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April 13, 2009

Broadband Technology Opportunities Program
U.S. Department of Commerce, Room 4812
1401 Constitution Avenue, N.W.
Washington, DC 20230

The enclosed comments are submitted on behalf of the State of Michigan in response to the request for information about the American Recovery and Reinvestment Act of 2009 Broadband Initiatives made by the National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce, and the Rural Utilities Service (RUS), U.S. Department of Agriculture.

Working in conjunction with our public and private partners across the state, we have sought input from numerous organizations to answer the questions posed by the NTIA and RUS. We thank the many local governments, health officials, tribal groups, economic development groups, private telecommunication providers, and government and professional associations for providing their input.

Michigan has long been involved in planning for broadband, developing extensive knowledge and experience in laying the foundation for extending broadband to the far reaches of our state. We realize that a collaborative approach is the key to success, and we will continue to employ that spirit of partnership and teamwork as we move forward.

Thank you for the opportunity to comment on the development of guidelines for these critical broadband programs. The State of Michigan looks forward to any further discussions or involvement that the NTIA or RUS deems appropriate. Should you have further questions or need additional details, please feel free to contact the State of Michigan's project team at any time.

Sincerely,

Kenneth D. Theis

c: Eric Swanson
Leslee Fritz

Before the
DEPARTMENT OF COMMERCE - NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION
and the
DEPARTMENT OF AGRICULTURE - RURAL UTILITY SERVICE
Washington, D.C. 20230

In the Matter of American Recovery and Reinvestment Act of 2009 Broadband Initiatives

Comments of the State of Michigan - Department of Information Technology

April 13, 2009

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Executive Summary

The potential impact of broadband development is far-reaching. Residents can benefit economically, socially and educationally. Robust communications and Internet infrastructure can help make the transition to an information-based economy, link local employers to the global information economy, connect schools to the almost limitless resources and partnering opportunities that the Internet has to offer, and bring broad social and quality of life improvements to local communities. In the new global economy, fiber optic cables are the new railroads, computers the new steam engine, and bits and bytes the new heartbeats of the economy. An opportunity exists for the Federal Government to spend significant amounts of taxpayer funds to boost the economy and realize all the benefits access to broadband can provide.

While making this vast investment, NTIA and RUS should consider:

- Projects should be comprehensive in nature and include
    - A plan to broaden and deepen penetration to the unserved and underserved at affordable rates
    - Incorporation of multiple populations and public organizations, such as schools, libraries, medical and healthcare providers, community colleges, and other institutions of higher education, other community support organizations and public safety agencies
    - Integration with other areas of the Act, such as smart grids, health information technology, education, transportation infrastructure, etc
    - Sustainable plans beyond the term of the stimulus funding
    - Creation of sustainable job opportunities
    - Improvements in efficiency and reductions in the current expenditures of public entities, such as government, schools and libraries
- Funded infrastructure should be
    - Flexible to meet the long-term needs of the entire community
    - Open to multiple service providers to enable providers to enter new markets and increase competition
    - An expansion of the Internet backbone into rural America, and lowering the backhaul costs to providers
- The wealth of knowledge at the State and local level
    - Years of knowledge and experience
    - Understanding of local needs and areas and the ability to prioritize which areas will benefit the most
    - Familiarity with the related social, economic and demographic factors of broadband adoption

Both NTIA and RUS will have to work closely together, adopt standard definitions, and coordinate and consolidate the application process and timeframes in order to ensure the funds are optimally utilized and citizens and businesses can quickly receive the benefits of broadband.

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NTIA Section

Question 1 – The Purposes of the Grant Program:

Section 6001 of the Recovery Act establishes five purposes for the BTOP grant program.[2]

Question 1a

Should a certain percentage of grant funds be apportioned to each category?

Response:

No, the grant funds should not be divided by each category as described in Section 6001(b) of the Act. However this information should provide the baseline for a scoring methodology. If the NTIA decides to break up the funding based on these categories, it may encounter applications that would qualify under one or more of the subdivisions. Hence, the rating of such applications may become extremely cumbersome and tedious. However, applications should be encouraged and scored appropriately to incorporate as many categories as possible. For example, a project that addresses multiple populations, such as "unserved," "underserved," "schools, libraries, medical and healthcare providers, community colleges, and other institutions of higher education, and other community support organizations" and "public safety agencies" should receive a higher score. Projects that have secured partners in the above mentioned categories should also be scored higher.

Question 1b

Should applicants be encouraged to address more than one purpose?

Response:

Yes, applications should be encouraged to address numerous, if not all, of the purposes of the Act as described in 6001 (b). A broad approach, for example statewide, that incorporates multiple purposes and populations should be the goal. By taking a holistic approach and phasing in stages that drill down to the targeted populations and organizations, the funds can be best utilized. Phasing the project will ensure a timely build-out with sustainable growth. Applications which effectively demonstrate their ability to fulfill all or many the purposes of the Act should be given priority. Applications that use stimulus funds to ensure long-term positive effects and sustainable programs beyond the term of the stimulus funding itself should also receive consideration in scoring.

Additionally, those programs that attempt to solve both the problem of access to broadband, and raise awareness and demand within the community by providing affordable access to devices and training for unserved and underserved populations have a better chance of success than those that don't.

Question 1c

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

[2] Section 6001(b)

of the Recovery Act that address smart grids, health information technology, education, and transportation infrastructure?

Response:

A consistent approach by the NTIA and the USDA regarding all broadband related funds is preferable. By combining effort, adopting the same definitions and streamlining the application process so projects can combine funds, with appropriate oversight, the project can maximize its potential. This is particularly important with regard to the USDA funds, but any application to NTIA that plans to incorporate more than one area of ARRA should be given priority. Projects which are capable of leveraging other portions of the Act, such as Health IT, transportation infrastructure and education, and projects that serve a diverse population, better meet the intent of the Act.

Question 2 – The Role of the States:

The Recovery Act states that NTIA may consult the States (including the District of Columbia, territories, and possessions) with respect to various aspects of the BTOP[3]. The Recovery Act also requires that, to the extent practical, the BTOP award at least one grant to every State.[4]

Question 2a

How should the grant program consider State priorities in awarding grants?

Response:

States have a wealth of knowledge of broadband issues. Many have been studying the issues for years. Some have even enacted legislation to encourage broadband deployment including streamlining the right-of-way permitting process between providers and municipalities, and giving broadband providers tax credits and loan programs for broadband infrastructure. Consequently, the information acquired during these years regarding broadband availability in the state is considerable. States are in a unique position to prioritize which areas will benefit the most from the BTOP investment. They have also have worked with local areas on the broadband issue and understand local needs. Additionally, the states are particularly familiar with the related social, economic and demographic factors of broadband adoption. After years of effort in promoting broadband deployment, most states understand the key areas of concern regarding broadband availability.

NTIA should actively engage states, ask for their input and ask for any statewide broadband framework or plan that would help NTIA select projects that fit within these larger plans.

Question 2b

What is the appropriate role for States in selecting projects for funding?

Response:

States should have an active role in the initial screening or ranking of the projects based on clear and concise direction from the NTIA. Subsequently, the NTIA should make a final determination in the award process. The States have a vested interest to ensure that funds are utilized in order to maximize the impact on the largest percentage of citizens and businesses within their respected States. The States can provide the most detailed information on the needs of the population. Many States have broadband frameworks and plans that can help

[3] Section 6001(c)

[4] Section 6001(h)(1)

ensure that selected projects fit together solidly as a part of a total package that endures well beyond the initial funding. States can play a leadership role in bringing together many stakeholders, such as local governments, to move more quickly toward a common goal.

Question 2c

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

Response:

NTIA should encourage and/or provide weighting criteria to States/constituencies that favor a well-coordinated plan that resolves differences in a pro-active manner.

Any statewide plan should include a mechanism for resolving differences that may arise during the funding process. If each group/constituency understands where they fall into the overall plan, this should help to resolve differences up front.

Question 2d

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

Response:

Projects proposed by States should be held to the same standards as any other project. States are already familiar with the processes involving federal funding including, but not limited to, auditing and reporting requirements. And it is easier to measure a smaller number of larger statewide efforts than measure the results of thousands of small community based projects.

Statewide projects should have both state and localized elements in their plans to ensure a methodology to reach all areas within a state. Partnerships with local governments could help provide needed assets to ensure that projects can be completed quickly and address the largest percentage of the population. States also have the ability to leverage other forms of capital, including private sector investment, and to coordinate plans between the State and varying local entities so that efforts are not duplicated and funds are utilized effectively. States are also accustomed to working in a transparent environment, serving the public good and providing continuous reporting and feedback on federal projects.

Allowing for the States to have the ability to re-grant funds may help relieve some of the stress on the NTIA. Most States should have the mechanisms and processes in place to administer grants to local communities or private entities within its borders for the purpose of expanding broadband. NTIA should strongly consider giving the States the authority to distribute funds granted to specific areas of need within a State.

Question 3 – Eligible Grant Recipients:

The Recovery Act establishes entities that are eligible for a grant under the program.[5] The Recovery Act requires NTIA to determine by rule whether it is in the public interest that entities other than those listed in Section 6001(e)(1)(A) and (B) should be eligible for grant awards. What standard should NTIA apply to determine

[5] Section 6001(e)

whether it is in the public interest that entities other than those described in Section 6001(e)(1)(A) and (B) should be eligible for grant awards?

Response:

First, awards to "other entities" should be kept to a minimum and only used as a last resort, when a public or non-profit project is not available or doesn't meet NTIA objectives. As to what "standard should NTIA apply to determine whether it is in the public interest", NTIA should consider the following:

- An endorsement from the state or political subdivision thereof
- "Other entity" is in good standing with the federal, State and local government
- Good standing with State and local public utility commissions and other regulatory bodies
- Projects that involve many partners and that reach out to the unserved and underserved

NTIA should also require the "other entity" to demonstrate the following:

- A willingness to allow other providers open access to the ARRA funded infrastructure at a reasonable cost
- Affordable pricing as well as reliable and sustainable service to "unserved" and "underserved" populations
- Proven expertise in large-scale network deployment
- Proven financial stability
- A willingness to work in tandem with an integrated state and local plan and not in opposition to the State's goals and objectives to serve all constituent groups

Question 4 – Establishing Selection Criteria for Grant Awards:

The Recovery Act establishes several considerations for awarding grants under the BTOP.[6] In addition to these considerations, NTIA may consider other priorities in selecting competitive grants.

Question 4a

What factors should NTIA consider in establishing selection criteria for grant awards? How can NTIA determine that a Federal funding need exists and that private investment is not displaced? How should the long-term feasibility of the investment be judged?

Response:

Michigan supports criteria created in the following categories:

- Collaboration
  - How many targeted populations and organizations are included in the project?
- Job Creation
  - What direct effect will the project have on job creation, both short- and long-term?
- Affordability and Adoption
  - How affordable will new service be and what impact will the project have on the cost of existing service?
  - What efforts are planned to encourage adoption?
- Open Access

[6] Section 6001(h)

  - Will the funded infrastructure be opened to any provider(s) to use at a reasonable cost?
- Backhaul
  - Does the project have sufficient backhaul capabilities, and is it available at an affordable cost?
- Sustainability
  - Is there a sustainable business plan after the stimulus funds are exhausted?
- Speeds Delivered
  - Will the project encourage or provide true "high-speed" connections to homes and businesses?
- Cost to provide coverage out to consumers
  - Is the investment at an appropriate level for the number of consumers it will reach?
- Scalable infrastructure
  - Is the funded infrastructure scalable to meet future demands?

The investment should be judged based on the business model to drive revenue that will support sustainability. Long term feasibility can be determined by evaluation of a business plan, proof of successful pilot or proof of concept deployments, or reference to other successful projects after which that the requesting organization is modeling their project.

Question 4b

What should the weighting of these criteria be in determining consideration for grant and loan awards?

Response:

- Collaboration (25pts)
- Job Creation (15pts)
- Affordability and Adoption (15pts)
- Open Access (10pts)
- Backhaul (10pts)
- Sustainability (10pts)
- Speeds Delivered (5pts)
- Cost to provide coverage to consumers (5pts)
- Scalable infrastructure for (5pts)

Question 4c

How should the BTOP prioritize proposals that serve underserved or unserved areas? Should the BTOP consider USDA broadband grant awards and loans in establishing these priorities?

Response:

Reaching the underserved or unserved areas must remain the top priority of BTOP funds. Coordination between USDA and NTIA will be vital. For example, NITA might fund the long-haul and middle-mile aspects of a project, and USDA might fund the last-mile portions related to that project. By utilizing both sources of funding, the impact on the community can be maximized. In addition, a successful plan must reach those who do not have adequate access to broadband today, and it must ensure that service is offered at affordable rates.

Question 4d

Should priority be given to proposals that leverage other Recovery Act projects?

Response:

Yes, priority should be given to proposals that leverage other Recovery Act projects. Broadband infrastructure is a vital part of several other areas of the Recovery Act such as smart grids, health information technology,

education, and transportation infrastructure, just to name a few. NTIA and USDA funding can serve as the foundational infrastructure that these other areas will ride on. Applications that make reference to this type of forward thinking should be looked upon more favorably than those that just stay in the silo of broadband deployment

Priority should be given to aligning broadband infrastructure outcomes with other areas of the Act. Nonetheless, broadband infrastructure should still be delivered and built in the most efficient and effective means possible in order to make the best use of taxpayer money.

Question 4e

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?

Response:

Yes, priority should 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. Economies of scale, network design and other technical and non-technical issues show that a shared or common infrastructure is the most cost effective solution. Projects should attempt to address as many populations and issues as possible. Networks being built out in to an area should not focus on serving just the households, but should include community centers, businesses, schools, libraries, health care, public safety, and others. Funding should support backhaul/middle-mile aspects, as well as, last-mile to homes and businesses.

Question 4f

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

Response:

Sustainable adoption, whether it is achieved by public-private partnership, using public sites as anchor tenants or other scenarios, is vital to ensuring that taxpayer money is not wasted on an unsustainable project that fails soon after the federal money runs out. A fully articulated sustainable business plan is impossible to finalize without detailed cost information, adoption rates and a wide variety of other factors. As such, all projects should demonstrate that they have a preliminary sustainable plan, contingencies for changes and the ability to finalize plans in a timely manner.

Question 4g

Should the fact that different technologies can provide 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?

Response:

NTIA funding should be technology neutral as much as possible. Different technologies lend themselves to different environments. For example, fiber to the home may not be a feasible option due to the limited funds available; however a large fiber backbone into communities is a plausible one. Working with the communities they will serve, projects should be allowed to choose the best technology for their area and needs. That being said, wherever possible, the funded infrastructure should lend itself to long-term and flexible use, openness to multiple providers and resiliency to failures.

Question 4h

What role, if any, should retail price play in the grant program?

Response:

Every project should strive to provide affordable broadband cost to underserved and vulnerable populations both on an upfront and ongoing basis. ARRA funds should also help lower the middle-mile and backhaul costs to providers and enable multiple providers to enter new markets and increase competition.

By coordinating with the States and/or large consortia, NTIA can help promote commercial terms via public private partnerships that strive to provide affordable broadband costs to users. However, these terms must carefully outline the business model that will drive the public/private partnership. The private investment must be sustainable over time.

Question 5 – Grant Mechanics:

The Recovery Act requires all agencies to distribute funds efficiently and fund projects that would not receive investment otherwise.

Question 5a

What mechanisms for distributing stimulus funds should be used by NTIA and USDA in addition to traditional grant and loan programs?

Response:

A combination of loans and grants may be the optimal solution, but there are several factors that NTIA and USDA should consider.

- For-profit "other entities" should receive the majority of their funding, if any, through loans, whereas states or political subdivisions thereof should receive the majority of their funding via grants.
- Grants may allow the funds to be allocated faster in keeping with the Recovery Act's prompt action requirements.
- The application for both loans and grants should be streamlined. Unnecessary burden on applicants should be avoided.

NTIA and USDA should also consider providing funds to the states that demonstrate a solid statewide plan and allow the states to re-grant those funds to local communities for last-mile initiatives in the pertinent areas.

Question 5b

How would these mechanisms address shortcomings, if any, in traditional grant or loan mechanisms in the context of the Recovery Act?

Response:

In the interest of the given timeframe, the application process should be both streamlined and fluid. In addition, standard definitions and criteria should be adopted. In the past it has been very cumbersome to determine what areas are actually eligible for funding under different programs. Without specific, measureable criteria to determine eligible populations by the program would be difficult to execute in a timely fashion.

Question 6 – Expanding Public Computer Center Capacity:

The Recovery Act directs that not less than $200,000,000 of the BTOP shall be awarded for grants that expand public computer center capacity, including at community colleges and public libraries.

Question 6a

What selection criteria should be applied to ensure the success of this aspect of the program?

Response:

Collaboration between community stakeholders and the applicant is essential. Equally essential is communication between the applicant and the community to be served. An important piece of these projects will be public access to broadband services at defined locations, such as public libraries, for vulnerable populations that don't have the resources to receive services in their home. A more cohesive and comprehensive project should be given priority. At a minimum, every application should synchronize its infrastructure deployment to address this issue.

Factors to consider in evaluation should include:

- Hours of availability of public access workstations
- Ease of accessibility of public access workstations
- Availability of assistance for users of public access workstations
- Consideration of adaptive technology for users with disabilities

Question 6b

What additional institutions other than community colleges and public libraries should be considered as eligible recipients under this program?

Response:

Any public or non-profit institution, such as a community activity center, community learning center, tribal community center, homeless shelter, job and career center, or senior center that is open to the public and provides equal access to all members of the public (ethnic groups, people with disabilities, etc.), should be eligible.

Question 7 – Innovative Programs to Encourage Sustainable Adoption of Broadband Service:

The Recovery Act directs that not less than $250,000,000 of the BTOP shall be awarded for grants for innovative programs to encourage sustainable adoption of broadband services.

Question 7a

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

Response:

Coordination among BTOP projects within the geographic region proposed is essential. Statewide or large regional projects should be given the highest consideration for these funds to ensure the broadest coverage possible. Projects should be assessed based on the articulated business vision, the soundness of their business plans, their scalability to meet future needs, and their potential synergies with other projects. Programs should also include strategies to stimulate demand in order to incorporate activities that promote productive use of

broadband and its sustainable adoption. Such strategies include social marketing, formal and informal education and training, and public outreach. Programs should include clear plans for performing outcome-based evaluation. Such evaluations should employ measurements of sustainable adoption that include evaluating the uses of broadband, by specific segments (consumers, businesses, home-based workers, etc.), that enhance economic and social objectives.

Question 7b

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

Response:

Projects must set benchmarks to measure against after BTOP funding has been provided and adoption programs have been in place for a defined period of time. Applicants should articulate an outcome-based evaluation model that includes measurement of project outputs and outcomes compared to desired benchmarks. Metrics to employ to determine whether programs have succeeded in creating sustainable adoption of broadband services include activities to encourage sustainable broadband adoption through specific community applications; demonstration of positive economic, social and IT impacts from stimulus funds; increases in health and government IT applications; expansion of public computer capacity; and demonstration of positive residential and business perceptions of broadband opportunities and adoption.

Question 8 – Broadband Mapping:

The Recovery Act directs NTIA to establish a comprehensive nationwide inventory map of existing broadband service capability and availability in the United States that depicts the geographic extent to which broadband service capability is deployed and available from a commercial provider or public provider throughout each State.[7]

Question 8a

What uses should such a map be capable of serving?

Response:

The map should be a tool for state and local governments, community groups, and citizens. The map should enable users to determine whether broadband exists at a specific address determined by the Global Information Systems (GIS) coordinates at the street-level. Additionally, this information would benefit community groups, local and state government by providing data for use in determining how to increase adoption, i.e. more build-out of infrastructure versus enactment of demand-side programs. Should also be able to be utilized in other State objective such as economic development planning, health IT plans, etc.

Question 8b

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)?

Response:

[7] Section 6001(l)

The map should provide different levels of detail for different users. Providers must be willing to share data with NTIA/States collecting data for the map. The map should show accurate coverage, at street-level granularity of all broadband providers serving the area. However, there should be a further level of map detail accessible to State governments who are willing and able to properly protect the confidentiality of the additional data. Providers should submit electronic maps to the NTIA/States in a GIS file format as determined by the NTIA.

Question 8c

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

Response:

The broadband map should provide information at the street-level including the GIS coordinates. Often, rights-of-way for broadband facilities follow streets, so this level of detail would provide the most useful data on whether an individual premise has access to broadband service or not.

Question 8d

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

Response:

States should play a role in the collection of data and have access to the detailed data provided there are sufficient confidentiality protections.

The NTIA should allow the states to use an "in-kind" match to qualify for the state matching part for the broadband grant. For some states, this would provide a structure for the sustainability of the program. A state could apply for the federal grant and use the currently related program as the state match.

Question 8e

Are there State or other mapping programs that provide models for the statewide inventory grants?

Response:

Several States have already implemented mapping programs. Some States have contracted with outside entities for their broadband mapping. The NTIA should carefully review all mapping models before implementation of a national broadband mapping.

Question 8f

Specifically what information should states collect as conditions of receiving statewide inventory grants?

Response:

Make sure that whatever data set is decided upon is compatible with the nationwide standard.

Information should be collected by the States or through a vendor contracted by the State. The information collected should show street-level detail of where broadband is available. When the data is compiled, the resulting map should show areas that are unserved as well as underserved.

Question 8g

What technical specifications should be required of State grantees to ensure that statewide inventory maps can be efficiently rolled up into a searchable national broadband database to be made available on NTIA's Web site no later than February 2011?

Response:

The map of all unserved, underserved and served broadband areas should be mapped by GIS coordinates and populated in a compatible GIS mapping software program. Standard datasets would be necessary. A standard compatible process for all States is preferable.

Question 8h

Should other conditions attach to statewide inventory grants?

Response:

The State entity that coordinates the mapping process should be required to provide a copy of the map, or a link to the map on NTIA's website. The State entity should also agree to keep the map current by means of updates occurring at least twice a year.

Question 8i

What information, other than statewide inventory information, should populate the comprehensive nationwide map?

Response:

Sites that offer public access to computers for broadband access, such as libraries and others, should be marked on the map. This will provide citizens important information about where they may access the internet in public facilities.

Question 8j

The Recovery Act and the Broadband Data Improvement Act (BDIA) imposes duties on both NTIA and FCC concerning the collection of broadband data. Given the statutory requirements of the Recovery Act and the BDIA, how should NTIA and FCC best work together to meet these requirements?

Response:

Interagency cooperation and coordination will be absolutely essential in order to accomplish many of the mandates of both the ARRA and the BDIA. In order for the designated entity in each state to successfully implement the broadband mapping program, excellent communication between the entity in each state and the federal agencies is necessary.

Question 9 – Financial Contributions by Grant Applicants:

The Recovery Act requires that the Federal share of funding for any proposal may not exceed 80 percent of the total grant.[8] The Recovery Act also requires that applicants demonstrate that their proposals would not have been implemented during the grant period without Federal assistance.[9] The Recovery Act allows for an increase in the Federal share beyond 80 percent if the applicant petitions NTIA and demonstrates financial need.

[8] Section 6001(f)

[9] Section 6001(e)(3)

Question 9a

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?

Response:

Applicants must be able to show the public impact of projects and highlight their inability to produce the 20% match due to documentable impediments, such as economic indicators (poverty, unemployment, free and reduced school lunch, etc.).

NTIA should also allow non-cash items to be counted as match from state and local governments. Many state and local governments are already cutting budgets and may not be able to finance the match requirement. However, they can still contribute with in-kind activities, waving of permit and right-of-way fees and allowing access to existing infrastructure and facilities (radio towers, publicly owned dark fiber, etc.).

Question 9b

What factors should the NTIA apply in deciding that a particular proposal should receive less than an 80 percent Federal share?

Response:

Projects that are led by an organization that has the ability to pay more than 20% -- for example, for-profit and "other entities" -- should receive less than an 80 percent federal share. (However, Public-Private Partnerships should be exempted from the reduction in funding.) Full 80% funding should go to projects that encourage open access as a priority and facilitate reduction in cost for public entities and the general public.

Question 9c

What showing should be necessary to demonstrate that the proposal would not have been implemented without Federal assistance?

Response:

For states and other public entities, the showing should consist of a review of operating budgets for the recent fiscal years to ensure that no projects were on the books or planned prior to the start of ARRA discussions. Additionally, a sworn affidavit may be necessary where public records are insufficient to support a review. Due to their nature, NTIA would have to do more extensive research on "other entities" to ensure the project(s) could not have been implemented without Federal assistance.

Question 10 – Timely Completion of Proposals:

The Recovery Act states that NTIA shall establish the BTOP as expeditiously as practicable, ensure that all awards are made before the end of fiscal year 2010, and seek assurances from grantees that projects supported by the programs will be substantially completed within two (2) years following an award.[10] The Recovery Act also requires that grant recipients report quarterly on the recipient's use of grant funds and the grant recipient's progress in fulfilling the objectives of the grant proposal.[11] The Recovery Act permits NTIA to de-obligate awards

[10] Section 6001(d)

[11] Section 6001(i)(1)

to grant recipients that demonstrate an insufficient level of performance, or wasteful or fraudulent spending (as defined by NTIA in advance), and award these funds to new or existing applicants.[12]

Question 10a

What is the most efficient, effective, and fair way to carry out the requirement that the BTOP be established expeditiously and that awards be made before the end of fiscal year 2010?

Response:

NTIA will need to expedite any application process and should look to fund projects that have larger impacts and greater collaboration as a priority. Larger projects, such as statewide projects, can be awarded and implemented more quickly than dozens or even hundreds of smaller ones. Additionally, projects that demonstrate a high level of collaboration with public entities can be implemented more quickly since key relationships are already established. Projects that are led by or involve State and/or local governments can streamline permitting processes and ensure speedy implementation. Projects must be able to demonstrate that they are "shovel ready" and able to complete the project in the given time-frame.

Question 10b

What elements should be included in the application to ensure the projects can be completed within two (2) years (e.g., timelines, milestones, letters of agreement with partners)?

Response:

NTIA should look for:

- Detailed project timeline with project management goals, objectives, and action steps articulated
- Proven track record of large scale projects completed on time
- Experience receiving and utilizing federal grants and loans
- Letters of partnership and support from a wide variety of stakeholders
- Outline of high-level commercial terms with any private sector participants

Question 11 – Reporting and De-obligation:

The Recovery Act also requires that grant recipients report quarterly on the recipient's use of grant funds and progress in fulfilling the objectives of the grant proposal.[13] The Recovery Act permits NTIA to de-obligate funds for grant awards that demonstrate an insufficient level of performance, or wasteful or fraudulent spending (as defined by NTIA in advance), and award these funds to new or existing applicants.[14]

Question 11a

How should NTIA define wasteful or fraudulent spending for purposes of the grant program?

Response:

Any funds not spent on the specific project goals and objectives should be defined as wasteful or fraudulent spending. Accordingly, any project that fails to meet minimum metrics established by the NTIA and applicant for the pertinent award should be considered fraudulent.

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[12] Section 6001(i)(4)

[13] Section 6001(i)(1)

[14] Section 6001(i)(4)

Question 11b

How should NTIA determine that performance is at an ``insufficient level?''

Response:

Failure to meet milestones, goals and objectives, as well as failure to implement corrective action at the NTIA's request should be considered insufficient.

Question 11c

If such spending is detected, what actions should NTIA take to ensure effective use of investments made and remaining funding?

Response:

There should be a process in place for program monitoring and fraud auditing. If this process uncovers insufficient compliance, the NTIA should appoint a project monitor to determine if additional funding is prudent. If fraud occurs, the remaining funds should be returned, and any loan repayment period should begin immediately.

Question 12 – Coordination with USDA's Broadband Grant Program:

The Recovery Act directs USDA's Rural Development Office to distribute $2.5 billion dollars in loans, loan guarantees, and grants for broadband deployment. The stated focus of the USDA's program is economic development in rural areas. NTIA has broad authority in its grant program to award grants throughout the United States. Although the two programs have different statutory structures, the programs have many similar purposes, namely the promotion of economic development based on deployment of broadband service and technologies.

Question 12a

What specific programmatic elements should both agencies adopt to ensure that grant funds are utilized in the most effective and efficient manner?

Response:

- Elements such as standard definitions for broadband, unserved, underserved, rural, and vulnerable populations
- Coordinated / consolidated application process and timeframes
- The ability to request funding from both NTIA and USDA in one joint application with corresponding coordination at each agency

Question 12b

In cases where proposals encompass both rural and non-rural areas, what programmatic elements should the agencies establish to ensure that worthy projects are funded by one or both programs in the most cost effective manner without unjustly enriching the applicant(s)?

Response:

Applicants should be required to make sure that funds are tracked effectively to ensure that no part of the project is funded by both programs, unless specifically identified in the proposal. NTIA should look for applicants that have experience successfully completing large federal grants and that employ solid accounting practices and systems.

Question 13 – Definitions:

The Conference Report on the Recovery Act states that NTIA should consult with the FCC on defining the terms ``unserved area,'' ``underserved area,'' and ``broadband.''[15] The Recovery Act also requires that NTIA shall, in coordination with the FCC, publish nondiscrimination and network interconnection obligations that shall be contractual conditions of grant awards, including, at a minimum, adherence to the principles contained in the FCC's broadband policy statement (FCC 05-15, adopted August 5, 2005).[16]

Question 13a

For purposes of the BTOP, how should NTIA, in consultation with the FCC, define the terms ``unserved area'' and ``underserved area?''

Response:

Unserved areas should be defined as those that do not have a basic level of broadband service as defined by the NTIA and RUS programs. Underserved areas should be defined as those where a majority of the population cannot access the basic level of broadband services or those where there is limited or no competition among providers who can provide affordable, reliable and high-speed service. Other factors that should be considered when determining an underserved population may include income level, age, disabilities, unemployment, and displaced workers.

Question 13b

How should the BTOP define ``broadband service?''

Question 13b (1)

Should the BTOP establish threshold transmission speeds for purposes of analyzing whether an area is ``unserved'' or ``underserved'' and prioritizing grant awards? Should thresholds be rigid or flexible?

Response:

In order to prioritize grant awards, the BTOP should establish threshold transmission speeds for purposes of analyzing whether an area is unserved or underserved. The basic minimum level of broadband speed should be set at 1.5 Mbps for unserved areas and at 5 Mbps for the underserved areas. The basic speed should be fixed, whereas the threshold for the underserved areas may be more flexible based on legitimate impediments including, but not limited to, geographic circumstances. The impediments would have to be well documented and proven.

Question 13b (2)

Should the BTOP establish different threshold speeds for different technology platforms?

Response:

No. Obviously some technologies (i.e. fiber) would be able to deliver greater speeds than the proposed threshold standards.

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[15] H.R. Rep. No. 111-16, at 776 (2009) (Conf. Rep.)

[16] Section 6001(j)

Question 13b (3)

What should any such threshold speed(s) be, and how should they be measured and evaluated (e.g., advertised speed, average speed, typical speed, maximum speed)?

Response:

Typical sustained speed.

Question 13b (4)

Should the threshold speeds be symmetrical or asymmetrical?

Response:

Ideally symmetrical, but that may not be technically possible and sustainable. In those cases connections should be capable of upload speeds of at least 50% of the download speeds.

Question 13b (5)

How should the BTOP consider the impacts of the use of shared facilities by service providers and of network congestion?

Response:

The general goal should be Open Access to any funded infrastructure. Project designs should take into account current and future demands and build in as much future proofing as possible.

Question 13c

How should the BTOP define the nondiscrimination and network interconnection obligations that will be contractual conditions of grants awarded under Section 6001?

Response:

Again, the general goal should be Open Access to any funded infrastructure. Projects should connect to several existing networks and open a significant portion of any funded infrastructure to competition.

Question 13c (1)

In defining nondiscrimination obligations, what elements of network management techniques to be used by grantees, if any, should be described and permitted as a condition of any grant?

Response:

All projects should be required to lay out a plan for how the funded infrastructure will be used. Projects that can describe this in more detail should receive priority. For example, a project that is proposing a backbone application should be able to describe what percent of the backbone will be available for open access (for any provider(s) to use at a reasonable cost), public sector uses (schools, libraries, local government, etc.) and other uses.

Question 13c (2)

Should the network interconnection obligation be based on existing statutory schemes? If not, what should the interconnection obligation be?

Response:

With such a wide variety of possible projects, a strict rule-based process may not work. Projects that can demonstrate core principles of open access and interconnection should be allowed to propose their own approach and not be locked into statutory requirements. However, projects that are led by an "other entity", such as a for-profit service provider, should be held to a much stricter interconnection obligation as history has shown this to be necessary.

Question 13c (3)

Should there be different nondiscrimination and network interconnection standards for different technology platforms?

Response:

Not as a general principle, but there are some technology related limitations that would have to be considered. For example sharing and interconnection wireless solutions and the related spectrum may not be practical on a large scale.

Question 13c (4)

Should failure to abide by whatever obligations are established result in de-obligation of fund awards?

Response:

In extreme cases, yes. Again, the general goal should be Open Access to any funded infrastructure. No one organization should be in a position to dictate or control network interconnection. By definition, network interconnection requires two or more parties to participate. Projects should not be punished if the other party(ies) refuses to participate.

Question 13c (5)

In the case of infrastructure paid for in whole or part by grant funds, should the obligations extend beyond the life of the grant and attach for the useable life of the infrastructure?

Response:

Yes, the obligations should extend beyond the life of the grant but "for the useable life of the infrastructure" maybe too long. No one knows what the state of the telecommunication and internet industry or technology are going to look like in a few years, and any long-term requirements should not limit new and innovative uses of the infrastructure.

Question 13d

Are there other terms in this section of the Recovery Act, such as ``community anchor institutions,'' that NTIA should define to ensure the success of the grant program? If so, what are those terms and how should those terms be defined, given the stated purposes of the Recovery Act?

Response:

Formal definitions may not be required in all cases, but NTIA should provide guidance on key terms. Take "community anchor institutions" for example, these institutions will vary widely from region to region and state to state. Writing a formal definition may inadvertently exclude some types of locations.

Also, the NTIA and RUS should look to create a standard definition for "rural". For example, the federal government currently uses several different definitions. Both the FCC and the USDA use different and, for the most part, non-overlapping definitions. The definition should be formula- or geographic-based (such as by

census track) and easily quantifiable. Ideally the definition should lend itself to a geographic information system (GIS) solution for quick and automatic determination of rural status. One definition should be adopted by both USDA and NTIA if possible.

Question 13e

What role, if any, should retail price play in these definitions?

Response:

Reasonable rates, to end-users and competitive service providers, are crucial for the sustainability of these projects and should be taken into consideration.

Question 14 – Measuring the Success of the BTOP:

The Recovery Act permits NTIA to establish additional reporting and information requirements for any recipient of grant program funds.

Question 14a

What measurements can be used to determine whether an individual proposal has successfully complied with the statutory obligations and project timelines?

Response:

Timelines are the easiest to measure against. A successful project that meets the infrastructure installation timeframes and achieves the plan benefits in a reasonable time line thereafter should be considered in compliance. As to statutory obligations, with the extremely expedited timeframes for all aspects of the Act, it would be best to review and set goals and achievement objectives at or soon after the award process. Hence, the recipient can work toward the goals from the beginning and NTIA has measureable objectives and milestones to watch for and track.

Question 14b

Should applicants be required to report on a set of common data elements so that the relative success of individual proposals may be measured? If so, what should those elements be?

Response:

A common set of data elements would be ideal. However, with such a wide variety of possible projects, this may pose an unnecessary burden on projects. One approach may be to define a broad scope of data elements where the grantee would report on only those elements applicable to their project and include project specific elements to report as necessary. Far too often with federally funded projects, participants spend too much time filling out unrelated reports, forms and statistics.

Question 15 – Additional Comments

Please provide comment on any other issues that NTIA should consider in creating BTOP within the confines of the statutory structure established by the Recovery Act.

Response:

An opportunity exists for the Federal Government to spend significant amounts of taxpayer funds to boost the economy. Projects should be comprehensive in nature, include a plan to broaden and deepen penetration to the unserved and underserved, create sustainable job opportunities, and reduce the cost to state and local units

of government, including education and libraries, of delivering these services. States that build such a comprehensive plan with the support of local governmental units should be given strong consideration for immediate implementation funding. These types of models, where sustainability and cost reductions are in place, can help the economic conditions of those hardest hit. Flexibility is critical so that entities can leverage the NTIA and USDA funds in concert with other resources, including the private sector.

Cost savings to the tax payer should also be a consideration. The opportunity to use stimulus funds to ensure long term positive effects and sustainable programs beyond the term of the stimulus funding itself should also receive higher scoring.

An open and common or shared infrastructure will provide the best "bang for the buck". Why build infrastructure that only serves one type of organization or population? Inclusion of community colleges and public libraries is vital. These facilities are some of the most cost effective ways to provide access to the unserved and underserved and provide the shortest time to delivery to these customers by region and locality.

NTIA should also allow non-cash items to be counted as match from state and local governments. Many state and local governments are already cutting budgets and may not be able to fund the match requirement. However, they can still contribute in-kind activities, waive permit and right-of-way fees and allow access to existing infrastructure and facilities (radio towers, publicly owned dark fiber, etc.).

RUS Section

Question 1

What are the most effective ways RUS could offer broadband funds to ensure that rural residents that lack access to broadband will receive it?

Response:
RUS should coordinate activities with NTIA funded projects and provide a combination of both grants and loans. Evaluation should be based on a holistic community approach with no additional consideration for projects that have more than the required 75%. Instead, projects should be evaluated on how they benefit the community as a whole.

The RUS must be technology neutral. Not every technology is going to work in every area. There are too many factors in the rural areas for the RUS to pre-determine the type of technology needed to reach the unserved and underserved households in rural America. The RUS should aim to fund the rural and last mile portions of regional or statewide applications seeking funds from both NTIA and RUS.

Question 1a

For a number of years, RUS has struggled to find an effective way to use the Agency's current broadband loan program to provide broadband access to rural residents that lack such access. RUS believes that the authority to provide grants as well as loans will give it the tools necessary to achieve that goal. RUS is looking for suggestions as to the best ways to:

Bundle loan and grant funding options to ensure such access is provided in the projects funded under the Recovery Act to areas that could not traditionally afford the investment;

Response:
Look for public-private partnerships and provide grants to the public part and loans to the private part. Examples include a rural community that builds capital infrastructure (such as wireless towers, back-haul fiber, etc,) with grant funds and a private ISP that uses loans to purchase broadband equipment to provide service on the publicly constructed infrastructure.

Question 1b

Promote leveraging of Recovery Act funding with private investment that ensures project viability and future sustainability; and

Response:
Look to help with on-time capital investments that build infrastructure that can be used by several providers or groups within the community. A shared and open infrastructure is often the best use of funding.

Question 1c

Ensure that Recovery Funding is targeted to unserved areas that stand to benefit the most from this funding opportunity.

Response:

RUS should target projects that include state and/or local governments, demonstrate community involvement and collaboration, as well as projects that understand the needs of the community. Local and community driven projects often have better understanding of the area's broadband needs.

Question 2

In what ways can RUS and NTIA best align their Recovery Act broadband activities to make the most efficient and effective use of the Recovery Act broadband funds?

Response:

Coordination between RUS and NTIA will be vital. A consistent approach by the NTIA and the USDA regarding all broadband-related funds is preferable. By combining effort, adopting the same definitions and streamlining the application process so projects can combine funds with appropriate oversight, the project can maximize its potential. One option maybe using joint evaluation committees to outline how the two programs can be leveraged together to fully fund all aspects of an application. For example, NITA might fund the long-haul and middle mile aspects of a project and USDA fund the last mile portions related to that project. By utilizing both sources of funding, the impact on the community can be maximized. Coordination is particularly important with regard to the NTIA funds, but any application to RUS that plans to incorporate more than one area of the Act should be given priority. Projects which are capable of leveraging other portions of the Act, such as, health IT, transportation infrastructure and education, and projects that serve a diverse population, better meet the intent of the Act.

Question 2a

In the Recovery Act, Congress provided funding and authorities to both RUS and the NTIA to expand the development of broadband throughout the country. Taking into account the authorities and limitations provided in the Recovery Act, RUS is looking for suggestions as to how both agencies can conduct their Recovery Act broadband activities so as to foster effective broadband development. For instance:

RUS is charged with ensuring that 75 percent of the area is rural and without sufficient access needed for economic development. How should this definition be reconciled with the NTIA definitions of ``unserved'' and ``underserved?''

Response:

The same definitions for unserved and underserved should be used as NTIA, except that the emphasis for these funds should be put on the 75% rural. In doing so, the more challenging term for RUS to define may become the word "rural". The federal government uses several different definitions. Both the FCC and the USDA use various different and, for the most part, non-overlapping definitions. A clear and concise definition of "rural" is needed. Traditional determining if a location is/is not rural or how rural a location is has been cumbersome. The definition should be formula or geographically-based (such as by census track) and quantifiable. Ideally the definition would lend itself to a geographic information system (GIS) solution for quick and automatic rural determination.

Question 2b

How should the agencies structure their eligibility requirements and other programmatic elements to ensure that applicants that desire to seek funding from both agencies (i) do not receive duplicate resources and (ii) are not hampered in their ability to apply for funds from both agencies?

Response:
One single application process would be the easiest and most efficient way to proceed. Projects should be able to submit on application to both RUS and NTIA. Within that joint application, projects should identify what funding source could fund different aspects of the project. This joint approach could help eliminate any confusion or double payment.

Question 3

How should RUS evaluate whether a particular level of broadband access and service is needed to facilitate economic development?

Response:
The RUS should adopt the same standard "broadband" definition as the NTIA, keeping in mind that businesses will require bandwidths at the higher end of the spectrum.

Question 3a

Seventy-five percent of an area to be funded under the Recovery Act must be in an area that USDA determines lacks sufficient ``high speed broadband service to facilitate rural economic development.'' RUS is seeking suggestions as to the factors it should use to make such determinations.

How should RUS define ``rural economic development?'' What factors should be considered, in terms of job growth, sustainability, and other economic and socio-economic benefits?

Response:
Improvement of the economic, political and social well being of residents who live in villages or townships with fewer than 2,500 people or sparsely settled areas outside of villages and/or urban areas must be a priority.

Places that have linked statewide approaches that have the ability to cluster capabilities and resources will help to stimulate the economy on and ongoing basis. Rural economies are able to link there strengths and capabilities to a network on a regional and statewide basis will have an advantage. The ability for residents to "act locally, but think globally", due to access to high speed broadband is a major selling point. The availability of broadband in rural areas helps not only create new businesses leading to job growth, but also enable surrounding areas to offer a more desirable experience for current workers to live in the same area where they work.

One of the key elements in determining the location of a business is the cost of doing business. Companies located in larger cities may have all the conveniences of urban amenities, but also larger costs in rent, taxes, etc. In a digital environment one of the major determining factors of where a company is located may be the availability of high speed internet connections. Deploying broadband to rural areas may serve as an enticement to companies as a lower cost alternative – lower rent, lower taxes. As companies see rural areas as viable locations, this will increase the number of jobs available in a given area.

Another key factor in economic development is ability to sustain and retain the economic and socio-economic benefits. Part of the challenge in sustainability is ensuring success at early stages. Companies and individuals that have good internet experiences in the beginning are likely to increase participation and reap greater benefits in contrast to those who may become negative due to slow connections caused by insufficient bandwidth.

Another factor may be the existing internet awareness of the population being served. If a rural community feels they have existed very well for the past hundred years without the internet, they may be hesitant to embrace it, even with the enticement of high speed access. Part of the effort on this behalf may be spent early on in education and training to bring residents technologically "up to speed", and outlining the benefits that broadband will bring to the community and themselves.

Typically a portion of employees commute from outlying areas. Deployment of broadband in underserved or unserved areas opens up the opportunity for many workers to telecommute from home part time or full time. Besides saving in commuting costs (and cutting back in greenhouse gas emissions), this also boosts local economies as people shop, dine and generally do more business locally.

One of the pitfalls of rural life is the old saying – once Johnny's been to the city, you can't keep him down on the farm. Granted, both urban life styles and rural lifestyles are individual preferences. The availability of libraries, higher educational systems, etc. via the internet is not going to entice someone to stay in the country, if that's not their natural inclination. However, for those that do prefer rural life, high speed internet opens up a world of opportunities in the economic arena (ie, home based businesses, farming, etc.) and in education (ie, distance learning).

Question 3b

What speeds are needed to facilitate ``economic development?''

Response:

Businesses require more bandwidth then the typical home user. With the differences between businesses being so great, each application should address this issue with what is required from their specific business needs. In general, a minimum of 5Mbps, symmetrical, will be needed for businesses in rural areas. The bandwidth needs to be available both locally and in the back-haul to the commercial Internet.

Question 3b (continued)

What does ``high speed broadband service'' mean?

Response:

High speed broadband service is at or better than the set minimum standard. At least 1.5 Mbps to the home is recommended and higher speeds, such as, 5 Mbps is preferred. Further, at least 5 Mbps to the business is recommended and higher speeds, such as, 10 Mbps or more is preferred.

Question 3c

What factors should be considered, when creating economic development incentives, in constructing facilities in areas outside the seventy-five percent area that is rural (i.e., within an area that is less than 25 percent rural)?

Response:

Many communities have added Industrial or Technology Parks to draw in new jobs and industries. These locations, even if they fall in more urban areas, are vital to economic development of the communities and should be included. Additional, new subdivisions and developments there were previously in rural areas but now fall outside the rural definition, should be considered as they tend to attract new people to region.

Question 4

In further evaluating projects, RUS must consider the priorities listed below. What value should be assigned to those factors in selecting applications? What additional priorities should be considered by RUS?

Priorities have been assigned to projects that will: (1) Give end-users a choice of Internet service providers, (2) serve the highest proportion of rural residents that lack access to broadband service, (3) be projects of current and former RUS borrowers, and (4) be fully funded and ready to start once they receive funding under the Recovery Act.

Response:
Act required criteria:

- "Give end-users a choice of Internet service providers."
    - Competition is vital to driving down the cost to the end-users; far too many rural communities only have access to one ISP.
    - 15 points
- "Serve the highest proportion of rural residents that lack access to broadband service."
    - Existing broadband access in the rural areas often take the shape of small pockets, normally centered on densely populated downtown region, surrounded by huge gaps in coverage. Funds should be focused on extending coverage outside these pockets.
    - 10 points
- "Be projects of current and former RUS borrowers"
    - There have been several success stories from the traditional RUS broadband loan program these should be used as lessons learned and built on.
    - 5 points
- Be fully funded and ready to start once they receive funding under the Recovery Act.
    - 5 points

Additional recommended criteria:

- Affordability to end consumers.
    - 10 points
- Speeds delivered to end consumers.
    - 10 points
- Collaboration, are multiple types of organizations and population going to collaborate and share the benefits.
    - 10 points
- Open access, the ability for the funded infrastructure to be used by more than one provider.
    - 15 points
- Sustainability.
    - 10 points
- Scalable infrastructure for future demands.
    - 10 points

Question 5

What benchmarks should RUS use to determine the success of its Recovery Act broadband activities?

The Recovery Act gives RUS new tools to expand the availability of broadband in rural America. RUS is seeking suggestions regarding how it can measure the effectiveness of its funding programs under the Recovery Act. Factors to consider include, but are not limited to:

a. Businesses and residences with ``first-time'' access.
b. Critical facilities provided new and/or improved service:
    i. Educational institutions.
    ii. Healthcare providers.
    iii. Public service/safety.
c. Businesses created or saved.
d. Job retention and/or creation.
e. Decline in unemployment rates.
f. State, local, community support.

Response:

RUS should also look at how communities come together and collaborate to save on operating cost by using the new infrastructure in creative ways.

Additional Comments

It is important that RUS does not lose sight of the distance learning and telemedicine aspects of the Act. Getting connectivity to rural communities is vital but, the same communities, need funding assistance to take advantage of the new connection. Both distance learning and telemedicine require unique and cost equipment but at the same time offer amazing benefits to the community.