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RESPONSE BY GITA – STATE OF ARIZONA
TO THE JOINT REQUEST FOR INFORMATION FROM THE NATIONAL
TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION, U.S. DEPARTMENT
OF COMMERCE, AND RURAL UTILITIES SERVICE, U.S. DEPARTMENT OF
AGRICULTURE, REGARDING AMERICAN RECOVERY AND REINVESTMENT ACT OF
2009 BROADBAND INITIATIVES
Docket No. 090309298-92

The Government Information and Technology Agency (GITA) of the State of Arizona is pleased to provide this response. GITA, as the strategic planning and oversight agency for information technology (IT) for the State, has particular insight and experience to provide input for many of the questions and issues raised in the Request for Information.

Over the last number of years GITA has led efforts to expand Broadband coverage in Arizona. These include an array of formalized processes and studies to inform the Governor's office as to best practices and governmental policies necessary to optimize Broadband availability across Arizona. These have included extensive contact with rural leaders at all levels of government, with rural economic development organizations, with Federal agencies providing support to those rural entities, and significant discussion with the private sector providers of Broadband infrastructure and services. GITA also provides support for E-Rate efforts in the State.

In close association with Arizona's Department of Commerce, GITA has jointly led and had oversight responsibility for a host of specific Broadband initiatives. Communities in five of Arizona's fifteen counties, along with their respective County governments, are currently engaged in the various aspects of these initiatives, many of which include working with USDA, the US Department of Commerce, and the Department of Homeland Security.

Not all of the questions in the RFI will be answered. Answers will be in a different font than the questions for easier viewing. Answers are meant to inform, and are contextual to the questions asked. They are meant to aid NTIA in its separate process of Rule-making for the Broadband Technology Opportunities Program (BTOP). Time and space have not allowed for more comprehensive statements or more involved reasoning than what has been offered. Answers do not reflect, nor are they representative of any specific policy of the State of Arizona.

It should be noted here that a number of themes have emerged from the detailed responses below included in the following summary statements.

First, the goals, priorities, processes, and time frames indicated in the BTOP are in close alignment with those already working in Arizona. Funding from BTOP will help Arizona accomplish its goals, for which we are grateful.

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Second, to the fullest extent allowed by the law, States should be involved in all aspects of grant processes, approvals allocations, prioritizations, and strategic improvements provided by the funds. State Broadband authorities or organizations should be encouraged to formed, if not already in existence, to act as centers of influence and oversight for BTOP grant funded projects. These should be regarded as single point of contact for NTIA, FCC and USDA- RUS, to maximize the effectiveness of the grants. As a corollary to this, where funding is required to administer or manage Grant projects at the State level, a federal allotment should be provided for such work.

Third, mapping of Broadband Assets should begin immediately in each State and funding disbursed on some equitable basis to initiate the process. Where States have already started, or even completed a broadband mapping process in the last three years, a reimbursement for the cost of mapping, which complies with federal guidelines should be provided out of the BDIA funds. The governing authority for broadband mapping at the National level should convene meetings soon with States to identify all the particulars of data interoperability and its ultimate goals for mapping.

Third, the highest priority for grant funding should be to provision broadband to “un-served” areas (urban or rural). Special consideration should be given to projects that increase supply of Middle-mile backhaul to the Internet, especially in relationship to un-served areas.

Finally, projects should be coordinated so that the highest levels of synergy can occur between BTOP grant expenditures and other ARRA spending. By optimizing these synergies, sustainable Economic Development and job creation will be a final result.

For further reference or discussion, please contact

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NTIA Questions:

1. The Purposes of the Grant Program: Section 6001 of the Recovery Act establishes five purposes for the BTOP grant program.

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

Apportioning Grant funding against the five categories or purposes for the funds would not optimize in a significant way, the use of these funds. As was suggested at the initial NTIA/RUS/FCC meeting on March 10th, the funding need is so great that the \$7.2Billion is only a down payment on what really needs to be spent. Limiting funding to any category beyond a general prioritization is not necessary.

The highest priority in any apportionment scenario should be to solve the biggest problems first. Past studies have shown that the percentage of areas of unserved populations, by State, is nearly the same, suggesting that in the first round of funding, an equal apportionment per State targeting unserved areas, would be the most efficient use of funds. An important exception to an "equal" apportionment would be to consider the percentage of Tribal areas and populations in a State. Tribal areas consistently have the highest percentage of unserved population. This demographic element would need to be accounted for to more "fairly" allocate funding by State.

b. Should applicants be encouraged to address more than one purpose?

Yes. Projects which answer multiple purposes as identified in the law should be graded higher than those which identify just one purpose, though Investment in infrastructure to solve "unserved" populations should have the highest priority. Projects which educate, create awareness or provide equipment, etc; are part of the demand/supply cycle which create sustainability and lower prices in both un-served and under-served deficit areas, moving an area to the next level.

c. 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?

This is a question of two parts. The first concerns the specifics issues relating to leveraging other USDA RUS programs (RUS Health programs, Distance Learning programs etc.) and will be answered in below.

The second part refers to the general opportunities to leverage BTOP funding with other ARRA funding programs. There are many examples of either similar or complementary programs where leveraging is possible. These include coordinating a broadband infrastructure project with the implementation of a health information system in a rural county, or timing road construction so some mutual cost relief is provided in the installation of a Fiber conduit along the same route. Identifying and exploiting such synergies should be a high priority.

However, such synergy or coordination will not happen unless two important elements are part of NTIA processes:

- First, synergistic impacts must be part of the final criteria for project funding and graded accordingly.
- Second, because such synergistic elements mostly occur or have visibility at State levels, unless States can play a significant role in BTOP project selection (identification, prioritization, or management), the timing and programmatic nuances of various other ARRA technology funding, though replete with synergistic opportunities, will not be captured in most BTOP grant applications.

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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. The Recovery Act also requires that, to the extent practical, the BTOP award at least one grant to every State.

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

First, for the “One” grant each State can expect to receive, States should be the authors or designators of that grant application, with that “one” application provided a different approval track than are other NTIA grant applications.

It would not be overly taxing for NTIA to infuse individual State priorities into the general criteria. Applications could then be measured against their respective State priorities. This would provide a more orderly process for State priorities to be met, and allow programs to move beyond “one size fits all” scenarios.

For example, over the three years, Arizona has identified several important broadband priorities in addition to the priorities common to other States and with those identified in ARRA. They are based on nuances unique to Arizona and must be accounted for in any awarded application. They include Arizona’s dearth of Middle-Mile capacity (based partly on the long distances between population centers). Priorities include a particular strategy to fund off-ramp infrastructure for communities not connected to, but which are close by Middle-mile transport. Priorities also include solving issues related to the high percentage of tribal lands within Arizona’s borders.

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

States should play a role in two areas. First, state should have a programmatic role in initially identifying projects for NTIA to consider. Second, projects that impact a State’s interest, but come through other eligible grant or loan processes, should be vetted against State led strategic interests before final approval. This will reduce potential conflicts and ensure compatibility with each State’s identified needs and will provide the best chance of optimizing the synergies associated with other internal State based ARRA funding activities.

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

NTIA would be well served to encourage, or even require, that each State create an entity to handle certain of the processes for grant applications. By recognizing the stewardship role the State organization will play on behalf of NTIA, that recognition alone will go a long way in reducing conflicts in prioritizing funding. Such an organization in each State would also provide a single point of contact for interface with NTIA. A State based conflict resolution process would relieve NTIA of substantial administrative costs to create a national process, and ensure that the Federal goals and mandates from the law and NTIA rule making are implemented.

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

As indicated above, an authorized State broadband organization can help NTIA in both the promulgation and administration of the operational standards governing projects, identified in NTIA rules. NTIA should use State organizations to help with accurate project progress reporting. All States have mature mechanisms in place for correcting errant projects, which are backed and defined by local statutes and mature procurement processes. In lieu of having to create federal processes for localized oversight and monitoring, NTIA could provide funding to cover the associated expenses of such state based administration.

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It should be noted here that States have exactly the same desires and goals and stewardship responsibilities for the prosperity and success of its citizens as does the Federal government. If the States can be entrusted with the Billions of dollars identified in other ARRA programs, they certainly can handle the tens of millions of funds expected to be rolled out via the Broadband statutes per State.

3. Eligible Grant Recipients: The Recovery Act establishes entities that are eligible for a grant under the program. 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 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?

It should be noted (see Division B, page 276) for Section 6001, “that it was the intent of the Conferees, consistent with the public interest and purposes of this section, as many entities as possible be eligible to apply for a competitive grant, including wireless carriers, wireline carriers, backhaul providers, satellite carriers, public-private partnerships, and tower companies.”

Time constraints in the BTOP program severely limit the option of going through a separate vetting process in order to identify private entities eligible to receive grant awards. Because the projects are closely aligned with communities and geographic areas in each State, eligibility to receive an award should be tied to a defined partnership relationship between the community or local governmental entity and the private entity; and where an NTIA acknowledged State Broadband entity exists, is approved by that State entity.

It should also be noted that about 95% of all broadband infrastructure is currently owned in the Private sector. That infrastructure is already accounted as being in the “public interest”, because it is that infrastructure, and the benefits from that infrastructure which BTOP is trying to extend through the grant process (Of course such private sector entities need no approvals from within the BTOP program, if they don’t require BTOP funding to extend existing or build new infrastructure). Therefore private entities which have an existing “footprint” of viable Broadband infrastructure in place are qualified to be eligible for grant awards, if they also meet the community partnership qualification and State Broadband entity approval.

The following are also qualified, if they meet the community partnering and State qualification standard.

The FCC, through the Schools and Libraries E-Rate program has defined a process by which private sector providers are qualified as an Eligible Telecom Company (ETC) or an Eligible Telecom Provider(ETP), and may receive E-Rate dollars for their services. Companies currently recognized by the FCC as having these designations, or by any State PUC, should also be automatically qualified to be eligible for grant awards.

In addition, States and other political subdivisions have gone through arduous procurement processes to find Broadband providers, and have awarded many Broadband providers multi-year Contracts for to provide services. Besides having to demonstrate a substantial ability to perform services, these Contractors are required to maintain current Assurance Bonds and other Insurance. Implicit in the contracts are processes to ensure quality control and timely completion of projects. Such currently contracted providers should also be eligible for grant awards.

The Federal government’s GAO has similarly identified contractors who provide Broadband services and infrastructure build-out per Federal guidelines and constraints. Providers holding current GAO contracts to provide broadband services, whether to extend privately owned or publicly owned

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infrastructure (typically Defense Dept or Department of Interior) should be considered qualified to be eligible for grant awards.

Finally, mechanisms and standards should be set up to enable State based Broadband Authorities or Councils to approve additional providers as being eligible for grant awards. Each State's Procurement Office should be the qualifying entity for vetting new eligible Providers.

Where NTIA recognizes a State Broadband entity as having a role in qualifying NTIA eligible projects, Public entities (State political subdivisions) or non-profit entities should also vet their applications through the State Broadband entity prior to applying to NTIA.

4. Establishing Selection Criteria for Grant Awards: The Recovery Act establishes several considerations for awarding grants under the BTOP. In addition to these considerations, NTIA may consider other priorities in selecting competitive grants.

a. What factors should NTIA consider in establishing selection criteria for grant awards?

Given that two entities vie for projects in the same area, then competitive success should be established where the resulting capacity be "the greatest broadband speed possible to the greatest population of users in the area;"

Additional factors to consider where two or more vendors compete for the same area or set of users, could include:

- a Quality of Service factor,
- a vendor sustainability factor,
- a middle mile & last mile connects vs just last mile connects
- a future capacity factor
- an end-user price factor
- a time to market factor
- a interoperability factor with existing area infrastructure
- a synergy factor with other ARRA based funding opportunities
- a compatibility factor with State priorities, other Federal priorities
- a technological forward looking factor
- a "matching funds factor, where Grant dollars required are reduced from 80% to some lesser percentage or amount.

Where two grants compete at the same time, but in different areas of a State, besides the major consideration of "the greatest broadband speed possible to the greatest population of users in the area", other Strategic improvements per each area should be looked at.

- Is the middle mile improved in addition to last mile only
- Is real broadband capacity to an area increased vs just shifting capacity around
- Are future build-outs of Broadband enhanced because of better technology
- How well does improved connectivity in a particular area, also advance State priorities and Strategic connections.
- How well are other governmental issues served or enhanced such as first responders, law enforcement, e-Health, e-education
- How well are other ARRA funded projects served

How can NTIA determine that a Federal funding need exists and that private investment is not displaced?

Previous requests for grant or loan intervention for an area is good evidence of need. If the ROI opportunity is poor, and would not qualify for private sector intervention, is also a good determinate.

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How should the long-term feasibility of the investment be judged?

Many models for ROI are available to calculate “feasibility”. These are best done at a local or State level. NTIA should first rely on these experts before judging a project to be non-feasible based on National criteria.

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

Weighting should be based on first, provisioning of “unserved” areas.

c. How should the BTOP prioritize proposals that serve underserved or unserved areas? Unserved first, then underserved, then other factors.

Should the BTOP consider USDA broadband grant awards and loans in establishing these priorities? If an area has an established loan or grant already in place, a number of factors should still be considered, including the number of competitors in the area, the effectiveness or time to market at which USDA grant or loan project is proceeding, the buy-in or extent of approval by the local community or population for the Loan (not a factor for current RUS grants), USDA loan arrangements should be allowed supplanting given that time to market can be improved with BTOP grants. Vendors with Loans for any area should have right of first refusal for such Grants. But, it's less about the loan or Vendor's financial opportunities than it is about an area's Broadband health.

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

e. 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

f. What factors should be given priority in determining whether proposals will encourage sustainable adoption of broadband service? Level of community involvement, number of Anchor tenants identified to utilize the infrastructure, the increase in “take” rates by business and end-users, speed with which a reasonable ROI may be identified.

g. 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? For competing projects, begin at a technologically neutral place, and then go where the ROI, future capacity, time to market, and QOS takes the project.

h. What role, if any, should retail price play in the grant program? Average Retail end-user price or lowered retail price is a major determinate in “take” rates and should be a major factor in determining between two vendors vying for the same area.

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

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

States should be able to examine all USDA Loans in an Area for their impact, their viability, their time to market estimates, etc. If communities have been unknowingly assigned to a USDA Loan area, they should be able to opt out and be moved to a Grant opportunity. Grant projects seeking aggregation of communities should have abilities to include those communities assigned previously to a prospective or working loan area, if the overall results will be more favorable to the area (one of the major issues in the BTOP law is the provision which excludes NTIA - BTOP grant funding for “areas” which may have involuntarily been assigned to a RUS Broadband Loan application. About 40 communities in Arizona are so designated.)

b. How would these mechanisms address shortcomings, if any, in traditional grant or loan mechanisms in the context of the Recovery Act? It will solve most of the legacy problems now existing in RUS loan areas.

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6. Grants for 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.

a. What selection criteria should be applied to ensure the success of this aspect of the program? **Funds in this category should be equally distributed to the States (about \$4million per State). Rural Libraries and Rural Community Centers should then be the next most important criteria followed by the percentage of "Unserved" in a community as the next determinant.**

b. What additional institutions other than community colleges and public libraries should be considered as eligible recipients under this program?
Tribal Centers, High Schools, Senior Centers etc.

7. Grants for 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.

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

Levels of community Involvement is a major criteria, then established track record and previous success in Technology promotion or education. The percentage of unserved or underserved populations served (Urban or Rural) should also be a key criteria for receipt of these funds.

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

Provide "before" and "after" measurement of Take Rates. (Mapping Broadband utilization should precede issuance of these grants, unless entities seeking grants have proven track records and ongoing programs.)

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.

a. What uses should such a map be capable of serving? **Every aspect of the BTOP program will be served by a mapping process. In addition almost every economic development program (ARRA or otherwise) will be served and enhanced by knowing where Broadband assets exist.**

b. 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)?

Generally, maps should be able to depict all aspects of "Supply" and "Demand" for Broadband resources, including future capacities. Reporting from the central map data repository should be virtually limitless and without regard to type of user.

At a minimum, the map should be multi-layered, identifying all geographic subdivisions defined in law e.g., census block, tax area, school district area, community boundaries, categories of public owned land (Federal, State, Tribal, County, Town or City) fire districts, legislative districts, congressional districts, tribal lands,. The map should also identify right-of-ways (power, water, road, pipeline, railroad including all easements). The map should indicate the general location of Fiber resources and pathways (including those owned by the public, by ILECs, by CLECs, Cable companies, 3rd Party providers, Utilities. etc), telecom Central Offices, telecom POPS, communication towers, FCC spectrum allotments etc. Mapping data should include Capacities, Spectrum information, Quality and extent of coverage for various types of Broadband transport, wired and wireless.

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

Street level and individual addresses, 9 digit Zip Code, Census Block, Tax area, school district, fire district, town boundaries, etc (see above).

d. What other factors should NTIA take into consideration in fulfilling the requirements of the Broadband Data Improvement Act, Pub. L. No. 110-385 (2008)?

NTIA should provide a standard form for designating each state's eligible entity for receipt of broadband mapping funds. Mapping needs to start now to certify "unserved" and "under-served" population or areas, and rural and urban boundaries. We estimate a minimum three months to provide a preliminary map sufficient to process Grant applications per NTIA or RUS standards in Arizona. Some Arizona middle-mile grant applications can be completed now.

The BDIA mapping program was passed in late 2008 but went unfunded. Along with other conditions, it required a 20% matching amount. The program is now abundantly funded with the \$350 Million set aside. Given existing state budget deficits, access to those funds should be provided to the States without the 20% match.

Such grants should continue over the next three years (or over the life of the BTOP program) to continuously measure and map the impact BTOP has on Broadband conditions across the nation.

State allocations should be based on a fair or commonly used formula (per capita, per square miles covered) with a basic minimum to all States in the first year to either reimburse previous State efforts or to jump start each State's mapping process.

NTIA should quickly consult with the States regarding all BDIA requirements and formulate criteria for reporting and eventual uploads to a national map.

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

Arizona has identified many different models (see the report at <http://www.azgita.gov/telecom/gisstudy.htm>)

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

The need is self evident for every State. No information needs to be collected or ascertained, except perhaps officially identifying the State agent or entity to manage the mapping process in each State.

g. 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 website no later than February 2011?

ESRI mapping solutions are the defacto standard for mapping and are interoperable with most other mapping processes. Promulgating such existing standards will quickly define the vehicle used to "roll up" data into a searchable national broadband database.

h. Should other conditions attach to statewide inventory grants?

Processes should be established and in place to continuously update broadband Maps for three years.

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i. What information, other than statewide inventory information, that should populate the comprehensive nationwide map? **Interoperability processes and Metadata fields should be identified and required such that National GIS Broadband maps and State Broadband maps can automatically populate data sets in each direction.**

j. 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?

Rule Making should provide a basic mapping standard soon (ESRI standards are likely the best place to start as they are so widely used at all levels of government)

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. The Recovery Act also requires that applicants demonstrate that their proposals would not have been implemented during the grant period without Federal assistance. The Recovery Act allows for an increase in the Federal share beyond 80 percent if the applicant petitions NTIA and demonstrates financial need.

a. 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?

Based on the scarcity of BTOP funds compared to the vast needs, and the fact that most BTOP grants will be initiated in the private sector, scenarios where more than 80 percent is required are virtually non-existent.

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

An opportunity exists that with competition between providers, consideration should be given to grants that require less than 80% funding. The lower the percentage required, the higher the likelihood of an award.

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

The fact of “unserved” conditions in geographic areas is primary evidence that a reasonable ROI was previously not available and the funding intervention is necessary. Provision of “shared” Middle-mile infrastructure will also demonstrate need for Federal assistance.

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. 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. The Recovery Act permits NTIA to de-obligate awards 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.

a. 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? **Let states handle many of the local processes.**

b. 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)? **Strict contract and project management at State levels**

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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.” 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).

a. For purposes of the BTOP, how should NTIA, in consultation with the FCC, define the terms “unserved area” and “underserved area?”

Both speed and price factors should be used to define “unserved” conditions. If a residential end-user cannot be provisioned with at least 1Mbps symmetrical broadband service at a “reasonable” retail price (based on the average price for the same speed in a nearby “served” area), an end-user is “unserved” for purposes of grant application. If an aggregation of users in an area cannot simultaneously maintain connection speeds of at least 1Mbps, the area or community is “unserved”, for purposes of Grant application.

Besides availability of Minimum speeds over 1Mbps, “under-served” definition could include Quality of Service minimums, the number and types of broadband service (cable, DSL, fiber, Wireless) available in an area (USDA guidelines defining the appropriateness of a loan for an area offer proven criteria), total capacity available to the network, and the mix of broadband applications (VOIP, Video, Distance Learning, etc) available to run over the local network, could all be factors in defining “under-served” for purposes of Grant application.

b. How should the BTOP define “broadband service?”

At a minimum, broadband service should be defined as connection to a Tier One Internet provider, constantly available of at least 1Mbps symmetrical (download and upload).

(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? **Yes, but flexible above a minimum.**

(2) Should the BTOP establish different threshold speeds for different technology platforms? **No**

(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)? **Providers have rigid standards they contract for at the wholesale level, and which they can measure and rely upon for their business needs. These same standards should be acknowledged at the retail level as an extension of the wholesale conditions.**

(4) Should the threshold speeds be symmetrical or asymmetrical? **Symmetrical**

(5) How should the BTOP consider the impacts of the use of shared facilities by service providers and of network congestion? **If congestion issues bring down service levels to end-users to below 1Mbps, the area is “unserved” as far as grant availability.**

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

(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? **New middle mile infrastructure paid for with BTOP funds should be “open” or shared facilities.**

(2) Should the network interconnection obligation be based on existing statutory schemes? If not, what should the interconnection obligation be? **No. Broadband should remain free of “Statutory” schemes. Cooperation should be encouraged to exist between providers based on incentives and market conditions.**

(3) Should there be different nondiscrimination and network interconnection standards for different technology platforms? **Yes, as long as no “regulatory” imperatives are involved.**

(4) Should failure to abide by whatever obligations are established result in deobligation of fund awards? **Yes.**

(5) In the case of infrastructure paid for in whole or part by grant funds, should

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the obligations extend beyond the life of the grant and attach for the useable life of the infrastructure?

No. Grant awards should be seen as temporary financial intervention associated with unfavorable ROI conditions, helping the private sector to extend service beyond existing infrastructure boundaries. After the Grant interventions, and after obligations under the grants are met, market forces should be allowed to reassert themselves.