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Governor

# STATE OF NEBRASKA

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The Honorable Gary Locke  
Secretary, U.S. Department of Commerce  
Office of the Secretary  
US Department of Commerce  
1401 Constitution Ave, N.W.  
Washington, DC 20230

The Honorable Tom Vilsack  
Secretary, U.S. Department of Agriculture  
Office of the Secretary  
US Department of Agriculture  
1400 Independence Ave., S.W.  
Washington, DC 20250

The Honorable Anna Gomez  
Acting Assistant Secretary, Deputy Assistant Secretary for Communications and Information  
Office of the Assistant Secretary, National Telecommunications Information Administration  
US Department of Commerce  
1401 Constitution Ave, N.W.  
Washington, DC 20230

Secretary Locke, Secretary Vilsack, and Assistant Secretary Gomez:

On behalf of the State of Nebraska, I am submitting these comments and recommendations for your consideration in response to the Request for Information (Docket No. 090309298-9299-01) published in the Federal Register on March 12, 2009. Broadband access is important to the State of Nebraska. Although the state has been a leader in providing broadband to residents, continued investment in Nebraska's telecommunications infrastructure needs to be made to ensure that all Nebraskans continue to enjoy the benefits of broadband.

### **The Purposes of the Grant Program**

The American Recovery and Reinvestment Act of 2009 (Recovery Act) lists several priority areas in Section 6001. The National Telecommunications Information Administration (NTIA) should prioritize the areas and apportion grant funds in the order those priorities are listed in the Act. For example, unserved areas should be covered first prior to funding for underserved areas. I recommend that the NTIA set aside a standard state allocation. Applicants should be encouraged to address more than one purpose in the application. The NTIA should give greater weight to those projects that address more than one purpose.

## **The Role of the States**

The states can be valuable to the NTIA in the process of evaluating applications. Many states, having tracked broadband availability, are already familiar with unserved areas, viable projects, and the economic impact to the local areas. The State of Nebraska, primarily through the Nebraska Public Service Commission and the Nebraska Information Technology Commission, would be willing to assist the NTIA and Rural Utilities Service (RUS) in the coordination and ranking of in-state applications for broadband funding if requested. The Recovery Act requires that, to the extent practical, the Broadband Technology Opportunities Program (BTOP) award at least one grant to every state. To meet this requirement, we support the recommendation of the National Association of Regulatory Utility Commissioners (NARUC) that the NTIA/RUS should set aside an amount as a state allocation. The NTIA could ask each state governor or his/her designated agency to apply for a standard state allocation for all of the projects in that state. The state could coordinate with the NTIA and assist in ranking of in-state applications. The decision on what projects would be funded would be based on the federal criteria and NTIA would have a final approval or rejection process in place for these recommendations.

As far as priorities in awarding grants, the State of Nebraska recommends that you utilize the requirements of Section 6001, prioritize unserved areas ahead of underserved areas, and work with the states in determining the priority areas in each state. States should provide information to the NTIA about the programs currently in place, such as public safety or telemedicine projects. The NTIA should work with the governors' offices or designated agencies so that the state allocation can compliment projects already declared to be a state priority. Like Nebraska, many states may already have some projects underway but because of the current economic situations are unable to fulfill those goals. In addition, accurate mapping must be completed so that the "unserved" areas can be effectively targeted.

States should be given the ability and a reasonable period of time to decide whether to opt-in to the process. The NTIA should also clarify whether states that agree to take on these obligations are eligible for a portion of the funds to be used for staffing resources. While states can reduce the burden on the NTIA, some may not be in a position where they can do so without an appropriation for resources.

The NTIA questioned how it should ensure that projects proposed by States are well-executed and produce worthwhile and measurable results. The State of Nebraska believes that in addition to accountability procedures at the federal level, the relevant state agency should have access to relevant information on the project.

## **Eligible Grant Recipients**

The NTIA should clarify that political subdivisions applying for state grants may delegate the oversight to commissions or committees already in place which have the expertise to make technical decision. Applicants not specifically covered by the Recovery Act should be treated in a competitively neutral and nondiscriminatory manner. To determine whether public interest has been met, we recommend the NTIA focus on the project and whether the project meets the goals of the Recovery Act rather than on the make-up of the entity applying for funding. In some instances, for-profit entities may be able to meet the goals established by the Act on a more cost-effective basis or on a larger scale.

## **Broadband Mapping**

The Recovery Act directs the 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. The Recovery Act places this mapping obligation on the NTIA and not the states. To the extent that some states have already completed a broadband mapping program, or collected data on broadband infrastructure, the NTIA needs to consider whether the current maps or inventory data will be useful in developing the nationwide comprehensive map. More importantly, the NTIA should not disadvantage states that have used their own processes to collect broadband information rather than contracting with private firms to perform broadband mapping services.

A large number of states have agencies and programs in place and have been collecting broadband data through these programs. In 1997 the Nebraska Information Technology Commission (NITC) began quarterly meetings to promote the use of information technology in education, health care, and economic development. The NITC is a nine-member governor-appointed commission. In addition, the Nebraska Public Service Commission (NPSC) has used broadband surveys to determine gaps in broadband infrastructure since 2002. These entities have developed an extensive knowledge base and data collection resources which could be useful in the broadband mapping process. We encourage you to utilize the resources that already exist within state government rather than dictating a different establishment for mapping requirements and oversight of the grant programs.

**Inventory Grants.** The Recovery Act designates \$350 million dollars to be used for broadband mapping. Because many states already have in place programs and initiatives to improve and enhance broadband availability, states should be allowed to use this amount to pay for 100 percent of the mapping costs and not require a state to comply with all the provisions of the Broadband Data Improvement Act beyond mapping. If the NTIA decides that the states must also expend state resources, then it must consider in-kind state contributions. Many states would not have the resources, if required to come up with a 20 percent match, to conduct the broadband mapping required. States are more likely in a position to give resources for the data collection which could assist the NTIA with fulfilling the requirements of this section.

Some states may require a higher level of granularity in their data collection than another state due to population density. If the NTIA requests the states to provide information and assistance with collection of the broadband data, I recommend that the NTIA create a template for broadband data collection which identifies a minimum level of granularity so that the information collected is consistent from state to state at the lowest level of data collected. A regional collaborative may also be a useful tool. The Nebraska Public Service Commission, for example, has a long-standing participation in a regional collaborative established with the break-up of the Bell system and most recently focused on overseeing Qwest Corporation's compliance with requirements of the federal Telecommunications Act of 1996. State commissions participating in this collaborative have been able to reduce costs while strengthening accountability relative to monitoring carrier performance in the 14 state region.

In addition, the NTIA should make clear that states are not preempted from continuing their own broadband collection programs. State and local governments are the most direct point of contact with consumers and need to continue monitoring broadband deployment.

**Mapping Data and Uses.** In terms of specific map uses, the mapping data should reflect, on as granular level as possible, the data needed to identify both "unserved" and "underserved" areas. Each state should be able to determine the level of granularity needed for this determination. In the majority of Nebraska our low population density makes the use of Census Tract level mapping ineffectual and requires a street level method to be effective. The raw mapping data should include 1) the modality of the service, 2) the providers, 3) the available speeds of broadband, and 4) a range of retail prices. Access to the specific data should be controlled by the State to preserve confidentiality and competitively sensitive information. However, it is vital that broadband mapping be transparent, verifiable and accurate. In order to provide

value, the mapping software used must allow state to state data to be rolled up to a national level map. This will give the NTIA the ability to accurately make state-to-state comparisons. Federal and state agencies alike need to be able to verify the mapping results and be permitted access to the data underlying the results. To satisfy public accountability, the data collection methodology and maps produced from sensitive data must be available for public review, analysis, and scrutiny.

### **Definitions**

I propose using the following definitions of “unserved area,” “underserved area,” and “broadband:”

- a. An “unserved area” is a geographical area in which consumers’ access to the internet and broadband services are at a speed of less than 200 kbps upload and 786 kbps download. (FCC 08-89 §20 Speed Tier 1)
- b. An “underserved area” is a geographical area in which consumers’ access to the internet and broadband services are at a speed of less than 3 mbps upload and 6 mbps download. (FCC 08-89 §20 Speed Tier 4)
- c. The term “broadband” means advanced communications systems capable of providing high-speed transmission of services such as data, voice, and video over the Internet and other networks. Transmission is provided by a wide range of technologies, including digital subscriber line and fiber optic cable, coaxial cable, wireless technology, and satellite. Broadband platforms make possible the convergence of voice, video, and data services onto a single network. (FCC definition of “broadband”—<http://www.fcc.gov/broadband/>)

I would urge the use of the speed tiers already defined by the FCC to provide simplified and consistent reporting metrics.

Thank you for the opportunity to comment in this proceeding. The State of Nebraska looks forward to working cooperatively with the NTIA and USDA in the upcoming months.

Sincerely,



Dave Heineman  
Governor  
State of Nebraska