

April 15, 2022

The Honorable Laurie Locascio
Director
National Institute of Standards and Technology
100 Bureau Drive
Gaithersburg, Maryland 20899

Dear Director Locascio,

ACT | The App Association (App Association) congratulates you on your confirmation as director of the National Institute of Standards and Technology (NIST). The App Association represents thousands of small business software application development companies and technology firms located across the mobile economy. Our members develop innovative applications and products that meet the demands of the rapid adoption of mobile technology and that improve workplace productivity, accelerate academic achievement, monitor health, and support the global digital economy. Our members play a critical role in developing new products across consumer and enterprise use cases, enabling the rise of the internet of things (IoT). Today, the App Association represents an ecosystem valued at approximately \$1.7 trillion that is responsible for 5.9 million American jobs. The App Association welcomes your leadership in promoting U.S. innovation and industrial competitiveness by advancing measurement science, standards, and technology in ways that enhance economic security and improve our quality of life at this critical time for our country.

We also write to provide recommendations on actions NIST should take to support job creation and growth for small companies in the app economy. Across a range of very important areas and issues, NIST should continue to serve as a leader for, and coordinator within, the U.S. government with respect to standards, cybersecurity, privacy, artificial intelligence (AI), and other areas that will support U.S. public and private efforts to identify, understand, refine, and guide technology innovation.

You are also well-positioned to help eliminate disparities and inequities that affect startup costs for minority-owned businesses through NIST's policies and collaborations. For example, a standards system that is not reliably accessible and that encourages intellectual property abuses raises costs on entrepreneurs. This is an unacceptable outcome for those who already experience higher costs and barriers to entry given their ethnic backgrounds.¹ For Black entrepreneurs, access to capital is also harder to come by, with banks approving credit for Black-owned firms at rates that are 19 percentage points lower than for White-owned firms²

¹ Such barriers are caused by, for example, an education funding gap between predominantly white and predominantly nonwhite school districts of approximately \$23 billion. Laura Meckler, "Report finds \$23 billion racial funding gap for schools," THE WASHINGTON POST (Feb. 26, 2019), *available at* https://www.washingtonpost.com/local/education/report-finds-23-billion-racial-funding-gap-for-schools/2019/02/25/d562b704-3915-11e9-a06c-3ec8ed509d15_story.html.

² FED. RESERVE BANK OF CLEVELAND, REPORT ON MINORITY-OWNED FIRMS (Nov. 9, 2017), *available at* <https://www.clevelandfed.org/en/newsroom-and-events/press-releases/2017/pr-20171108-atlanta-and-cleveland-feds.aspx>.

(particularly for venture capital). From a startup costs perspective, all these factors indicate that the barriers to entry for minority-owned businesses in tech-driven markets are greater. NIST's policies can, and should, significantly impact these costs.

As described in our appended recommendations, the App Association recommends that NIST enable all small business innovators to succeed by:

- Advancing a strong, fair, transparent standards system that will protect consumers while supporting U.S. small business entrepreneurs;
- Improving NIST's leading Cybersecurity Framework through continued collaboration with public and private interests;
- Supporting good privacy-protecting practices and data stewardship through NIST's Privacy Framework;
- Supporting technology innovation through NIST Standards, Guidelines, and NIST Internal or Interagency Reports (NISTIRs);
- Contributing to the development of emerging technologies (e.g., collaboratively developing NIST's AI Risk Management Framework);
- Joining with the Department of Justice and U.S. Patent and Trademark Office in advancing a recently rewritten draft policy statement that describes remedies available for standard-essential patent (SEP) licensors that better reflects the state of federal law, and discourages the issuance of injunctions against would-be licensees of SEPs on antitrust grounds;
- Advancing a coordinated and pro-competitive whole of government approach to standards and innovation policy that will advance U.S. competitiveness and advance equity; and
- Expanding international leadership coordination and education activities through both bilateral interactions as well as through multilateral fora.

The App Association again congratulates you on your confirmation to lead the NIST at this critical time, and we welcome the opportunity to work with you moving forward.

Sincerely,



Morgan Reed
President

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