



Nancy Krasne, Mayor

April 8, 2009

Barbara Brown
U.S. Dept. of Commerce / NTIA
1401 Constitution Avenue, N.W.
Washington, D.C. 20230

Re: Comments in Response to the NTIA Request for Information

Dear Ms. Brown:

Below, please find the City of Beverly Hills' comments for consideration in formulating and tailoring the rules and regulations related to the BTOP. The City of Beverly Hills, in line with President Obama's goal for a national broadband network, believes in the goal of having ubiquitous broadband throughout the United States to ensure that Americans can compete in the global market of the twenty-first century, and to assist with the nation's economic recovery and growth. The City of Beverly Hills can serve as a municipal leader in furtherance of that goal, and is pleased to submit these comments for your consideration.

THE PURPOSES OF THE GRANT PROGRAM

- **Should a certain percentage of grant funds be apportioned to each category?**
No. Not every category will have candidates ready with projects to proceed upon receipt of the funds within the prescribed timeline. The grant funds should be allocated to the most viable projects that further the Recovery Act's goals regardless of category.
- **Should applicants be encouraged to address more than one purpose?**
Yes. If a proposed project addresses more than one BTOP purpose, applicants should be encouraged to include multiple purposes in their grant application. However, if applicants are addressing more than one purpose by requesting grant funds for more than one project, applicants should be encouraged to submit separate applications for each project to ensure that applications are not denied on the basis of impracticality or unsuitability of one project contained in the application.
- **How should the BTOP leverage or respond to the other broadband-related portions of the Recovery Act, including the United States Department of Agriculture (USDA) grants and loans program, as well as the portions of the Recovery Act that address smart grids, health information technology, education, and transportation infrastructure?**
The BTOP should consider funding projects that may have a crossover aspect to them with respect to also addressing other broadband-related portions of the Recovery Act. This will give the BTOP latitude to ensure that all projects that further the goals of the BTOP and the Recovery Act in general receive funding.

THE ROLE OF THE STATES

- **How should NTIA resolve differences among groups or constituencies within a State in establishing priorities for funding?**

The NTIA should prioritize based on need, viability of success, and sustainability to ensure that both the short-term and long-term goals of the Recovery Act and the BTOP are upheld. If resolving differences based on these priorities is too subjective, the NTIA can establish a “points” system by which each stated purpose of the Recovery Act and each stated purpose of the BTOP is assigned points. Disputes would be resolved based on which application has received the most objective points, thereby hopefully being the project most aligned with the intent of the Recovery Act and BTOP.

- **How should NTIA ensure that projects proposed by States are well-executed and produce worthwhile and measurable results?**

The NTIA should require that the projects receiving grant funding have measurable objectives that must be met for successful project completion, and that each project has a sustainability plan associated with it. Once those measurable objectives are established, ensure that payment milestones are associated with some or all of the measurable objectives, and require that grantees give detailed, regularly occurring (monthly) status reports to be posted on the designated website(s) noting which measurable objectives have been met and which payment milestones have been met and paid, including dates of completion and amounts.

ESTABLISHING SELECTION CRITERIA FOR GRANT AWARDS

- **Should priority be given to proposals that address several purposes, serve several of the populations identified in the Recovery Act, or provide service to different types of areas?**

Yes, so long as the multiple purposes are provable and not just stated to bolster the strength of the proposal. Ideally, each proposal should be as narrowly tailored as possible to ensure the likelihood of success and the ability to clearly identify benchmarks to measure the success of the proposed project(s).

- **What factors should be given priority in determining whether proposals will encourage sustainable adoption of broadband service?**

The factors that should be given priority include (i) a proven record of successful implementation projects within budget and on-time, (ii) a demonstrated sustainability plan, and (iii) proof that the applicant understands and can detail the total cost of ownership and/or operation for specific time periods, (3 years, 5 years, 7 years, etc.).

- **Should the fact that different service characteristics, such as speed and use of dedicated or shared links, be considered given the statute’s direction that, to the extent practicable, the purposes of the statute should be promoted in a technologically neutral fashion?**

While the Act states that the statute should be promoted in a technologically neutral fashion, it was likely not the intent to result in markedly disparate levels of service to the public related to speed, use of dedicated or shared links. There should be minimum acceptable service levels established to ensure that users of the broadband networks resulting from projects infused with BTOP funding receive a minimum broadband access speed. These minimum service levels should be maintained regardless of the type of broadband technology proposed (cable, digital subscriber line, fiber optic service, fiber to the home, satellite, or wireless), which results in true technologically neutral promotion of the statute.

GRANTS FOR INNOVATIVE PROGRAMS TO ENCOURAGE SUSTAINABLE ADOPTION OF BROADBAND SERVICE

- **What selection criteria should be applied to ensure success of the program?**

The selection criteria that should be applied include (i) inclusion of a project plan that outlines measurable objectives from commencement to completion, (ii) details of which BTOP purposes are addressed with the project and how, (iii) details that the applicant understands the total cost of ownership and/or operation of the project for specific periods of time to ensure sustainability, (iv) a demonstrated record of successful project completion to lessen the likelihood of waste, and (v) proof of concept of scalability by submittal of a plan for future application, expansion, and maintainability.

- **What measures should be used to determine whether such innovative programs have succeeded in creating sustainable adoption of broadband services?**

To determine success, grantees can be required to report on usage of the established broadband networks for a period of one or more years following completion of the project. Additionally, audits can be performed to determine what programs, individuals, businesses, or households are actually using the established broadband network(s).

BROADBAND MAPPING

- **What uses should such a map be capable of serving?**

The national broadband map should be able to be accessed by any public entity within the United States to retrieve the status of any municipal, county or other regional broadband networks that exist nationwide, including the types available, the percentage of the population that has access to broadband networks, and any limitations identified for future development.

- **What specific information should the broadband map contain, and should the map provide different types of information to different users (e.g., consumers versus governmental entities)?**

The broadband map should contain the status of any municipal, county or other regional broadband networks that exist nationwide, including the types available, the percentage of the population that has access to broadband networks, and any limitations identified for future development, details accessible only by public entities. The map should also have a public instance, such that any member of the public can access the map and see all existing broadband networks, public and private, with minimal details.

- **At what level of geographic or other granularity should the broadband map provide information on broadband service?**

The map should, at a minimum, show availability of broadband service to the county level, detailing percentage of broadband coverage, and noting areas lacking coverage. However, the ultimate goal should be to have the map contain details of broadband coverage at the municipal level, so citizens of any particular city or township could easily see broadband network availability where they live, work, or travel.

- **What other factors should NTIA take into consideration in fulfilling the requirements of the Broadband Data Improvement Act, Public Law 110-385 (2008)?**

The NTIA should also consider applications specifically related to Section 106 of the Broadband Data Improvement Act:

(a) PURPOSES.—The purposes of any grant under subsection are—

(1) to ensure that all citizens and businesses in a State have access to affordable and reliable broadband service;

- (2) to achieve improved technology literacy, increased computer ownership, and broadband use among such citizens and businesses;
- (3) to establish and empower local grassroots technology teams in each State to plan for improved technology use across multiple community sectors; and
- (4) to establish and sustain an environment ripe for broadband services and information technology investment.

Across the country, the deployment of broadband in the municipal environment has been hampered by many false starts, misaligned business models, ill conceived partnerships, and poor planning. The NTIA should encourage municipalities that have the expertise to implement and sustain regional broadband networks to apply, to serve as examples of successful implementations of broadband technologies, and as regional foundations upon which to leverage broadband technologies, bridge, and expand their municipal broadband networks on a regional basis.

FINANCIAL CONTRIBUTIONS BY GRANT APPLICANTS

- **What factors should an applicant show to establish the “financial need” necessary to receive more than 80 percent of a project's cost in grant funds?**
The applicant should show proof that funds are not currently budgeted for the proposed project.
- **What factors should the NTIA apply in deciding that a particular proposal should receive less than an 80 percent Federal share?**
If an application shows partial funding of a project, the NTIA should be able to consider giving less than 80 percent Federal share.
- **What showing should be necessary to demonstrate that the proposal would not have been implemented without Federal assistance?**
The applicant should show proof that funds are not currently budgeted for the proposed project.

COORDINATION WITH USDA'S BROADBAND GRANT PROGRAM

- **What specific programmatic elements should both agencies adopt to ensure that grant funds are utilized in the most effective and efficient manner?**
The selection criteria that should be applied include (i) inclusion of a project plan that outlines measurable objectives from commencement to completion, (ii) details of which BTOP purposes are addressed with the project and how, (iii) details that the applicant understands the total cost of ownership and/or operation of the project for specific periods of time to ensure sustainability, (iv) a demonstrated record of successful project completion to lessen the likelihood of waste, and (v) proof of concept of scalability by submittal of a plan for future application, expansion, and maintainability.

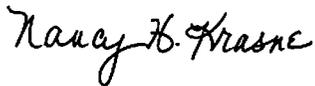
Require that the projects receiving grant funding have measurable objectives that must be met for successful project completion, and that each project has a sustainability plan associated with it. Once those measurable objectives are established, ensure that payment milestones are associated with some or all of the measurable objectives, and require that grantees give detailed, regularly occurring (monthly) status reports to be posted on the designated website(s) noting which measurable objectives have been met and which payment milestones have been met and paid, including dates of completion and amounts.

DEFINITIONS

- **How should the BTOP define "broadband service?"**
Broadband service should be defined as industry-standard minimum speeds for each type of broadband technology (cable, digital subscriber line, fiber optic service, fiber to the home, satellite, and wireless).
- **How should the BTOP consider the impacts of the use of shared facilities by service providers and of network congestion?**
Whether broadband service provides the minimum acceptable speed determined by the industry standard for each specific type of broadband technology should be the measure of the impact of shared facilities and network congestion.
- **In the case of infrastructure paid for in whole or in part by grant funds, should the obligations extend beyond the life of the grant and attach for the whole usable life of the infrastructure?**
No. Extension of obligations beyond the life of the grant, or beyond a predefined limited period of time following grant receipt, and audit and reporting obligations, usually one year, would unnecessarily inhibit the grantee and may cause a chilling effect that is counter to the intent of the Recovery Act. A requirement that the applicant understands the total cost of ownership and /or operation should be sufficient.

If you have any questions or need additional information, please feel free to contact me at your convenience. Thank you for your consideration.

Sincerely,



Nancy Krasne
Mayor, City of Beverly Hills

cc: Beverly Hills City Council
Roderick J. Wood, City Manager