult with states; and
 - b) Consultation should occur before publication of a notice of proposed rulemaking or before an advanced notice of proposed rulemaking is submitted to the Office of Management and Budget (OMB).
15. Congress and the Executive Branch should consider the following additional accountability measures:

- a) Requiring the designation of a federalism official with the responsibility for implementing state-federal consultation and publish this official's name, title, and contact information on the agency's website;
 - b) Requiring OMB to regularly submit a report to Congress and Governors on state-federal consultation and implementation of agency consultation rules;
 - c) Requiring federal agencies to provide a summary of their efforts to consult with states, including a discussion of state input and how that input was considered or addressed, in any proposed and final rules;
 - d) Creating a process where Governors can notify OMB of an agency's failure to consult or comply with their consultation procedures; and
 - e) Providing an opportunity for Governors or their designees to seek judicial review of an agency's failure to consult.
16. Congress and the Executive Branch could make federalism reviews more effective by:
- a) Working with Governors to develop specific criteria and consultation processes for initiating and performing these reviews.
 - b) Providing Governors with an opportunity to comment on federalism assessments before any covered federal action is submitted to OMB for approval.
17. Congress and federal agencies should take the following actions to clarify that *ex parte* policies, FACA, and FOIA are not barriers to consultation:
- a) Federal agencies should (and Congress should require them to) clearly identify and provide rationale for any perceived barriers to consultation;
 - b) Federal agencies should clarify that consultation with state officials does not qualify as *ex parte* communications and that *ex parte* communications are not prohibited at any point during an informal rulemaking process;
 - c) Congress should clarify that meetings held exclusively between federal personnel and state elected officials or their designees acting in their official capacities or in areas of shared responsibilities or administration (and not for the purpose of obtaining collective advice) do not qualify as requiring compliance with FACA procedures; and
 - d) Congress should clarify that FOIA's exemptions apply to federal records shared or exchanged with states (as if those records were shared, exchanged, or created solely within the federal government) and create a statutory exemption to FOIA disclosure for state records in instances where publication of state records provided to federal agencies would violate existing state law.

State Data and Expertise

18. Federal agencies should utilize state data, expertise, and science in the development of federal actions that affect states.
19. Congress and the Executive Branch should, subject to existing state requirements for data protection and transparency, require agencies to incorporate state and local data and expertise into their decisions. This data should include scientific, technical, economic, social, and other information on the issue the agency is trying to address.
20. States merit greater representation on all relevant committees and panels advising federal agencies on scientific, technological, social, and economic issues that inform federal regulatory processes.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. The Governors direct WGA staff to work with congressional committees of jurisdiction, the Executive Branch, and other entities, where appropriate, to achieve the objectives of this resolution.
2. Furthermore, the Governors direct WGA staff to consult with the Staff Advisory Council regarding its efforts to realize the objectives of this resolution and to keep the Governors apprised of its progress in this regard.

This resolution will expire in December 2023. Western Governors enact new policy resolutions and amend existing resolutions on a semiannual basis. Please consult westgov.org/resolutions for the most current copy of a resolution and a list of all current WGA policy resolutions.



Policy Resolution 2020-07 Rural Development

A. BACKGROUND

1. Vibrant and prosperous rural communities are essential components of western states and the nation. Rural communities in the West grow and supply food, steward natural resources, contribute disproportionately to the armed services, and are critical to state economies.
2. Rural communities in the West are richly diverse and face varying threats and opportunities. They do, however, share common characteristics, such as low population density and distance from urban centers, that create challenges for economic development.
3. Nationally, the rural population is increasing slowly after a period of decline from 2010-2017, although there is great variation in demographic trends at the county level. Many rural western counties are experiencing population growth due to net migration of retirees as well as people seeking quality of life and amenities.
4. Most rural communities have a higher proportion of older residents than urban and suburban communities. Rural communities are preparing for an anticipated wave of retirements, leading to a reduction in skilled workforce and potential closure of local businesses.
5. Western states have many of the highest per-capita veteran populations in the nation. It is estimated that approximately 25 percent of all veterans live in rural areas. These veterans have lower rates of employment compared to veterans living in urban areas and to their non-veteran rural colleagues.
6. Most rural communities have experienced slower economic and job growth than their urban counterparts and have not yet fully recovered from the 2008 recession. Many rural economies rely heavily on a few industries. This makes these communities more sensitive to trends affecting those industries and can make it more difficult to recover from disruptions. Rural communities have also been significantly affected by the COVID-19 public health threat and will suffer distress from any associated economic downturn.
7. Federal programs for rural development are spread across multiple agencies. Some agencies are responsible for rural infrastructure investments while others focus on economic development. The multiplicity of administrating entities and the lack of consistency across agencies: renders it difficult for rural stakeholders to navigate federal programs; compounds time and expense needed to apply for funding opportunities; and creates inefficiencies in the distribution of resources.
8. The vast majority of federal loan and grant programs for rural communities are targeted to physical infrastructure. Little funding exists to support development of local capacity, including strengthening community organizations, nonprofit entities, and other groups serving rural communities.

9. By offering opportunity, connectivity, and quality of life, rural communities can thrive and prosper while improving economic stability and protecting the rural character and natural resources that draw people to these areas.
10. Small businesses, including farming and ranching, are the foundation of rural economies, generating tax revenue, creating jobs, providing essential goods and services, and contributing to the culture and character of small towns. Building a successful business in a rural community is particularly challenging due to limited access to capital, available workforce and smaller customer bases. Many successful rural businesses operate on thin margins and if they close, are extremely difficult to replace.
11. High-speed internet, commonly referred to as “broadband,”¹ is the critical infrastructure of the 21st century and a modern-day necessity for individuals, businesses, schools and government. Many rural western communities lack the business case for private broadband investment due to the high cost of infrastructure and the low number of customers in potential service areas. This has left many rural businesses and citizens at a competitive disadvantage compared to urban and suburban areas with robust broadband access.
12. Transportation connectivity is critical to strengthening economies and improving quality of life. Air service is particularly important to connect remote western communities to urban hubs. Pilot shortages, infrastructure constraints, and airline consolidation have negatively impacted rural air connectivity. The airline industry has been significantly impacted by COVID-19 and rural service, which is typically the least profitable, has been reduced.

B. GOVERNORS' POLICY STATEMENT

1. Western Governors believe that strengthening social infrastructure in rural communities is the best strategy to ensure rural quality of life and prosperity. Congress and federal agencies should increase the proportion of rural economic development and infrastructure funding that goes toward capacity-building. Accordingly, Western Governors call for ample and consistent federal funding for institutions, training, and technical assistance. Robust social infrastructure is fundamental to economic and community development and maximizes the impact of state and federal resources.
2. Social infrastructure is especially critical during disasters or crises. The COVID-19 pandemic and associated economic crisis have illustrated the challenge of rapidly deploying resources to the most urgent needs. Western Governors are committed to strengthening the resilience of rural communities by helping to foster local leadership and strengthen networks and connections within and among rural communities across the West.
3. Western Governors believe that many federal programs for rural development and distressed communities include unintended barriers for rural individuals and entities that need assistance most. Western Governors urge federal agencies to work with states to: thoroughly evaluate program requirements; identify barriers for rural applicants; and revise onerous requirements in a manner that recognizes the limited resources and capacity of rural applicants. In particular, Western Governors are concerned by:

¹ The Federal Communications Commission defines fixed “broadband” as service offering minimum speeds of 25 Megabits per second (Mbps) down and 3 Mbps up.

- a. Scoring criteria that relate to numerical size and impact, such as the number of jobs created or the number of people served, which disadvantage small and isolated communities;
 - b. Requirements that applicants partner with other institutions like community colleges or foundations, which may not operate in the rural community seeking assistance;
 - c. Financial match or cash-on-hand requirements that rural organizations cannot meet; and
 - d. Overly complicated or technical applications that deter rural customers from applying.
4. Western Governors also urge federal agencies to use state data for eligibility determinations when requested by states. States often have more up-to-date and granular data for rural communities than federal sources.
5. Western Governors recognize and support efforts at the federal and state level to coordinate the deployment of resources, leverage funding, and create one-stop application processes for rural customers. Western Governors are interested in exploring strategies to expand those models to include more funders and further enhance coordination between agencies and between states and the federal government.
6. Western Governors believe that changes in our economy, labor force, and technological innovations require fundamental changes in economic development strategies. Western Governors promote rural development policies that focus on quality of life and the support of small businesses and entrepreneurs. This will develop rural communities that are attractive places to live and work while protecting their rural character, natural resource-based industries, and natural areas.
7. In the wake of disasters in rural communities, including the COVID-19 pandemic, providing small businesses with the tools and resources to survive disruption and prosper again is critical for economic recovery and social stability. The impacts of COVID-19 mitigation measures have illustrated the urgent need for working capital to stabilize rural businesses and ensure their continued viability during periods of prolonged disruption related to disasters and emergencies. The federal response to declared disasters must include sufficient and accessible business stabilization funds, including grants and long-term, forgivable loans. Congress should also examine how such funds are distributed by the Small Business Administration (SBA), U.S. Department of Agriculture Rural Development (USDA RD), and the Economic Development Administration (EDA) to ensure that adequate systems are in place to handle demand during widespread emergencies.
8. During COVID-19 response, many small lenders could not access federal funds to support their communities because they did not meet program thresholds or were unable to compete against large banks. Small lenders, including community development financial institutions (CDFIs), community banks, and credit unions, are often the only lender serving rural and tribal communities. In the ongoing response to the economic impacts of COVID-19, Western Governors encourage Congress to set aside emergency relief funds for small

lenders and consider program requirements that allow those entities to participate through a streamlined process to rapidly distribute resources while maintaining fiscal accountability.

9. Western Governors are eager to work with public universities, community colleges, and the business community to expand opportunities for young people to stay in their rural communities. There is a high demand for skilled workers in rural communities and states should work together on regional solutions that provide the appropriate training and skills for the jobs that are available in rural communities where possible. Western Governors are also committed to increasing employment among veterans and the disabled community in the rural West.
10. Western Governors encourage increased flexibility in the use of federal economic development resources (particularly EDA funds) to facilitate investments in quality of life and amenities in rural communities. Governors believe that metrics based solely on the absolute number of jobs created do not reflect the important economic benefits of investments in community assets that make rural communities attractive places to live. Nor do they account for the relative impact of job creation in less populated rural communities or areas with high unemployment or poverty rates.
11. Western Governors strongly support improving and increasing broadband connectivity in the rural West through significant federal investments in mapping, deployment, and adoption. The Governors have highlighted substantive policy recommendations in the Western Governors' Association policy resolution addressing broadband connectivity.
12. Western Governors have developed robust policies addressing the challenge of providing services and maintaining infrastructure essential to communities across the vast expanse of the rural West. These policies address broadband access, healthcare, surface transportation and water quality. Western Governors are committed to working with Congress and federal agencies to improve the efficacy of federal and state programs to support critical infrastructure in the rural West.
13. Western Governors recommend further changes in approach to supporting water and wastewater infrastructure in the West:
 - a. Funding for communities not served by water systems is critically needed. Western Governors recommend set-asides to develop innovative solutions for communities and tribes that cannot be served by traditional systems.
 - b. Western Governors are concerned about shortages of certified water system operators and request a coordinated effort to increase training opportunities through the U.S. Department of Agriculture, U.S. Environmental Protection Agency, U.S. Department of Labor and college and university programs that develop these skilled workers to ensure that existing water access in rural communities can be maintained.
14. Western Governors emphasize that air service is a necessity in many rural communities. As the airline industry recovers from the economic impacts of COVID-19, Western Governors urge Congress to consider measures to address challenges in rural air connectivity, including funding for infrastructure and service subsidies.

15. Western Governors support the use of cooperative business models to preserve rural businesses and fill community needs for childcare, homecare, main street businesses, housing, and more. Western Governors recognize the need for substantial technical assistance and education in developing new cooperative businesses and support federal funding of such efforts.
16. Western Governors are concerned by food security challenges in rural communities. Rural grocery store closures jeopardize livability and community health. Western Governors are interested in exploring strategies to ensure rural food security by strengthening local agricultural economies and developing regional approaches to rural food supply chains.
17. Housing remains a critical challenge in rural communities across the West. Western Governors are committed to working together to share best practices and effective solutions for housing preservation and development in the rural West.
18. The Cooperative Extension System, which serves every county in western states, is an important asset for rural development. Western Governors believe that Cooperative Extension can play a more meaningful role in economic development efforts in distressed communities and support continued investment in the system as it responds to the changing needs of rural communities. Western Governors are committed to maximizing the efficacy of Cooperative Extension in their states.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. The Governors direct WGA staff to work with Congressional committees of jurisdiction, the Executive Branch, and other entities, where appropriate, to achieve the objectives of this resolution.
2. Furthermore, the Governors direct WGA staff to consult with the Staff Advisory Council regarding its efforts to realize the objectives of this resolution and to keep the Governors apprised of its progress in this regard.

Western Governors enact new policy resolutions and amend existing resolutions on a bi-annual basis. Please consult www.westgov.org/resolutions for the most current copy of a resolution and a list of all current WGA policy resolutions.