

**Before the  
National Telecommunications and Information Administration &  
The Rural Utilities Service  
Washington, DC 20554**

In the Matter of

American Recovery and Reinvestment Act  
Broadband Initiatives

Docket No. 090309298-9299-01

**COMMENTS OF THE USA COALITION**

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## Summary

The USA Coalition urges NTIA and RUS (the “Agencies”) to allocate and distribute funding under the Recovery Act in a manner that best facilitates the universal availability of affordable broadband services. This goal requires the Agencies to focus primarily upon the consumer, rather than upon the service provider, and to ensure that competition among providers and technologies is facilitated. Consumers want, and deserve, the ability to choose among various types of affordable broadband providers and technologies, including mobile broadband services.

In allocating and distributing funding, the Agencies need to lay the foundation for a healthy and competitive broadband market that can thrive long after funds made available through the Recovery Act have been spent. Providing consumers with competitive choice is also the best way to ensure that the need for support will decrease over time. By contrast, to the extent government programs interfere with competition by insulating providers from competitive forces, the level of support over time will be much higher, even if the level of funding appears lower during initial years. At the same time, the Agencies should reduce uncertainty and complexity to the greatest extent feasible. If the broadband initiatives create uncertainty or too much complexity, providers may choose to forgo participation altogether, which would negate the purpose of the initiatives and limit options available to consumers in rural, insular, and high cost areas where support is necessary.

To achieve this end, the Agencies should appropriate funds to ensure that all areas of the country have access to a certain minimal level of broadband services (*i.e.*, Current Generation Broadband Service) at affordable prices and can benefit from competition among service providers. Benefits from competition will ensure consumers a choice of broadband technologies, broadband speeds, and broadband service providers. In addition, the Agencies should also

provide grants for applicants to offer Advanced Broadband Services, which will provide even faster speeds and cutting edge technological options throughout the country. In order to achieve technological neutrality, the Agencies should adopt definitions for “Current Generation Broadband Services” and “Advanced Broadband Services” that differ for fixed and mobile services.

The Agencies must carefully craft interconnection and non-discrimination obligations so as not to discourage participation in the broadband programs. For the same reason, the Agencies should administer the broadband stimulus funds in a manner that is as flexible and simple as possible. The Commission should invite a wide variety of applicants to apply for grants, and preference should be shown to applications that complement other Recovery Act priorities or that achieve the multiple purposes listed in the broadband-related portions of the Recovery Act.

In judging applications, NTIA should carefully consider a variety of factors. Chief among these factors is project feasibility and sustainability, which requires the NTIA to examine whether the project can be completed on budget and whether the project will be sustainable once completed. NTIA also should consider whether an applicant has the technical, financial, and managerial capability to complete the project. A third key factor to be considered is the project scope and cost, which should focus heavily on the funds requested per potential customer served, the proposed broadband speeds to be made available, and the proposed retail price for the customer. Other factors to be considered whether a state has endorsed the project, the ability of the project to generate jobs, and when the project can be begun in earnest.

In administering the broadband funds, all decisions made by the Agencies should be technologically neutral. This goal requires the Agencies to focus primarily upon the consumer, rather than upon the service provider. Technological neutrality, however, cannot be achieved by

broadly applying the same requirements and standards across all applicants. Rather, any technologically neutral standard must consider the technological capabilities of the applicant's proposed mode of service and avoid setting requirements that specific technologies simply cannot meet. Failure to do so will deny consumers the ability to choose among service types, service providers, and even service prices.

The USA Coalition also supports the goal of establishing a comprehensive nationwide inventory map of existing broadband service capability and availability. Any map developed must identify individual service providers, service speeds, and service technologies. To obtain an accurate and useful result, the USA Coalition believes that the Agencies should gather data on broadband availability from the consumer perspective based on market research (*e.g.*, surveys and other tools) rather than by requiring service providers to compile and file detailed reports. Requiring service providers to create detailed maps of their service areas in these economically challenging times is an unfair burden to place on providers. Furthermore, some service providers may be tempted to exaggerate their broadband capabilities both in terms of coverage and speed in order to discourage entry by potential competitors.

In sum, the USA Coalition urges the Agencies to create a strong foundation for an ongoing commitment to the deployment of all types of services and technologies, including mobile services, throughout the United States. The broadband initiatives represent an important first step towards the creation of an environment where all consumers throughout the United States are able to enjoy the benefits of competition and technology, including the mobile services that so many seek but lack access to today.

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**COMMENTS OF THE USA COALITION**

The Universal Service for America Coalition (“USA Coalition” or “Coalition”),<sup>1</sup> by its attorneys, hereby submits these comments in the above-captioned proceeding in response to the Joint Request for Information issued by National Telecommunications and Information Administration (“NTIA”) and the Department of Agriculture’s Rural Utilities Service (“RUS”).<sup>2</sup> As a first step, NTIA and RUS (collectively, the “Agencies”) must clearly define key terms of the 2009 American Recovery and Reinvestment Act (the “Recovery Act”)<sup>3</sup> so as to clarify the objectives of the Broadband Technology Opportunities Program (“BTOP”) and the RUS programs. Once these key terms are defined, the Agencies can then move towards determining how to administer the program.

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<sup>1</sup> The members of the USA Coalition include Carolina West Wireless, Cellular One, Corr Wireless Communications, Mobi PCS, SouthernLINC Wireless, and Thumb Cellular LLC.

<sup>2</sup> See Joint Request for Information and Notice of Public Meetings, *American Recovery and Reinvestment Act of 2009 Broadband Initiatives*, 74 Fed. Reg. 101716 (Mar. 12, 2009) (“Joint RFI”).

<sup>3</sup> American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) (“Recovery Act”).

## INTRODUCTION

The USA Coalition consists of six of the nation's leading rural providers of wireless services, and is dedicated to advancing regulatory policies that will enable Americans to enjoy the full promise and potential of wireless communications, regardless of where they live and work. The Coalition seeks to ensure that our nation's communications policies are technologically and competitively neutral, which facilitates competition that benefits consumers.

A vibrant, robust, and redundant communications network, which includes high-speed broadband internet access, is essential to the economic strength of the United States and the public safety of its citizens. In order to ensure the strength of the broadband network in rural, insular, and high-cost areas, broadband service must be affordable to residents of those areas. In some of these areas, however, high-speed broadband service will be affordable only with support from the government, either through the Universal Service Fund or through some other funding source.

Any support for broadband services must be made available in a technologically and competitively neutral manner so that technological innovation can be implemented into the communications network as rapidly and efficiently as possible.<sup>4</sup> Favoring one type of technology or class of service providers, whether explicitly or implicitly, will only slow the integration of technological innovation into the communications network and increase inefficiencies. The USA Coalition believes that allowing residents and businesses in rural, insular, and high-cost areas to select the services, technologies, and service providers of their

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<sup>4</sup> See Preamble, Telecommunications Act of 1996, P.L. 104-104, 100 Stat. 56 (1996) (explaining that the purpose of the 1996 Act is "to promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies").

choice is the best means for ensuring the vibrancy, robustness, and redundancy of the communications network.

Any broadband grants considered by the Agencies should be allocated and distributed in the manner that best facilitates the universal availability of affordable broadband services. This goal requires the Agencies to focus primarily upon the consumer, rather than upon the service provider, and to ensure that competition among providers and technologies is facilitated. Consumers want, and deserve, the ability to choose among various types of affordable broadband providers and technologies, including providers offering both fixed and mobile services. Providing consumers with competitive choice is also the best way to ensure that the need for support will decrease over time. By contrast, to the extent government programs interfere with competition by insulating providers from competitive forces, the level of support over time will be much higher, even if the level appears lower during the initial years of the program. At the same time, however, the Agencies must seek to reduce uncertainty and complexity to the greatest extent feasible. If the broadband initiatives create uncertainty or too much complexity, providers may choose to forgo participation altogether, which would negate the purpose of the initiatives and limit options available to consumers in rural, insular, and high cost areas where support is necessary. Therefore, the USA Coalition urges the Agencies to create a strong foundation for an ongoing commitment to the deployment of all types of services and technologies, including mobile services, throughout the United States. The broadband initiatives represent an important first step towards the creation of an environment where all consumers throughout the United States are able to enjoy the benefits of competition and technology, including the mobile services that so many seek but lack access to today.

**I. THE AGENCIES SHOULD ADOPT DEFINITIONS FOR “CURRENT GENERATION BROADBAND SERVICES” AND “ADVANCED BROADBAND SERVICES” THAT FACILITATE ACHIEVEMENT OF THE RECOVERY ACT’S GOALS**

Section 6001(b) of the Recovery Act provides that a key purposes of the BTOP program is to provide access to broadband services to Americans residing in unserved and underserved areas of the United States.<sup>5</sup> The Recovery Act does not itself define “broadband services,” leaving it to NTIA, in consultation with the Federal Communications Commission, to define the term. Properly defined, the terms “broadband service,” “unserved areas” and “underserved areas” should facilitate the awarding of grants where support is needed to ensure the universal availability of affordable broadband services. In order to ensure that as many Americans as possible benefit from the BTOP program, the definitions must be technologically neutral so that consumer preference, not government fiat, shapes the still-emerging broadband marketplace. Otherwise, the United States will fall further behind other parts of the world because superior technologies and service providers will not be able to overcome distortions created by the discriminatory award of support for broadband services.

The role of the definitions should be to define where support is available. In adopting definitions to serve this role, NTIA should consider not only the attributes of current broadband services generally available but also the technologies that are just over the horizon. However, the data transfer rates included in the definitions used to define where support is available should not also be used as a minimum threshold that grant recipients must meet. The unfortunate consequence of requiring all grant recipients to meet the same threshold speed requirement used to define unserved and underserved areas would be either that the speed is so low that support would be unavailable in many deserving areas or so high that many providers who otherwise

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<sup>5</sup> Recovery Act § 6001(a)-(b).

would serve those areas would not be able to participate because of unavailability of equipment or spectrum. Put simply, many parts of the United States that currently lack adequate access to broadband services would benefit enormously from even modest improvements in available services. For this same reason, the Agencies should adopt separate definitions for fixed and mobile services, as described in more detail below. In choosing between two otherwise equivalent applications (*e.g.*, two mobile broadband offerings to serve the same area with similar qualifications and proposed deployment schedules), the Agencies can and should give preference to the application that would offer consumers faster broadband speeds.

**A. The Agencies should adopt definitions for “Current Generation Broadband Services” and “Advanced Broadband Services” that differ for fixed and mobile services.**

For the purpose of defining where support should be available, the USA Coalition proposes two separate, yet related, definitions for broadband services: “Current Generation Broadband Services” and “Advanced Broadband Services.” Moreover, the Agencies should adopt separate definitions for fixed (*i.e.*, wireline and fixed wireless) and mobile services. In light of the significant differences in technology and equipment availability, not to mention spectrum requirements, technological neutrality can be maintained only if the Agencies adopt separate definitions for fixed and mobile services. By recognizing the legitimate differences in fixed and mobile technologies, including equipment availability and spectrum needs, the Agencies can ensure that consumer choice of technology is not stymied by an infusion of grant money into one particular technology (*i.e.*, fixed services) merely because it is able to offer higher speeds.

With respect to mobile services, the term “Current Generation Broadband Services” should be defined as follows:

**Current Generation Mobile Broadband Service** means a service provided on an advertised and generally available basis to each customer that has an information transfer rate equivalent to at least 1.0 megabits/second from the provider to the customer (downstream) and at least 200 kilobits/second from the customer to the provider (upstream).

Areas lacking this level of mobile broadband service availability should be considered to be unserved, as discussed below.

The definition of “Advanced Broadband Services” that the USA Coalition proposes with respect to mobile services is designed to encourage the deployment of technologies that will remain relevant despite future technological advances:

**Advanced Mobile Broadband Service** means a service provided on an advertised and generally available basis to each customer that has an information transfer rate equivalent to at least 3.00 megabits/second from the provider to the customer (downstream) and at least 768 kbps from the customer to the provider (upstream).

Areas lacking this level of mobile broadband service should be considered “underserved,” as discussed below. The inclusion of Advanced Broadband Services in the BTOP program will encourage the construction of new facilities that will not need be redeployed as technology changes. Furthermore, funding for Advanced Broadband Services may stimulate research and development of new networking technologies that can provide for additional economic and technological growth.

**B. Unserved and underserved areas should be defined in a complimentary manner designed to ensure that both types of areas receive adequate support.**

The Recovery Act instructs NTIA, through the BTOP program, to provide access to broadband services to consumers in “unserved areas” and in “underserved areas.” As with the definition of “broadband service,” Congress delegated authority to the NTIA to define what constitutes both an “unserved area” and an “underserved area.” In adopting definitions for these

terms, NTIA must ensure that such definitions do not forestall consumer choice and the eventual development of a competitive market for broadband services.

In light of these concerns, the USA Coalition proposes the following definition of an “unserved area:”

**Unserved Area** means (i) a geographic area where at least 90% of the customers to be served by the project lack access to a provider of Current Generation Broadband Service; or (ii) a geographic area where Current Generation Broadband Services, regardless of the technology used to provide such services, are priced at more than 150% of the average price for Current Generation Broadband Services in the 25 largest urban areas;

Defining an “unserved area” in this manner ensures that the BTOP program does not exclude areas where there is some minimal amount of service available (*i.e.*, at speeds slower than Current Generation Broadband Service) or areas where broadband service is only available to a select few.<sup>6</sup> By requiring that 90% of customers have access to Current Generation Broadband Service, the BTOP program can ensure that nearly the entire population in a region has reasonable access to affordable and sufficient broadband services before the area would be deemed ineligible for funding.

In contrast to an “unserved area,” an “underserved area” requires a significantly more complex definition. As a matter of logic, the definition of “underserved area” should exclude all “unserved areas,” which should be treated differently than underserved areas. Second, as Mark Seifert of NTIA noted at the kick-off meeting, both the Act itself and its legislative history emphasize the need for high-speed service and the need for “forward-looking future-looking

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<sup>6</sup> Defining an “unserved community” in this manner also avoids the problems raised by Jonathan Large, Dan River District Supervisor in Ararat Virginia, at the hearing held by the House of Representative’s Subcommittee on Communication, Technology and the Internet. At that hearing, Mr. Large explained that just prior to Ararat, Virginia receiving an RUS loan, a single provider began providing service to a single household, thereby making Ararat ineligible for RUS funding (which requires that no provider offer any broadband service to any customer throughout the region). However, two years later, only the single house remains served.

programs.”<sup>7</sup> As such, the definition of an “underserved area” should include areas where Advanced Broadband (*i.e.*, faster) Services have not yet been deployed or have only been partially deployed, even if Current Generation Broadband Services are available. Third, as Congressman Boucher noted at the Broadband Oversight hearing, the goal of the BTOP program is *both* to make sure that everyone access to broadband and to make sure that everyone has access at “affordable prices and can benefit from competition among service providers.”<sup>8</sup> The USA Coalition agrees with Congressman Boucher on this point and strongly believes that no grant should result in the creation of *de facto* monopolies that interfere with the development of competition over time. Thus, the definition of “underserved areas” should also allow support for new entrants to enter a market with only one or two providers. Additionally, the definition must include a component that measures the retail price of Current-Generation Broadband Services so as to ensure that consumers can afford the services that are available.

Guided by these factors, the USA Coalition proposes the following definition:

**Underserved Area** means:

(1) (i) a geographic area, excluding those defined as an “unserved area,” where at least 90% of the customers to be served by the project lack access to more than two providers of Current Generation Broadband Service (which is to be determined separately for wireline/fixed wireless or mobile wireless providers); (ii) a geographic area, excluding those defined as an “unserved area,” where at least 90% of the customers to be served by the project lack access to a provider of Advanced Broadband Service (which is to be determined separately for wireline/fixed wireless or mobile wireless providers); or (iii) a geographic area where Current Generation Broadband Service is priced at more than 125% of the average price for Current Generation Broadband Service in the 25 largest urban areas;

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<sup>7</sup> Transcript, *American Recovery and Reinvestment Act of 2009 Broadband Initiative Kick Off*, at 60 (Mar. 10, 2009) available at [http://www.ntia.doc.gov/broadbandgrants/090310/transcript\\_090310.pdf](http://www.ntia.doc.gov/broadbandgrants/090310/transcript_090310.pdf).

<sup>8</sup> *Oversight of the American Recovery and Reinvestment Act of 2009: Broadband: Hearing Before the H. Subcommittee on Communications, Technology, and the Internet*, 111th Cong. (2009) (Opening Statement of Subcommittee Chairman Boucher at 2) available at [http://energycommerce.house.gov/Press\\_111/20090402/boucher\\_open.pdf](http://energycommerce.house.gov/Press_111/20090402/boucher_open.pdf).

(2) a geographic area where at least 90% of the Community Anchor Institutions to be served by the project lack access to a provider of wireline/fixed wireless Advanced Broadband Service; or

(3) any census tract which is located in (i) an empowerment zone or enterprise community designated under 26 U.S.C. § 1391, (ii) the District of Columbia Enterprise Zone established under 26 U.S.C. § 1400, (iii) a renewal community designated under 26 U.S.C. § 1400E, or (iv) a low-income community designated under 26 U.S.C. § 45D.

As with the Coalition’s proposed definition of “unserved areas,” the above definition examines fixed and mobile services separately, to ensure that consumers have adequate choices in their technology type. Additionally, by including areas with only a one or two Current Generation Broadband Service providers, the proposed definition provides incentives for providers considering entrance into areas with limited service options, thereby ensuring that communities in such areas can benefit from true competition. Third, by including a pricing component, the proposed definition ensures that consumers can afford the services that are available. As Mr. Seifert noted at the recent House Subcommittee on Communication, Technology and the Internet hearings, if services are too expensive for members of a community to serve, than the community remains underserved despite the existence of broadband services in the region. Finally, by providing financial support for Advanced Broadband Services projects even in areas where there is adequate availability of Current Generation Broadband Services, NTIA can move towards ensuring that that such areas do not remain technological backwaters.

**C. The Agencies must carefully craft interconnection and non-discrimination obligations so as not to discourage participation in the broadband programs.**

The USA Coalition urges the Agencies to focus on consumers when considering interconnection and non-discrimination obligations. The USA Coalition strongly believes consumers are best served when all mobile broadband service providers provide reasonable interconnection opportunities at technically feasible points. Similarly, consumers are best served

when mobile voice and broadband service providers provide reasonably priced roaming services (for both voice and data) to all customers within reach of their network. In light of competitive concerns, the USA Coalition recognizes that regulation likely will be necessary to achieve these important goals for consumers. However, rushed or poorly considered interconnection and non-discrimination obligations would create additional uncertainty among applicants, which likely would harm consumers by reducing participation in both the NTIA and RUS programs.

For this reason, the USA Coalition urges both NTIA and the RUS to consult extensively with the FCC regarding any non-discrimination or interconnection requirements for recipients of broadband grants.<sup>9</sup> The rules guiding the broadband initiatives should be designed to promote, not hinder, competition. Deploying networks only to have competition frustrated by closed and discriminatory network policies would run contrary both to the intent of the Recovery Act and to the pro-competition bent of Communications Act of 1934, as amended. Interconnection and nondiscrimination obligations are a key element in ensuring that consumers have access to a variety of services and that such services are as affordable as possible for consumers. This is particularly true for mobile customers living in rural areas, where carriers lack universal coverage and roaming is essential to ensuring coverage for customers where they live, work, and travel. Well-crafted interconnection and non-discrimination obligations will achieve this goal without reducing participation in the broadband initiatives included in the Recovery Act.

## **II. THE AGENCIES SHOULD ADMINISTER THE BROADBAND STIMULUS FUNDS IN A MANNER THAT IS AS FLEXIBLE AND SIMPLE AS POSSIBLE.**

Given the need for NTIA to distribute funds quickly and efficiently, NTIA should avoid adopting rules that limit the flexibility of its programs. To this end, when considering how funds

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<sup>9</sup> “Non-discrimination” should be defined as adherence to the principles contained in the FCC’s Broadband Policy Statement (FCC 05-151, adopted August 5, 2005).

should be apportioned to each of the five purposes of the BTOP, NTIA should not adopt hard limits for spending in each category. Rather, while the NTIA should try to balance apportionments, the agency needs to take into account numerous factors (such as higher capital costs associated with large-scale facilities deployment as compared to, for instance, outreach programs) and the needs facing various communities. As a result, flexibility in grant distribution, rather than hard and fast rules regarding appropriations, will lead to more efficient operation of the BTOP program.

**A. To ensure maximum efficiency and flexibility in distributing grants, NTIA should favor applications that address multiple purposes, but not require applicants to do so.**

In the *Joint RFI*, NTIA sought comment on whether applicants for grants should be encouraged to address more than one purpose in their applications. The USA Coalition believes that each application should be judged on the strength of its own merits. To that end, while NTIA should favor applications that complement other Recovery Act priorities and projects, the preference shown such applications should not be absolute, and proposals that effectively address a single Recovery Act priority should not be overlooked simply because of their narrow focus. Rather, the emphasis should be on how efficiently and effectively each proposed project can achieve its stated goals. To the extent that there are synergies and economies of scale which NTIA may take advantage of by granting applications addressing more than one issue, NTIA should be free to do so.

Although projects addressing multiple purposes of the Recovery Act should be encouraged, NTIA should not require applicants to leverage or make use of other portions of the Recovery Act. To the extent that an application smoothly and effectively incorporates other stimulus related programs into its scope or takes advantage of natural synergies, such applications should be looked upon with favor. However, applicants should be discouraged from

“forcing” a relationship between programs, and applicants should not be discouraged from pursuing single purpose applications by NTIA blindly rewarding complex multiple purpose applications that will needlessly complicate both the distribution and the auditing process.

**B. NTIA should consider applications from a wide spectrum of applicants.**

The USA Coalition urges NTIA to allow as broad a range of entities as possible to apply for BTOP grants. Allowing a wide variety of governmental institutions, nonprofit organizations, and private entities to apply will provide NTIA with the largest potential pool of applications, which will facilitate the efficient distribution of BTOP funds. Indeed, Section 6001(e)(1)(C) allows NTIA to declare any entity to be eligible to receive BTOP grants upon a finding that such eligibility is in the public interest.

At a minimum, the USA Coalition supports a broad finding by NTIA that the public interest is served by permitting all existing telecommunications and information services providers to apply for BTOP funding. By ruling that existing telecommunications and information service providers are eligible to apply, NTIA can ensure that those entities with the most relevant experience in the deployment and administration of networks will be eligible for funding and can actively participate in the BTOP program. Indeed, the active participation of existing providers with the experience necessary to deploy broadband services in unserved and underserved areas is crucial to the success of the initiatives. By completing the federal and/or state certification processes, such providers also have already demonstrated a certain minimal level of competence, and a public interest finding has likely previously been made by a state or federal agency with respect to the provision of services by these companies. Additionally, such entities are more likely to have the necessary support staff in place to comply with other requirements of the BTOP grants, including record keeping, auditing, and interconnection requirements.

**III. THE AGENCIES SHOULD EVALUATE APPLICATIONS IN AN OBJECTIVE AND TECHNOLOGICALLY NEUTRAL MANNER.**

**A. The NTIA should consider a variety of factors in determining which BTOP applications to grant.**

In order to fairly determine which BTOP applications to grant, the NTIA must establish a set list of factors that can be applied to each funding application received requiring a significant expenditure for the deployment of broadband facilities. These will be applied to all applications impartially, providing the most objective metrics possible for the grant determination process. To that end, the USA Coalition respectfully suggests the following criteria be included in the set of factors:

**Project Feasibility and Sustainability.** All applications should be evaluated based on the likelihood that the project will be completed successfully, and on whether completion can occur on budget. This will require examining the technological requirements to complete the project to determine whether the project is feasible given the current state of technology. Also, the cost of the project must be examined as compared to the funds requested, and unrealistic budget projections rejected. It will also require NTIA to examine whether the applicant has demonstrated (or shown that it can stimulate) sufficient demand among consumers for the project to be successful. This includes determining whether the project will be sustainable once federal support is exhausted.

**Applicant's Technical, Financial, and Managerial Capabilities.** Any applicant submitting an application should be required to demonstrate that it has the technical, financial, and managerial capability to complete the proposed project. An applicant can satisfy these considerations by showing that it possesses or can reliably obtain managerial and technical staff capable of designing and deploying the proposed project, either through direct employees or through contractors. Applicants should also be evaluated on their ability to ensure the financial

stability of the project. To satisfy this consideration, NTIA should look at whether the applicant has sufficient funding to deal with any reasonable cost overruns, as well as the ability to engage in record keeping sufficient to meet any audit requirements imposed by NTIA. Finally, NTIA should evaluate the management skills of the applicant to determine the likelihood that the applicant will be able to complete the project. Important factors for consideration include whether the applicant will be able to comply with government grant obligations and whether the applicant can comply with all applicable federal, state and local laws and regulations.

**Project Scope and Cost.** Applicants must also be evaluated based on the cost-effectiveness with which the applicants can provide service within the proposed project area. Factors to be considered in determining this are the amount of funds requested per potential customer served, the proposed transmission speed (judged separately for different technology types, as discussed above), and the proposed retail cost to the customer. Also, NTIA should consider the scalability of the project and whether the project can be updated to take advantage of new technologies without duplicating the entire deployment effort. Such factors are particularly important in high cost areas where duplicating previous deployment efforts is prohibitively expensive for companies with an existing presence in the area.

**Type of Area Served.** Projects that propose to provide service for large unserved or underserved areas, projects that propose to provide service in difficult to serve geographies, or projects that propose to provide service in economically disadvantaged communities should receive priority funding. Furthermore, applicants, per the Recovery Act, must demonstrate that the proposed project would not have been implemented during the grant period without grant assistance.

**State and/or Community Endorsements.** The Recovery Act instructs NTIA to work closely with state and local governments to ensure the efficient distribution of broadband funds. As such, applications that receive the endorsement of state governments, local governments, or that are submitted in cooperation with community anchor institutions should receive a general (though not absolute) preference in receiving grants. This means that, given two otherwise equivalent grant applications, the applicant with a state or community endorsement will be granted first. However, a state endorsement should not elevate a clearly inferior application above a superior one.

**Jobs Creation.** A key purpose of the Recovery Act is the creation of new jobs. Thus, NTIA should consider the number of jobs, lasting longer than six months, that will be directly created by funding a project. All manner of jobs, whether in construction, support, or management of the project should be included in the count.

**Project Start Date.** NTIA should also score projects based on the rapidity with which the project can proceed from the planning stages and begin construction. The use of such a metric is in keeping with the overall purpose of the Recovery Act, which is to create and preserve jobs as well as to engage in infrastructure development.

**B. Technological neutrality requires the Agencies recognize legitimate differences between technologies.**

The USA Coalition urges the Agencies to grant applications in the most technologically neutral manner possible, as required by the Recovery Act. This goal requires the Agencies to focus primarily upon the consumer, rather than upon the service provider. Consumers want, and deserve, the ability to choose among various types of affordable broadband providers and technologies, including providers offering both fixed and mobile services. However, technological neutrality cannot be achieved by broadly applying the same requirements and

standards across all applicants. Rather, any technologically neutral standard must consider the technological capabilities of the applicant's proposed mode of service and avoid setting requirements that specific technologies simply cannot meet. Failure to do so will deny consumers the ability to choose among service types, service providers, and even service prices.

To this end, if the Agencies adopt a numeric system for scoring applications, factors that measure platform specific elements (such as data transfer rates and mobility) should be considered separately for different types of technology, with some type of normalization process then applied to allow the applications to be ranked fairly and compared against each other. For instance, when comparing data transfer rates between wireline- and wireless-based applications, the Agencies should normalize these rates by comparing the proposed rates to other applications using identical technologies. Only then should the data transfer rates be included in the application's composite score.

**C. Comprehensive Broadband Mapping Should Include Details Sufficient To Provide an Accurate Picture of Service Availability, Service Types, and Service Prices Available To Consumers**

The USA Coalition supports the goal of establishing a comprehensive nationwide inventory map of existing broadband service capability and availability and encourages the Agencies to adopt the following recommendations. First, any map developed must include a means of identifying individual service providers and the regions those providers serve. Second, any map developed must also include the ability to identify the data transfer rates made available by each service provider offering service and the costs associated with those services. Third, the map must include information regarding how that service is provided (*e.g.*, wireline, fixed wireless, mobile). Finally, the broadband map should address penetration rates within the area, so that areas without effective broadband service (because of price or because of a failure to provide access) are not mistakenly deemed adequately served.

To obtain an accurate and useful result, the USA Coalition believes that the Agencies should gather data on broadband availability from the consumer perspective based on market research (*e.g.*, surveys and other tools) rather than by requiring service providers to compile and file detailed reports. Requiring service providers to create detailed maps of their service areas in these economically challenging times is an unfair burden to place on providers. Furthermore, some service providers may be tempted to exaggerate their broadband capabilities both in terms of coverage and speed in order to discourage entry by potential competitors. However, by asking the consumers themselves, the Agencies can avoid the bias of the service providers that might otherwise result in an area being denied sufficient funding.

#### **CONCLUSION**

For the reasons set forth above, the USA Coalition urges the Agencies to ensure that broadband grants are provided on a fair and technologically neutral basis. Such policies will ensure that all consumers receive the benefit of broadband technologies, regardless of where they live and work.

Respectfully submitted,



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