

**Before the  
United States Department of Commerce  
National Telecommunications and  
Information Administration  
Washington, D.C.**

In the Matter of: )  
)  
)  
American Recovery and Reinvestment )  
Act of 2009 Broadband Initiatives )      Docket No. 0907141137-91375-05  
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)  
)

**COMMENTS**



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November 30, 2009

## EXECUTIVE SUMMARY

ACA is uniquely positioned to assist NTIA and RUS in ensuring that broadband stimulus funds are distributed and administered in an efficient and effective manner. ACA Members have a long history of bringing new and advanced services to rural areas, and are leading the way in deploying broadband to these areas.

In response to the first NOFA, at least 83 ACA members applied for broadband stimulus funding for 127 last-mile and middle-mile projects totaling more than \$1.3 billion in grants and loans under the two programs. More ACA members would have applied but for funding restrictions and cumbersome barriers in the first NOFA. ACA suggests the following modifications to encourage greater participation from existing providers and to assure that the goals of the programs are met:

- Modify the 10 year no-sale prohibition;
- Eliminate the BIP mandatory loan requirement for Rural/Non-Remote Areas;
- Give rural applicants the option of applying for BTOP grants only;
- Provide flexibility to the BIP first lien rule;
- Reduce the BIP Program preference for past borrowers to 1 point and limit its application to loan and loan/grant comparisons only;
- Provide flexibility in using funds for tax impact purposes;
- Eliminate the penetration criteria from the “underserved” definition and focus only on speeds;
- Modify the Public Notice process by coordinating with the FCC and using FCC Form 477 and using other readily available information to determine where broadband is already available.

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## I. Introduction

The American Cable Association (“ACA”) submits these comments in response to the Second Joint Request for Information (“Joint Request”) issued by the United States Department of Commerce, National Telecommunications and Information Administration (“NTIA”), and the United States Department of Agriculture, Rural Utilities Service (“RUS”).<sup>1</sup> The Joint Request seeks comment on issues relating to the distribution and administration of broadband stimulus funds appropriated by Congress in the American Recovery and Reinvestment Act of 2009 through the Broadband Technology Opportunities Program (“BTOP”) and the Broadband Initiatives Program (“BIP”).<sup>2</sup> In particular, the agencies seek information that will help improve the broadband programs by enhancing the applicant experience and making targeted revisions to the first Notice of Funds Availability (“NOFA”).<sup>3</sup>

ACA is uniquely positioned to assist NTIA and RUS in ensuring that broadband stimulus funds are distributed and administered in an efficient and effective manner. Small markets and rural areas across the country receive video services from nearly 900 small and medium-sized independent operators represented by the ACA. More than half of ACA’s members serve fewer than 1,000 subscribers.

ACA’s membership is comprised of cable, phone, municipal and fiber-to-the-home operators, many of whom deliver affordable basic and advanced services, including high speed Internet access and VoIP services to more than 7 million

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<sup>1</sup> Joint Request for Information, 74 Fed. Reg. 58940 (Nov. 16, 2009) (“*Second Joint Request*”).

<sup>2</sup> American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) (“*Recovery Act*”).

households and businesses, some of whom have no other means of receiving these vital services. Many other member operators would launch such advanced services in smaller towns and more rural areas if deployment was economically feasible.

In response to the first NOFA, at least 83 ACA members applied for broadband stimulus funding for 127 last-mile and middle-mile projects totaling more than \$1.3 billion in grants and loans under BTOP and BIP. However, more ACA members would have applied but for funding restrictions and cumbersome barriers established in the first NOFA. ACA's membership has provided meaningful input for these comments on ways to remove the barriers and encourage applications from existing providers with a long history of providing broadband in rural areas.

In these comments, ACA highlights the barriers that discouraged many members from applying and recommends changes for broadband stimulus funding to increase participation in the BTOP and BIP programs. ACA also suggests changes to the Public Notice process to provide more accurate information in a non-burdensome manner and to the underserved definition to better assure that the goals of the BTOP and BIP programs are met.

## **II. Comments**

### **A. Changes are Necessary to Encourage Greater Participation by Established Companies.**

#### **1. The 10-year No-Sale Prohibition Must be Modified.**

Many ACA members and other entities found the 10-year no-sale prohibition in the first NOFA a significant barrier to applying. To encourage more small and medium-sized cable operators – many of whom serve rural and underserved areas – to

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<sup>3</sup> *Second Joint Request* at 58940.  
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participate in Round Two, the agencies must modify the no-sale prohibition.

The first NOFA severely limits the sale or lease of funded facilities during their life.<sup>4</sup> Under the current rules, a sale may only occur: (i) for adequate consideration, (ii) if the purchaser agrees to fulfill the terms and conditions relating to the project after the sale, **and** (iii) either the sale is set forth in the application and is part of the proposal for funds or **the agencies waive the provision for any sale occurring after the tenth year** from the date of issuance of the grant, loan or loan/grant award.<sup>5</sup>

The 10 year prohibition on a sale overlooks the positive benefits that consolidation can bring to certain rural areas and also discourages new investment in rural areas. Therefore, as the House Small Business Committee recommends, the agencies should modify the 10 year limitation on the sale or lease of award funded facilities.<sup>6</sup> Mergers and acquisitions can help companies provide better services to their customers through shared cost efficiencies, the ability to recover costs over a larger number of subscribers and the ability to invest in and offer even more advanced services. Often, capital is needed to improve a company and this makes it a better target for an acquisition by a larger company that can potentially provide even more services to the consumers.

In addition, a 10-year prohibition on a sale is too great a restriction for many

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<sup>4</sup> First NOFA Section I Notice of Funds Availability (NOFA) and solicitation of applications, 74 Fed. Reg. 33104, 33123 (July 9, 2009) ("*First NOFA*").

<sup>5</sup> *Id.*

<sup>6</sup> Press Release, House Small Business Committee, Lawmakers Call Upon Agencies to Cut Red Tape on Recovery Act Broadband Expansion Grants for Small Businesses (Nov. 16, 2009), *available at* <http://www.house.gov/smbiz/democrats/PressReleases/2009/pr-11-16-09-broadband-letter.html> ("*House Small Business Committee Letter*") ("[T]he 10-year limitation on the sale or lease of award funded facilities creates a significant barrier for small firms. To ensure that firms can continue to grow and innovate, the Committee believes this provision should be modified."). We attach the Letter as Exhibit 1.

small companies to accept, especially given the uncertainty in an ever changing industry. This is especially true for many ACA members that are family owned or privately owned and operated businesses. A system owner may want to retire within the next 10 years, or at least have the alternative to pursue other activities. In addition, competitive pressures may require greater investments in new technology that an existing owner may be unable to make but that a new purchaser is willing to make.

Any unnecessary limitations on the transferability of assets are a detriment to a business owner and create a significant hardship, especially for family owned or privately owned and operated businesses. The agencies should modify the no-sale prohibition to allow sales at any time after the award, provided the purchaser agrees to all terms and conditions related to the funded project. If the agencies are concerned that an unqualified purchaser may assume the assets, a reasonable alternative would be to require consent by the agencies (not to be unreasonably withheld). The consent process could be modeled off of the cable franchise transfer consent requirements, which permits local franchise authorities to review the financial, technical and legal qualifications of the transferee within 120 days after receiving the information and approve or deny the transfer.<sup>7</sup> A similar inquiry within a set timeframe could be adopted by the agencies to permit transfer of funded facilities.

## **2. The BIP Mandatory Loan Requirement Should be Eliminated.**

A fundamental problem with the first NOFA is that it requires applicants in certain rural unserved areas and all rural underserved areas to apply for a loan or loan/grant through the BIP program rather than pursuing a grant. Consequently, potential projects

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<sup>7</sup> See 47 USC §§ 537, 641(a)(4)(c).  
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in rural areas which cannot be justified through a loan or loan/grant but might be a good candidate for a grant are not pursued. The House Small Business Committee recognizes that this fundamental problem must be eliminated to carry out the programs' goals of bringing further broadband expansion to rural areas.<sup>8</sup> Correction of the problem requires an understanding of the rules creating the problem.

The first NOFA specifically defines a rural area and requires any application for a rural area to first be submitted to BIP for consideration. Under the rules, a rural project can only be considered by BTOP if BIP decides not to fund it.<sup>9</sup> The BIP rules limit whether an applicant can apply for a grant by dividing rural areas into two categories: (i) rural-remote and (ii) rural non-remote. A rural-remote area is an unserved, rural area 50 miles from the limits of a non-rural area.<sup>10</sup> Under the BIP rules, only applications for unserved remote areas may be considered for a grant.<sup>11</sup> If the proposed funded service area is (i) rural but within 50 miles of a non-rural area or (ii) rural-underserved the applicant is required to file for a loan or loan/grant under BIP.<sup>12</sup> Further, BIP requires

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<sup>8</sup> *House Small Business Committee Letter* ("The high cost associated with providing service in the most remote parts of the United States is a significant roadblock to many small telecommunications firms. Such costs may be difficult for these companies to justify given the limited return. To address this concern, Congress appropriated funding to support the expansion of telecommunications service into rural America. Under the first round of funding, "remote" is defined as "an unserved, rural area 50 miles from the limits of a non-rural area." Any rural area not meeting the definition of "remote" is eligible for at best, a 50 percent grant and 50 percent loan combination. As written, the definition of "remote" and the BIP loan/grant cost structure limits the amount of grant funding available to rural providers. The Committee recommends that the rules established in a subsequent round of funding modify or remove the definition of "remote.").

<sup>9</sup> Rural area means any area . . . which is not located within 1) a city, town or incorporated area that has a population of greater than 20,000 inhabitants; or 2) an urbanized area contiguous and adjacent to a city or town with a population of greater than 50,000 inhabitants. See *First NOFA* at 33109, 33113-33114.

<sup>10</sup> *First NOFA* at 33109.

<sup>11</sup> *First NOFA* at 33106, 33114.

<sup>12</sup> *First NOFA* at 33106.

that at least 50% of the amount of a loan/grant be funded via loan.<sup>13</sup>

The effect of these rules is that there were projects which could justify bringing broadband to unserved or underserved rural areas through an 80% grant that were not pursued because BIP rules required applicants to first seek a 50% loan. Some rural projects simply cannot be cost justified with a 50% loan requirement. As recommended by the House Small Business Committee, the rules established in the next round of funding should eliminate or modify the definition of remote.<sup>14</sup> The RUS should eliminate the remote classification for loan purposes thus allowing a BIP grant option for all deserving rural projects. In the alternative, the remote classification should be modified by defining remote as 25 driving miles from a non-rural area so as to allow more BIP grant applications for unserved rural areas.

Moreover, it is important that the agencies clarify that distance requirements are driving distances and not merely “as the crow flies”. Many times it is impossible to place facilities in rural areas “as the crow flies” due to mountain ranges, river crossings, forests and other natural barriers.

### **3. Rural Applicants Should Not Be Required to Apply for Loans through BIP before Applying for Grant Money through BTOP.**

Rural applicants should have the option of seeking funds directly through a BTOP grant and foregoing the BIP process.

As noted above, the first NOFA required applicants who applied for projects in rural areas to first submit their applications to BIP. Many potential rural applicants did

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<sup>13</sup> *Id.*

<sup>14</sup> *House Small Business Committee Letter* (“As written, the definition of “remote” and the BIP loan/grant cost structure limits the amount of grant funding available to rural providers. The Committee recommends that the rules established in a subsequent round of funding modify or remove the definition of “remote.”).

not file out of fear that their BIP loan/grant application might be granted because they could not economically justify projects on a loan or 50% loan/grant basis. Applicants should be given the option to file only through BTOP. Companies, including ACA members, wanting to serve rural areas should not have to absorb the risk that their obligatory applications into BIP for loans and loan/grants would be accepted, when the only viable business model that they wish to pursue is one that involves grants from BTOP. The agencies should not discourage these applicants merely because they are unable to submit a viable application for a loan or 50% loan/grant.

**4. Exceptions to the RUS “First Lien Rule” Should be Permitted.**

Many ACA members found the first lien requirement an insurmountable obstacle to applying for a BIP loan or loan/grant combination. The RUS should modify this requirement and work with each affected applicant to find other means to provide security for the loan proceeds.

Under the BIP program, RUS must be granted an exclusive first lien on all assets purchased with the loan or loan/grant funds.<sup>15</sup> This creates an obstacle for many cable operators whose systems were built and upgraded using private funds, including private financing, either through banks or other credit facilities. As stated before the House Committee on Small Business “ACA members that didn’t seek funding noted that the federal government’s insistence on holding the first lien would have violated terms and conditions contained in many of their bank loan agreements, making applying for the program impossible”.<sup>16</sup>

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<sup>15</sup> First NOFA at 33123.

<sup>16</sup> Testimony of James M. Gleason before the US House of Representatives Committee on Small Business, October 28, 2009.

While there may be a need for a first lien requirement for applicants that are at a high risk of default, the effect of applying such a hard-line rule to all applicants is to disenfranchise a whole class of existing companies, including many ACA member companies, that have existing agreements in place and have done nothing to date other than deploy broadband services in smaller markets without the need for government assistance. The BIP rules must provide flexibility and not automatically disqualify applicants who cannot grant a first lien due to pre-existing agreements with other lenders. The inability to grant a first lien should not automatically bar an operator from applying for a BIP loan. Moreover, BIP should not treat these applicants less favorably compared to other applicants in deciding whether the application should be funded. Rather, as the House Small Business Committee recommends, the first lien requirement should be revised to assure that an applicant can participate without violating the terms of existing loan agreements.<sup>17</sup>

**5. The Preference Granted Under the BIP Program to Past Borrowers Should be Reduced and Limited to Loan Applications.**

The first NOFA grants a five point preference in scoring on the BIP application to a past borrower from the Rural Electric Act of 1936.<sup>18</sup> With a total possible score of 100 points, the preference unjustly penalizes those who built their systems without the use of public funds.

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<sup>17</sup> *House Small Business Committee Letter* (“[T]he requirement that RUS hold an exclusive first lien on applicant’s assets may present a conflict for some firms. The Committee recommends revising this requirement to ensure that an applicant can participate without violating the terms of already existing loan agreements. During the first round of funding, this requirement prevented many companies from participating.”).

<sup>18</sup> *First NOFA* at 33119.

ACA members that funded their operations without borrowing from RUS should not be penalized, especially when competing for grant funds. To provide more fairness to the program, RUS should not apply any past borrower preference in evaluating grant only applications—any preference should be limited to loan and loan/grant applications. Further, RUS should reduce the preference in its scoring from five points to one point so as not create such a significant disadvantage to those that funded operations without having to borrow from RUS. The scoring of an application should be primarily based on the merits of the project, not the applicant’s history with the agency.

**6. Flexibility Should be Allowed in terms of Tax Expense.**

The agencies’ Frequently Asked Questions state that Federal Taxes are not an eligible cost under BIP and BTOP and that applicants should consult their tax advisors for potential tax implications.<sup>19</sup> For small and medium-sized cable operators, the immediate first year tax expense could result in a proposed project becoming cost prohibitive if the applicant is required to treat the total amount of the grant as income in the year received, but only allowed to offset such income by a portion of the depreciation expense in that year. This is especially true if the company is also trying to contribute 20% or more in matching funds.

To combat this potentially debilitating cost, the agencies should allow applicants to use grant funds to offset taxes using a waiver procedure similar to the procedure adopted for applicants who could not justify the 20% grant match. The rules require a grant applicant to contribute at least 20% of the project cost, but allow for a waiver if the applicant can show an inability to pay the required 20% share of the cost of the

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<sup>19</sup> [http://www.broadbandusa.gov/files/BIP\\_BTOP\\_FAQ\\_I-III.pdf](http://www.broadbandusa.gov/files/BIP_BTOP_FAQ_I-III.pdf).

proposed project.<sup>20</sup> The agencies should establish a similar waiver procedure whereby affected applicants can demonstrate the inability to pay the tax implications of the proposed project, and then be allowed to use grant funds to pay a portion of the tax expense.

**B. Penetration Level Criteria Should be Eliminated from the Underserved Definition to Better Ensure that the Goals of the Programs are Met.**

The amount of funds requested in the first round for broadband expansion far exceeds the amount of funds available. With limited government funding to fully deploy broadband to all areas in the country, it is important that funds go to unserved and underserved areas where it is needed most. Therefore, the agencies must review the definitions used in the first NOFA to assure that funds are allocated in a manner that best serves the programs' purposes. The agencies need to ensure that the definitions are in line with the programs' purpose in expanding broadband access and stimulating the economy.

The first place the agencies must look is the definition of "underserved". The first NOFA definition of underserved is overly broad and can result in funds being allocated to an area that already has robust broadband availability. The definition deems an area underserved, and eligible for funds, if the penetration level for broadband is less than 40%. Penetration levels below 40% do not equate into the absence of adequate broadband, or even a lack of competition among broadband providers. Rather, the lack of penetration levels in many rural areas likely indicates the absence of home computers due to economic and other conditions. In order to have a meaningful effect, the penetration level would need to take into account the number of homes with

computers-not just the number of homes passed.

The definition of underserved should be limited to the speed criteria, not penetration levels. The agencies should delete the penetration level criteria from the underserved definition in the next NOFA. This will allow the agencies to better focus their resources and scarce program funds on areas that are truly underserved in terms of broadband availability.

**C. The Public Notice Process Fails to Provide the Agencies with an Accurate Picture of the Availability of Broadband thus Creating the Possibility of Inefficient Use of Funds. The Process is also unduly Burdensome and Costly for Existing Operators.**

As stated above, the government has limited resources to expand broadband across the country to unserved and underserved areas. Therefore, the agencies must ensure that funds go to only unserved and underserved areas. Unfortunately, the Public Notice process adopted in the first NOFA fails to give the agencies a clear picture of where broadband is available and at what speeds.

The problem with the Public Notice process is that it assumes that no broadband exists in a proposed funded service area unless existing operators voluntarily report its existence via a complex, time consuming online process. Existing operators had only 30 days to search on-line for all the applications filed in their state, determine which applications overlapped their service area in whole or in part, draw maps using the website mapping tool to show the overlap, and self-report the number of subscribers and speeds based on what parts of their service area are overlapped by applicants seeking broadband stimulus funds. The fact that the proposed service areas are based on census blocks, which cable operators do not normally track subscribership, further complicated the process. The process must be performed individually for each

overlapping application—an existing operator cannot merely enter its information once and have it apply it to all overlapping applications. The process is time consuming and costly for existing operators. One small operator testified that their company spent over \$30,000 to inform the agencies of where they provided service.<sup>21</sup> For countless others the process was simply too complex and time consuming—they simply did not file a response.

The agencies are poorly served by the existing process and its assumption that broadband does not exist unless reported by the existing provider. The agencies should take all steps possible to obtain as clear an understanding of where broadband already exists when considering where to award the funds and carry out the purpose of the programs.

The agencies need to take advantage of existing data in order to determine where broadband is available. NTIA's recent request to the FCC to use existing FCC Form 477 information to determine the availability of broadband service is a positive step.<sup>22</sup> Existing broadband providers already report the availability, speeds and residential percentage of broadband twice a year by census tract as part of their FCC Form 477 reporting requirements. This information would show where broadband currently exists and the speeds available. The agencies can then match such information to those applications they deem appropriate for funding to ensure that the funding is truly going to unserved and underserved areas.

The agencies and applicants should engage in due diligence and use the FCC

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<sup>21</sup> Testimony of James M. Gleason before the US House of Representatives Committee on Small Business, October 28, 2009.

<sup>22</sup> Public Notice, *Notice of Request to Access to Form 477 Broadband Data Pleading Cycle Established*, ACA Comments  
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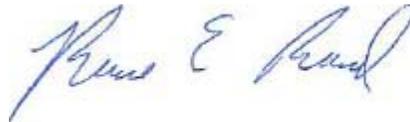
information and any other reliable information available to determine if a proposed funded service area is already served and thus ineligible for funding. Examples of other available information include state maps and state collected data. Such due diligence and careful examination will help avoid using scarce taxpayer resources in areas that already have broadband.

### III. Conclusion.

The agencies should use the opportunity of the next NOFA to remove barriers which prevented existing companies, including many ACA member companies, with a long history of service in rural areas from taking advantage of the BTOP and BIP programs. Further, the agencies need to take steps to ensure that the funds are allocated to areas which are unserved and underserved. Changes to the underserved definition, and to the information relied on by the agencies to determine unserved and underserved areas, are needed to accomplish this purpose.

Respectfully submitted,

**AMERICAN CABLE ASSOCIATION**



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November 30, 2009

**EXHIBIT 1**

# Congress of the United States

## U.S. House of Representatives

### Committee on Small Business

2361 Rayburn House Office Building

Washington, DC 20515-6315

November 17, 2009

The Honorable Lawrence E. Strickling  
Assistant Secretary for Communications and Information  
National Telecommunications and Information Administration (NTIA)  
U.S. Department of Commerce  
1401 Constitution Ave., N.W.  
Washington, DC 20230

The Honorable Jonathan Adelstein  
Administrator  
Rural Utilities Service (RUS)  
U.S. Department of Agriculture  
1400 Independence Ave., S.W.  
Room 5135-S  
Washington, DC 20250

Dear Assistant Secretary Strickling and Administrator Adelstein:

The Small Business Committee appreciated the testimony provided during the October 28, 2009 hearing on "*The Recovery Act and Broadband: Evaluation of Broadband Investments on Small Businesses and Job Creation.*" Your remarks offered critical insight into the importance of broadband for small businesses. The testimony also allowed the Committee to more clearly understand the role of broadband in stimulating the economy and creating jobs.

The strong applicant interest in both the Broadband Initiatives Program (BIP) and the Broadband Technology Opportunities Program (BTOP) suggests that these American Recovery and Reinvestment Act programs offer significant opportunities for expanding broadband throughout the country. However, despite the interest expressed in these programs, many concerns have been raised by small businesses with respect to their implementation. As NTIA and RUS complete the first round of funding and seek comment on the second round rules, we ask that the following recommendations be considered.

#### Advancing the Recovery Act Objectives and Goals

To ensure that new infrastructure projects reach communities with the greatest need, prioritization should be given to areas without access to broadband. It is the Committee's

Lawrence E. Stickling, Assistant Secretary  
Jonathan Adelstein, Administrator  
November 17, 2009

recommendation that funds should be targeted to areas which are first “unserved” and only then to “underserved” areas, if funding remains.

Second, the Committee urges improvements to the website used to display applications and receive comments from the public, including existing service providers. It is our understanding that the procedures for using this website are confusing and time/resource consuming, particularly for small businesses. Without such changes, the Committee is concerned that awards will be issued with an inaccurate or incomplete picture of existing service.

Additionally, as was raised during the Committee’s hearing, Members are concerned by the process that existing service providers must undergo to demonstrate where broadband service is already provided. A formal process should be implemented to reconcile conflicting data received from an applicant and from existing service providers. This will ensure fairness and accuracy for all parties involved.

#### Challenges Associated with Program Requirements

The nature of the BTOP/BIP application process has created many barriers to small business participation. Among the greatest challenges include the following: the complex application process, a 10-year limitation on the sale of award funded facilities, a matching contribution requirement, and a first lien rule. Before a second round Notice of Funds Availability or NOFA is issued, the Committee suggests that revisions be made to maximize participation among small firms.

It is the Committee’s recommendation that NTIA and RUS should examine the challenges associated with the current application process. The significant paperwork and data collection requirements have made the application process very expensive for many small firms. As James Gleason, President and CEO of NewWave Communications testified, the up-front costs included \$50,000 to support the data requested in the application and \$30,000 to defend his company’s existing service territory. These investments come without any guarantee of receiving a grant or loan award.

In addition, the 10-year limitation on the sale or lease of award funded facilities creates a significant barrier for small firms. To ensure that firms can continue to grow and innovate, the Committee believes this provision should be modified. Applicants should also have greater flexibility to use revenue generated through a BTOP/BIP award. The rules currently limit an award recipient from using subscriber revenues to cover expenses such as technician installation costs, marketing costs, advertising costs, and other expenses associated with running a business during the initial three years. This serves as a disincentive for many small firms to apply. We hope the agencies will modify this provision to, at the very least, clarify that program income refers to profits and not gross income.

A high matching contribution requirement also seems to serve as a barrier for participation among small firms. Applicants to BTOP are required to provide a matching contribution of at least 20 percent towards the total project cost. The Committee urges NTIA to consider a formal

Lawrence E. Stickling, Assistant Secretary  
Jonathan Adelstein, Administrator  
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waiver process for small firms, so that the matching requirements could be lowered or eliminated.

Furthermore, the requirement that RUS hold an exclusive first lien on applicant's assets may present a conflict for some firms. The Committee recommends revising this requirement to ensure that an applicant can participate without violating the terms of already existing loan agreements. During the first round of funding, this requirement prevented many companies from participating.

#### Definition of a Remote Area

The high cost associated with providing service in the most remote parts of the United States is a significant roadblock to many small telecommunications firms. Such costs may be difficult for these companies to justify given the limited return. To address this concern, Congress appropriated funding to support the expansion of telecommunications service into rural America. Under the first round of funding, "remote" is defined as "an unserved, rural area 50 miles from the limits of a non-rural area." Any rural area not meeting the definition of "remote" is eligible for at best, a 50 percent grant and 50 percent loan combination.

As written, the definition of "remote" and the BIP loan/grant cost structure limits the amount of grant funding available to rural providers. The Committee recommends that the rules established in a subsequent round of funding modify or remove the definition of "remote."

The Committee appreciates the willingness of both agencies to address the concerns of small businesses. As NTIA and RUS move forward with the process, we ask that these recommendations be considered as a way to strengthen the program and support the needs of small businesses. Furthermore, the Committee requests that your agencies provide updated statistics on small business participation and once available, data on how much funding is awarded to small businesses.

Sincerely,



Nydia M. Velázquez  
Chairwoman  
Small Business Committee



Sam Graves  
Ranking Member  
Small Business Committee



Dennis Moore  
Member of Congress



Roscoe G. Bartlett  
Member of Congress

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November 17, 2009



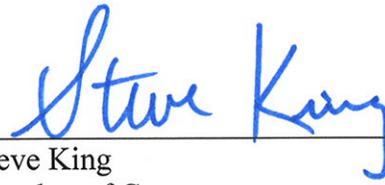
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Todd Akin  
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Kathy Dahlkemper  
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Steve King  
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Ann Kirkpatrick  
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Mary Fallin  
Member of Congress



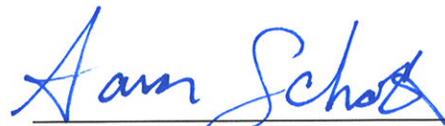
Bobby Bright  
Member of Congress



Blaine Luetkemeyer  
Member of Congress



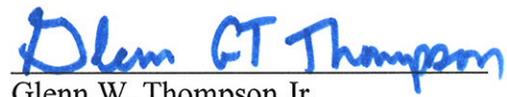
Deborah L. Halvorson  
Member of Congress

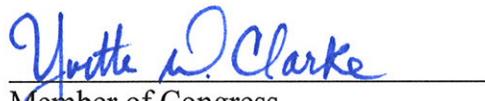


Aaron Shock  
Member of Congress

Lawrence E. Stickling, Assistant Secretary  
Jonathan Adelstein, Administrator  
November 17, 2009

  
Member of Congress

  
Glenn W. Thompson Jr.  
Member of Congress

  
Member of Congress

  
Mike Coffman  
Member of Congress

  
Member of Congress

  
Member of Congress

  
Member of Congress