

**Before the**  
**Department of Commerce**  
**National Telecommunications and Information Administration**  
  
**Department of Agriculture**  
**Rural Utilities Service**  
  
**Washington, D.C.**

In the Matter of )  
 )  
American Recovery and Reinvestment Act ) Dkt. No. 090309298–9299–01  
of 2009 Broadband Initiatives )  
 )

**COMMENTS OF THE DISTRICT OF COLUMBIA GOVERNMENT**

The District of Columbia Government (“the District of Columbia” or “the District”) hereby respectfully submits these comments in response to the joint request for information published<sup>1</sup> by the National Telecommunications and Information Administration (“NTIA”) and the Rural Utilities Service (“RUS”) to obtain comment on their initiative to implement Section 6001 of the American Recovery and Reinvestment Act of 2009 (“Recovery Act”). The District appreciates the enormity of the task facing the NTIA and RUS to efficiently and effectively distribute the recovery funds entrusted to it by Congress and offers these comments in an effort to help.

The District urges the federal government to adopt rules for the award of Broadband Technical Opportunities Program (“BTOP”) grants that recognize the central role states and municipal governments must play in order to meet the over-arching goal of the Recovery Act: to

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<sup>1</sup> 74 Fed. Reg. 10716 (Mar. 12, 2009).

stimulate the nation's economy. Such rules, in the view of the District, should embrace the following five recommendations:

- (1) Initiatives to increase broadband use among "underserved" populations should be given equal priority as those focused on "unserved" populations;
- (2) For NTIA-awarded grants, whether the proposed initiative would focus on a rural population should not be a factor;
- (3) Because of the qualitatively different nature of public safety projects, NTIA should provide a funding set-aside for them;
- (4) For grant proposals from states and municipal entities, NTIA should not delay award of funds pending a new study or map of broadband need in the geography proposed to be served;
- (5) NTIA should delegate to the states responsibility for grant application evaluation and ranking for one-half of the BTOP funding consistent with the state broadband plan and NTIA/RUS criteria; and
- (6) Given the current economic climate, the federal government should adopt a permissive standard for granting waivers of the match requirement and, where a waiver is denied, should count toward the match requirement use of existing state and municipal assets as an in-kind contribution.

**I. "Underserved" Should Be Weighed the Same as "Unserved"**

Section 6001(b) of the Recovery Act specifies five goals of the BTOP grant program, the first two of which are to "[p]rovide access to broadband service to consumers residing in unserved areas of the United States," and "[p]rovide improved access to broadband service to consumers residing in underserved areas of the United States." Other than the addition of the term "improved" in the provision related to "underserved" areas, there is no difference in the wording and no indication that initiatives to address one population ought to receive funding priority over initiatives to address the other population.

From an economic stimulus perspective, improving access to underserved areas by making broadband access affordable may well do more to create or save jobs at less cost to the government than will bringing service to an area that has never before had access to broadband.

Thus, in remaining true to the overarching goal of the Recovery Act, the government should give proposals focused on unserved areas no greater weight than proposals focused on underserved areas.

## **II. “Rural” Should Not be a Factor for BTOP Awards**

Though rural areas will certainly be among the “unserved” or “underserved” areas specified in the Recovery Act for BTOP funding, NTIA should not consider rural status, in and of itself, as a factor in making BTOP awards. Because the RUS loan and grant program is specifically designed to address rural areas, and because Congress did not specify rural status as a factor for BTOP grant consideration, BTOP should be rural/urban-agnostic.

## **III. NTIA Should Provide a Set-Aside for Public Safety Projects**

Although the Recovery Act specifies among the purposes of BTOP “improv[ing] access to, and use of, broadband service by public safety agencies,” it does not specify how projects to meet this purpose are to be evaluated. While the other stated purposes of the Recovery Act have a clear tie to increased employment, economic development, and thus economic recovery, the public safety purpose is less obviously connected. Nonetheless, Congress specified public safety broadband, so public safety projects must be considered and receive funding.

Because of the qualitatively different nature of public safety projects from those focused on the other four purposes of the Recovery Act, however, NTIA should guarantee that public safety projects receive at least a set amount of funds. One approach would be to dedicate one-fifth of the BTOP funding to public safety projects, since public safety is one of five stated purposes. Whether that is the appropriate amount or not, NTIA should recognize that because of their mission, public safety entities require a higher level of reliability and performance from

their communications networks than do others; such requirements can be expected to add cost to public safety proposals.

#### **IV. New Mapping Study Should Not be a Pre-Requisite for BTOP Award**

As is appropriate to its goal of economic stimulus, the Recovery Act provides a very short timeframe for award and use of BTOP funds. While additional information on the status of broadband deployment and uptake could be of use, postponing award of BTOP grants until applicants can compete for and receive mapping grant funds and complete the proposed mapping initiatives would impose needless delay and harm the recovery effort.

Many states already possess some level of data on broadband penetration; they will no doubt consider such data when fashioning their proposals for BTOP funding. The idea that projects should be “shovel ready” in order to receive BTOP funds runs contrary to the notion that states ought to undertake new studies before designing projects to include in grant proposals.

#### **V. NTIA Should Provide States with One-Half of the BTOP Funding for Distribution Consistent with the State Broadband Plan & NTIA/RUS Criteria**

The timeframe mandated by Congress for awarding and spending BTOP grants raises a tremendous risk that the funds will be used inefficiently and ineffectively. Coordination of funded projects, consistent with an overall plan for a given area, is critical. For this reason, the District has undertaken a citywide initiative to identify and consolidate projects that meet the goals of the Recovery Act for BTOP funding. States are best positioned to effectuate such evaluation and coordination, especially in the short timeframe contemplated by Congress.

In order to meet the requirements of the Recovery Act and take advantage of the states’ particular capability and role in coordination of projects, NTIA should delegate to the states responsibility for grant application evaluation and ranking for one-half of the BTOP funding consistent with the state broadband plan and NTIA/RUS criteria.

**VI. NTIA Should Set a Low Bar for Waiver of Matching Funds and Should Allow Use of Existing Assets to Count Toward Match Where Match is Required**

State and local government budgets are contracting across the country. The District's proposed FY10 capital budget, for example, is substantially smaller than it was in FY09. Indeed, these budgetary reductions have resulted in the shovel-ready, unfunded projects for which the District will request BTOP funding. While the District has a substantial need for improved broadband access and BTOP funding in the District will significantly impact employment and economic development, the District will be hard-pressed to provide even a 20 percent financial match.

In the event that a state or municipal entity does not obtain a waiver of the match requirement, however, NTIA should allow the use of existing state or municipal assets to count as in-kind contribution toward the match. Similarly, NTIA should not require a showing that spending associated with the match would not have occurred in the absence of the BTOP award. A more restrictive approach to the match requirement would place some would-be BTOP grant applicants in the unfortunate position of having too little money to receive much-needed grant funds.

The District appreciates the opportunity to submit these comments and, in order to meet the challenges of the Recovery Act, urges the federal government to adopt the recommendations set forth above.

Respectfully submitted,

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