

Response to:

Request for Information (RFI)
Broadband Technology Opportunity Program
(BTOP)

Submitted by:

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To:

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EXECUTIVE SUMMARY

RECOMMENDED APPROACH FOR BTOP DELIVERY OF SERVICES

NWT Enterprises, Inc. is committed to improving broadband service in Western Maryland through a public private partnership to build, operate and maintain an open access hybrid fiber/wireless system offering broadband services to all Western Maryland citizens. NWT Enterprises, Inc. intends to build a wireless network with a fiber backbone offering services to Western Maryland municipalities (residences and businesses), industrial parks, schools, community college, libraries, healthcare, and County facilities. The fiber backbone will be complemented with a wireless network utilizing County and State owned towers to cover areas not served by fiber, as well as offer mobile services serving public safety, County roads, school transportation and emergency services users.

NWT Enterprises, Inc.

NWT Enterprises, Inc. is a network design and consulting business focused on state of the art communications, data warehousing, Internet and wireless Internet solutions. Located in Cumberland, MD, NWT Enterprises has extensive past experience in network designs, operations, management, and support services. With a collective 60 years experience supporting enterprise-class clients in major metropolitan and rural locations, NWT Enterprises, Inc. brings significant technical, management and design skills to the area.

1. NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION (NTIA)

1.1 UNDERSTANDING OF BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM (BTOP) GRANT PROGRAM OBJECTIVES

(1) Provide access to broadband service to consumers residing in unserved areas of the United States;

2) provide improved access to broadband service to consumers residing in underserved areas of the United States;

(3) provide broadband education, awareness, training, access, equipment, and support to: (A) Schools, libraries, medical and healthcare providers, community colleges, and other institutions of higher education, and other community support organizations and entities to facilitate greater use of broadband service by or through these organizations; (B) organizations and agencies that provide outreach, access, equipment, and support services to facilitate greater use of broadband service by low income, unemployed, aged, and otherwise vulnerable populations; and (C) job-creating strategic facilities located within a State-designated economic zone, Economic Development District designated by the Department of Commerce, Renewal Community or Empowerment Zone designated by the Department of Housing and Urban Development, or Enterprise Community designated by the Department of Agriculture;

(4) improve access to, and use, of broadband service by public safety agencies; and

(5) stimulate the demand for broadband, economic growth, and job creation.

1.2 RESPONSE TO NTIA BTOP GRANT PROGRAM OBJECTIVES

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

Apportioning some of the grant funds to each category would be counter-productive and inefficient. Allocating funds to each of the categories above would encourage the installation of single-use networks, rather than encourage an infrastructure that could be effectively used by multiple users across all of the categories. A more effective approach would be to create an evaluation methodology that would allow projects to be prioritized based on their ability to service a broad cross-section of the categories above. This would ensure the most effective and appropriate use of the allocated stimulus dollars in meeting the needs of the community.

Granting of funds should be apportioned with considerations to how a project impacts it's area and not just because it is a certain category. If competing proposals are evaluated and one is superior to the other, the superior proposal should receive a higher degree of consideration.

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

Yes. See explanation above. Applicants should address multiple purposes as such an approach would enable a greater impact derived from any single project.

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?

Projects that can provide support for those applications could receive a portion of their funding from those other areas of stimulus dollars, helping to enable the distribution of broadband, particularly into the more rural areas of the country, provided that those projects can demonstrate a cost-effective infrastructure that enables smart grids, health information technology, improvements in the delivery of education and in transportation systems.

Any project which can maximize the addressing of these additional applications should be given preference over proposals which are limited in scope, bearing in mind the need to create a 'best bang for the buck' approach in determining the feasibility of an proposal.

2. ROLE OF THE STATES

2.1 UNDERSTANDING OF THE ROLE OF THE STATE OF MARYLAND WITHIN THE SCOPE OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (RECOVERY ACT)

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. Section 6001(c) states that the Assistant Secretary may consult a State, the District of Columbia, or territory or possession of the United States with respect to-- (1) The identification of areas described in subsection (b)(1) or (2) located in that State; and (2) the allocation of grant funds within that State for projects in or affecting the State.

2.2 RESPONSE TO ROLE OF THE STATES

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

States should have significant input into the selection process of projects that are requested within their boundaries. However, criteria should be developed to ensure that projects are selected that can 1) meet the requirements and intent of BTOP, and 2) take into consideration the more un-served or under-served areas of the state.

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

The States should be able to provide input into the prioritization of projects, provided they meet the criteria of BTOP. If a State project will enable other projects to be more cost-effective, such a consideration needs to be included.

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

This can best be accomplished by establishing clear evaluation criteria that encourages projects that effectively cover as much of the five purposes of the BTOP program as possible. Selection criteria need to establish the viability of competing projects within the areas of cost, viability, transparency, reach and whether competing projects overlap State projects, or if they complement the projects to bring an even greater impact to the citizens of the State.

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

Grant submittals should include measurable timelines for construction and implementation. Consideration should be given to proven technologies and implementations with track record. Utilization of selection criteria of cost, viability, transparency and the percentage of population reached by the project will ensure worthwhile and measurable results while maintaining that it is well-executed.

3. ELIGIBLE GRANT RECIPIENTS

3.1 UNDERSTANDING OF RECOVERY ACT PROVISIONS FOR 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. Section 6001(e) states that eligible applicants shall--(1)(A) Be a State or political subdivision thereof, the District of Columbia, a territory or possession of the United States, an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450(b)) or native Hawaiian organization; (B) a nonprofit--(i) foundation, (ii) corporation, (iii) institution, or (iv) association; or (C) any other entity, including a broadband service or infrastructure provider, that the Assistant Secretary finds by rule to be in the public interest. In establishing such rule, the Assistant Secretary shall to the extent practicable promote the purposes of this section in a technologically neutral manner.

3.2 RESPONSE TO ELIGIBLE GRANT RECIPIENTS

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?

Any award for funding for a project should require that the infrastructure allow ‘open access’. The investment should encourage (demand) open competition rather than provide a single provider network for the deployment of broadband. Further, the involvement of local communities such as counties and cities is essential to reap the most benefits from the project, because their interest in the network can provide additional benefits that cannot otherwise be afforded by the community.

Tax dollars should be spent in a way that will open competition and provide the benefits of choice and competition into the marketplace, as well as enhance the ability of local governments to expand and improve on services that require communication in the community, such as public safety mobile data, surveillance or SCADA.

4. ESTABLISHING SELECTION CRITERIA FOR GRANT AWARDS

4.1 UNDERSTANDING OF 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. Section 6001(h) states that NTIA, in awarding grants, shall, to the extent practical – (2) Consider whether an application to deploy infrastructure in an area – a. Will, if approved, increase the affordability of, and subscribership to, service to the greatest population of users in the area; b. will, if approved, provide the greatest broadband speed possible to the greatest population of users in the area; c. will, if approved, enhance service for health care delivery, education, or children to the greatest population of users in the area; and d. will, if approved, not result in unjust enrichment as a result of support for non-recurring costs through another Federal program for service in the area; (3) consider whether the applicant is a socially and economically disadvantaged small business concern as defined under section 8(a) of the Small Business Act (15 U.S.C. 637).

4.2 RESPONSE TO SELECTION CRITERIA FOR GRANT AWARDS

a. 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?

There are many factors that should be considered in the selection of a project:

1) To what extent does the proposed solution address the five areas of BTOP.

2) Coverage. Does the proposed solution provide broadband coverage to significant areas where there are unserved customers, and does it improve coverage to areas where customers are underserved?

3) Cost effectiveness – does the proposed solution provide a reasonable value to the Government as weighed against the cost of its implementation? A great solution is not a good deal if it is too expensive.

4) Does the platform and proposal support and enable true open access?

Determination of a funding need can be made through analysis of data concerning the area impacted by the proposed grant as to whether any project meeting the scope is or has been considered in the past or presently has a project underway.

Long-term feasibility can be determined by a process of analyzing project plans for their revenue model and technology model.

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

For items 1-3 under item 4.2a above, weighting should be equal.

Long-term financial feasibility needs to be weighted heavily as a project without identified future funding will be a waste of grant monies and effort.

Collaborative projects also need to have more weight than those that are singular in nature, as the long-term benefits will have a much greater impact, and will allow the infrastructure to be updated as technology advances in the future.

c. 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?

Yes, provided that the awards are not bound to the major restrictions that exist in the current USDA grant and loan program. Such restrictions limit the ability of different governmental subdivisions to band together to create a sensible project. If such restrictions are allowed to govern the eligibility of these projects, it will be difficult to place any of the RUS funds allocated by the ARRA for rural broadband development.

Greater priority needs to be given to underserved and unserved areas as these meet the vision of the Recovery Act.

BTOP should consider USDA scope within as to prevent overlap of grants and allow a fuller collaborative effort to prevent misuse and abuse of the funding process.

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

Yes. A strong business case for a good investment includes maximizing the usability or effectiveness of a project. If a project can be demonstrated to serve additional purposes, then it should receive the benefit of higher prioritization. Maximizing leverage will bring the best return on any investments made, any project which brings the most value should be given priority.

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?

Proposals should include their business model that provides a plan for how the network will continue to be supported.

Priority should be given to proposals that enable competition rather than protect markets.

Proposals that offer proven solutions that can support many applications will have a higher likelihood of being a sustainable, rather than single purpose networks.

Priority factors to encourage sustainability include open technologies which can be updated as newer technologies are developed along with a sustainable revenue model.

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?

Fiber, cable, satellite and wireless all provide different capabilities and characteristics, and each has its own strengths and weaknesses. However, successful implementation depends as much on architecture as it does on technology that is employed. We believe that solutions should be considered on the merits of the overall solution, not solely on the technology that is employed.

The best implementation of technology to serve the highest proportion of each project should be the highest priority.

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

Proposals should at least be able to demonstrate a reasonable rate structure that encourages broadband adoption.

5. GRANT MECHANICS

5.1 UNDERSTANDING OF GRANT MECHANICS

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

5.2 RESPONSE TO GRANT MECHANICS

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

The distribution mechanisms that are used should remove encumbrances that have traditionally dogged the traditional grant and loan processes. One of the challenges with building an infrastructure is that it will often cover some areas where broadband service is already available along with unserved areas. For example, DSL and cable limitations may only allow a part of a census tract or zip code to be served, yet to cover the remaining unserved portion of that area, the served portion must also be covered. Entities seeking funding for projects should not be eliminated because of the inherent limitations of existing technologies that have already been deployed, yet the rules favor that position as they currently exist.

In order to implement services that enable the proposed infrastructure to serve as many of the five objectives of BTOP, allowances must be made to provide general coverage in an area including unserved, underserved and served areas. Otherwise, applications such as mobile broadband for public safety or smart-grids cannot be effectively deployed.

The single provider rules that exist to protect the incumbent service providers are anti-competitive and do not provide price points for service that are found in urban areas where there is competition. This approach to broadband does not stimulate the economy, nor does it provide the level of services that will encourage economic development or health in a community.

Title 7, Part 1738.16 also places a limit on governments as eligible entities. If this rule is not modified, most county or city proposals will be ineligible for funding.

We would propose that rules be created for evaluation of proposals that incorporate all five purposes of BTOP and allow an infrastructure where there can be significant improvements in broadband service to the unserved and under-served, as well as enhancing the infrastructure for public safety, government and economic development. Networks work best when designed holistically, and placing artificial constraints on proposals with some arbitrary rules does not serve the best interests of this program.

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

These changes will enable proposals to more effectively address all of the goals of BTOP by removing the artificial constraints in the current rules in the existing traditional grant and loan programs.

Creation of greater transparency, and allowing area governmental agencies to submit their recommendations, may help funding efforts by supporting the funding agencies in determination of most need.

6. GRANTS FOR EXPANDING PUBLIC COMPUTER CENTER CAPACITY

6.1 UNDERSTANDING OF 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.

6.2 RESPONSE TO GRANTS FOR EXPANDING PUBLIC COMPUTER CENTER CAPACITY

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

Criteria to be applied should include need, proven financial sustainability, a positive economic impact and a lack of similar capacity already in the region.

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

Public organizations which have the ability to support adoption of technology, while also sustaining it into the future, whom otherwise may not participate without additional funding. Examples here include the Garrett County Community Action Committee.

7. GRANTS FOR INNOVATIVE PROGRAMS TO ENCOURAGE SUSTAINABLE ADOPTION OF BROADBAND SERVICE

7.1 UNDERSTANDING OF 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.

7.2 RESPONSE TO SUSTAINABLE ADOPTION OF BROADBAND SERVICE

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

Technology neutrality, prohibited use of proprietary or monopolistic solutions. Any programs should encourage and facilitate the use of broadband without incurring unnecessary or prohibitive fees.

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

Measures to determine success include population served and the economic, educational and health benefits attributed to the program.

8. BROADBAND MAPPING

8.1 UNDERSTANDING OF 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.

8.2 RESPONSE TO BROADBAND MAPPING

a. What uses should such a map be capable of serving?

Maps usage would facilitate the ability of applicants to know where to develop future expansion of broadband services by identifying existing infrastructure. Geographic, topographic and GIS applications will assist in designing/developing future infrastructure.

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)?

The map should provide all resources of current and future builds, but should limit knowledge of nodes and POP's to governmental agencies to protect proprietary and security information of owners of the networks.

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

The map should provide service availability information to the street address level. In addition, the type(s) of service available to that address should be identified.

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

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

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

States should collect information as to what projects are seeking funding; which projects they recommend; and the proposed impact such programs will have on the population of the 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 Web site no later than February 2011?

All main routes need to be included along with diverse routes. All POPS, nodes, repeaters, and NOCS need to be included for governmental agencies usage.

h. Should other conditions attach to statewide inventory grants?

No other conditions should be imposed upon State inventory grants.

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

No other information should be included.

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?

Cross collaboration and sharing of data needs to be accomplished to meet the duties imposed. Agreement on schedules, resources, and problem resolution process need to be made before project implementation.

9. FINANCIAL CONTRIBUTIONS BY GRANT APPLICANTS

9.1 UNDERSTANDING 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.

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?

Hub Zone areas as defined by the SBA, median household income, amount of unserved and underserved areas and population density could be used as measures to determine eligibility. For example, a county with 30,000 people and with a low median household income could be demonstrated as an entity that would have difficulty in raising the funds for a 20% match. Hub Zones are also indicators of economically disadvantaged areas.

Factors which need to be shown include proving that such a project could not otherwise be accomplished, and that no other funding sources are available whether from private sources or government.

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

The same factors as described under 9a could also be used to determine a lower funding eligibility.

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

Lack of current and planned investment in telecommunications infrastructure, lack of available public or private funds, lack of broadband adoption in underserved areas.

Documentation of Federal assistance needs can include affidavits from local governmental or State agencies that such a project cannot be implemented without Federal support.

10. TIMELY COMPLETION OF PROPOSALS

10.1 UNDERSTANDING OF 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.

10.2 RESPONSE TO TIMELY COMPLETION OF PROPOSALS

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?

Appropriate staffing by technology neutral evaluators, specific and precise language in any NOFA and/or RFP documents.

Selection of proposals already approved by State or local governments could be the an effective and efficient way to grant awards, but selection also needs to recognize the best technical approach, sustainability, and reach to the citizens unserved and underserved.

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)?

The capability of grantee to complete the project should be determined by their past technology experience, ability to create a financially sustainable project (if grantee has finished other past projects, use of financial models can demonstrate a sustainable project), and letters of reference documenting their credentials to meet project goals and timeframe.

A complete project plan should be required that can definitively demonstrate a timeline for project completion within the required FY 2010 deadline.

11. REPORTING AND DE-OBLIGATION:

11.1 UNDERSTANDING OF 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

11.2 RESPONSE TO REPORTING AND DE-OBLIGATION

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

Suspect spending/expenses need to be compared to similar projects to help point out waste and/or fraudulent spending.

Wasteful spending can be determined by the auditing of costs for equipment, construction, and labor.

Fraudulent spending can be defined by use of project funds for any purpose other than specifically stated within the project plan. Examples of costs to be closely monitored are “sole source” procurements, travel, and consulting services.

b. How should NTIA determine that performance is at an “insufficient level?”

Determination of an “insufficient level” of performance can be determined through regular expense audits, project milestone achievement, and timeliness/accuracy of project reporting. On site inspection, both scheduled and random, can also be utilized.

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

Actions taken by NTIA to ensure effective use of investments should include a “warning” and request for corrective actions, which if not abided by would result in termination of funding.

12. COORDINATION WITH USDA’S BROADBAND GRANT PROGRAM

12.1 UNDERSTANDING OF THE 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.

12.2 RESPONSE TO COORDINATION WITH USDA’S BROADBAND GRANT PROGRAM

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

The elements utilized by both agencies should include project audits, random visits, consultation with stakeholders, and project reviews on a routine basis.

b. 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)?

The inclusion of elements such as need, service already in place, and economic climate will help define worthy projects in both rural and non rural areas. Regular financial and program audits will help guard against unjust enrichment.

13. DEFINITIONS

13.1 UNDERSTANDING OF 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).

13.2 RESPONSE TO PROPOSED DEFINITIONS

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

“Unserved” can be defined as having a large percentage (33% or more) of Internet users currently having access to only dial-up services.

“Under-served” can be defined as having a large percentage (33% or more) of Internet users currently having access to only one (1) high-speed service provider.

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

“Broadband service” should be defined as any service which does provide the ability to view online streaming multimedia content (video) in a consistent/uninterrupted viewable manner. It should also include the ability to provide quality VoIP (Voice over IP) services if a client wishes it.

(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?

BTOP should establish transmission speeds for purposes of analyzing whether an area is “unserved” or “underserved”.

Thresholds should be flexible based on geography, topography, population density, economic data.

(2) Should the BTOP establish different threshold speeds for different technology platforms?

Yes.

(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)?

Fiber to the Home (FTTH) speeds should be a minimum of 20 Mbps download/ 10 Mbps upload as advertised, average, and typical speed.

Wireless speeds should be a minimum of 2 Mbps download/ 1 Mbps upload as advertised, average and typical with the ability to subscribe to higher speed up to 6 Mbps download/ 3 Mbps upload.

Cable speeds should be a minimum of 10 Mbps download/ 5 Mbps upload as advertised, average, typical and maximum speed.

Satellite speeds should be a minimum of 3 Mbps download/ 2 Mbps upload as advertised, average, typical and maximum speed.

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

Asymmetrical. If a particular technology offers comparable symmetrical speeds at no economic disadvantage, it should be given favorable consideration.

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

Impacts of use of shared facilities should be of lesser consideration, requiring mutual resource users to document agreements to minimize conflict/congestion.

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?

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

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

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

Failure to abide by established obligations should result in de-obligation.

(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?

Infrastructure paid in part or in full by grant funds should have the obligations extended to the usable life of the infrastructure.

d. 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?

Community anchor institutions should be defined by the NTIA to ensure success of the grant program.

Definition of terms needs to include institutions which will enable any funded project to continue by offering support, both of a technical nature and as a financial anchor.

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

Retail prices should play a substantial role in these definitions as excessive cost for service will adversely impact economically disadvantaged populations and may prevent achievement of the grant program’s objectives.

14. MEASURING THE SUCCESS OF THE BTOP

14.1 UNDERSTANDING OF 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.

14.2 RESPONSE TO MEASURING THE SUCCESS OF THE BTOP

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

Measurements which can be used to determine compliance with statutory obligations include the following:

Financial auditing to determine whether a project is meeting projected costs as opposed to real costs.

Physical audits of projects can help to determine whether project timelines are being met.

b. 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?

A common set of data elements should be reported by applicants to ensure that the project is a relative success.

The elements can include the following:

Amount (%) of project area served;

Amount of people/businesses/organizations in project area served;

Quality of service provided measured in standard form i.e. packet loss, sustained average throughput, average length of time of service outages and quality of customer service over a specified time period.

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.

16. RURAL UTILITIES SERVICE (RUS)

16.1 UNDERSTANDING OF THE RUS RECOVERY ACT

The provisions regarding the RUS Recovery Act broadband grant and loan activities are found in Division A, Title I under the heading Rural Utilities Service, Distance Learning, Telemedicine and Broadband Program of the Recovery Act. The text of this authority is as follows:

For an additional amount for the cost of broadband loans and loan guarantees, as authorized by the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) and for grants (including for technical assistance), \$2,500,000,000;

Provided, that the cost of direct and guaranteed loans shall be as defined in section 502 of the Congressional Budget Act of 1974;

Provided further, that, notwithstanding title VI of the Rural Electrification Act of 1936, this amount is available for grants, loans and loan guarantees for broadband infrastructure in any area of the United States;

Provided further, that at least 75 percent of the area to be served by a project receiving funds from such grants, loans or loan guarantees shall be in a rural area without sufficient access to high speed broadband service to facilitate rural economic development, as determined by the Secretary of Agriculture;

Provided further, that priority for awarding such funds shall be given to project applications for broadband systems that will deliver end users a choice of more than one service provider;

Provided further, that priority for awarding funds made available under this paragraph shall be given to projects that provide service to the highest proportion of rural residents that do not have access to broadband service;

Provided further, that priority shall be given for project applications from borrowers or former borrowers under title II of the Rural Electrification Act of 1936 and for project applications that include such borrowers or former borrowers;

Provided further, that priority for awarding such funds shall be given to project applications that demonstrate that, if the application is approved, all project elements will be fully funded;

Provided further, that priority for awarding such funds shall be given to project applications for activities that can be completed if the requested funds are provided;

Provided further, that priority for awarding such funds shall be given to activities that can commence promptly following approval;

Provided further, that no area of a project funded with amounts made available under this paragraph may receive funding to provide broadband service under the Broadband Technology Opportunities Program;

Provided further, that the Secretary shall submit a report on planned spending and actual obligations describing the use of these funds not later than 90 days after the date of enactment of this Act, and quarterly thereafter until all funds are obligated, to the Committees on Appropriations of the House of Representatives and the Senate.

16.2 RESPONSE TO RUS RECOVERY ACT REQUIREMENTS

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? 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:

a. 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;

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

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

Apply the criteria, financial and program auditing, and technology definitions already discussed in NTIA comments and answers given above.

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?

NTIA and RUS can best align the Broadband activities to make the most efficient and effective use of the broadband funds by working with local, county and State governments to coordinate projects to prevent overlap of services and to promote collaborative efforts to reach the goals of the Recovery Act.

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:

(a) 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?”

Many ‘rural’ areas are traditionally ‘underserved’ and ‘unserved’ regardless of strict numerical definitions. Percentages mentioned earlier in this RFI Comment Response are a starting point for commonality between RUS and NTIA. Consideration needs to be given to rural % of population and land area, personal/household income, and local community participation.

(b) 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?

Creation of a database of projects and geographical areas served which both agencies utilize can help to reduce the burdens of duplication of funding or resources.

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

(a) 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?

Factors to be considered in defining ‘rural economic development’ should include the financial sustainability of the project, the ‘end-cost’ to subscribers and the ability of a project to bring specific sustainable jobs to an area served. Long term measures of success include employment, income growth, educational attainment and community development.

(b) What speeds are needed to facilitate “economic development?” What does “high speed broadband service” mean?

Speeds needed to facilitate economic development are anything in excess of 2Mbps download/1Mbps upload.

“High speed broadband service” means a service which allows it’s subscribers to engage in business, educational, and social activities on the Internet at an affordable cost.

(c) 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)?

Factors which should be considered include the ability of the facilities built to bring jobs (economic growth) to an area while fostering the creation of additional jobs in other local/regional industry segments. Educational attainment and community development should also be considered.

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.

With 1 being the greatest priority and 4 being the least priority, the following list assigns those values to each factor:

- 1. The greatest combination of the below criteria to maximize reach and effectiveness.**
- 2. A project which has a 20% funding match and is ready to start once grant funding has been received.**
- 3. Serves the highest proportion of rural residents that lacks access to broadband services.**
- 4. Gives end-users a choice of Internet service providers.**
- 5. Projects of current and former RUS borrowers.**

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.

Benchmarks utilized by RUS to determine the success of the Recovery Act activities should be cost-effectiveness, low-cost access for economically disadvantaged, greatest amount of access provided to a given region and efforts which are collaborative in nature.