NYSAC
NEW YORK STATE
ASSOCIATION OF COUNTIES

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November 30, 2009

Broadband Initiatives Program
Rural Utilities Service
U.S. Department of Agriculture
1400 Independence Avenue, SW
Stop 1599
Washington, DC 20250

Broadband Initiatives Program,

New York State Association of Counties Comments on National Telecommunications Information Agency (NTIA) and Rural Utilities Service (RUS) Broadband Technology Opportunities Program (BTOP) and Broadband Initiatives Program (BIP) Grants

The New York State Association of Counties (NYSAC), acting on behalf of its member counties respectfully submits the following comments in response to NTIA and RUS request for information to the BTOP and BIP grants.

We write to register our concern that the guidelines articulated in the first round of the BTOP and BIP grants may unnecessarily restrict opportunities to advance interoperable public safety broadband communications. We are equally concerned that the BTOP grant guidelines restrict opportunities for improved access to and affordability of broadband among vulnerable populations in urban and suburban areas. Both goals are of significant importance to the counties in New York State, and the BTOP and BIP grant programs should be administered in a way that advances these priorities. We urge the Department of Commerce and Rural Utilities Service to revise the funding criteria for BTOP and BIP to ensure that the programs fulfills *all* of its purposes and goals as Congress set forth in the Recovery Act.

More than eight years after the catastrophic events of 9/11, our nation's first responders still lack interoperable public safety broadband communications. The Recovery Act's BTOP and BIP programs represent an important opportunity to improve and extend our nation's broadband capabilities and infrastructure while sustaining and creating jobs.

Public Safety. We believe the July 1 NoFA distorts the statutory purpose of the BTOP program by elevating two of the core purposes (serving unserved and underserved areas) above the other three purposes (serving public safety; providing education, awareness, training, access, equipment, and support to institutions including schools, libraries, and healthcare providers; and, stimulating demand for broadband, economic growth, and job creation).

By subordinating service to public safety to the goals of reaching unserved and underserved areas, the NoFA obstructs the ability of public safety to fund regional networks under BTOP and BIP. In fact, not one of New York's 62 counties is eligible for funding of more than partial networks – and **public safety cannot use partial networks to protect citizens.**

We are concerned that the NTIA and RUS will invest in public safety network deployments that are inconsistent with the national public safety recommendations and we are very concerned that the NoFA requirements encourage solutions that plan to either share public safety network deployments with the public or share the public deployments with public safety. Void of communication prioritization that meets public safety requirements, these uses are inconsistent with the national public safety communications best practices; i.e., mission critical communications will be impacted by public users and result in the same interoperability problems that our first responders face today. We believe that the NTIA and RUS has the flexibility and authority to waive the open access rule for Public Safety only last mile deployments and that you should exercise that authority for protection of our country.

These comments are consistent with the recommendations of the National Public Safety Associations as evidenced by the attached press release from The Association of Public-Safety Communications Officials (APCO) International.

Suburban/Urban Areas. In addition, the NoFA's restrictive definition of "underserved" eliminates all but the most rural areas from contention in the most highly-funded category of BTOP funding - infrastructure grants. Congress intended BTOP funds to be used to assist Americans in need of broadband regardless of whether they are located in rural areas or urban centers. NTIA should ensure that funding is available to reach Americans in need wherever they live by expanding the definition of underserved, perhaps by including an "affordability" standard as one of the underserved criteria.

We wish to urge you to give due consideration to New York State's New York State Association of Counties Public Safety Broadband application, a groundbreaking proposal that would leverage BTOP and BIP funding to fund deployment of a public safety broadband networks that would make a reality the long-overdue first step to ensuring interoperable communications for the future of public safety communications. Unprecedented statewide coordination has produced a proposal that will benefit from efficiencies that save money and time to deployment: one procurement process for build-out vs. 36 different procurement efforts in all counties; one multi-jurisdiction spectrum license vs. 36 different spectrum license requests; and the ability to ensure extension of networks to less commercially-desirable areas of the state. Additionally, the proposal ensures interoperability as technical, governance, and operational coordination will be established during the program design phase and implemented throughout the participating counties in a manner consistent with National Public Safety Telecommunications Council (NPSTC) recommendations. Flexibility in deployment options has also been established in the NYSAC program. The program takes into account that some counties will have advanced and best-practice infrastructures which should be leveraged for public safety last-mile deployments, while other counties will need to partner with commercial vendors to build their networks. The NYSAC application meets the intent of the Congressional statute for improved broadband communications for public safety and serves an underserved sector of the public – public safety professionals – and does so in a way that saves money, creates jobs over 700 jobs, and establishes unprecedented coordination at the state and local levels.

NTIA has made clear that it expects to issue at least one additional round of BTOP grant funding and would consider modifying the program's funding criteria in subsequent NoFAs. We urge NTIA to do so—taking into consideration the coequal statutory purposes of the BTOP program and the need to ensure that suburban and urban areas are not disqualified from the much needed stimulative broadband investment represented by BTOP.

Additional comments:

1) The round #2 NoFA should be changed to encourage state and local government participation and public/private partnerships. In many cases governments have existing infrastructures which are better positioned and maintained than commercial infrastructures. State, local government and Commercial infrastructures should be leveraged to meet the goal of providing BB services to underserved and unserved communities.
2) The round #1 NoFA did not make a distinction between state and local governments or business applicants and unnecessarily burdened governments with requests for historical information and financial data more appropriate for businesses.
3) Please fix the application. Our team spent countless additional hours submitting the application. At one point we sent people home and requested that they attempt to submit our application at 1AM, 2AM, 3AM, 4AM, 5AM, and 6AM. Regrettably, none of the attempts were successful.
4) While we agree with the goal of broadband communications for all unserved and underserved citizens, we disagree with the apparent belief that if we offer capital investments to commercial providers (Round #1 requirements), that this provides enough incentive to build and sustain remote BB communications. In many cases, there just is not enough return off of investment for businesses. Strong consideration should be made to leveraging and extending local government infrastructures to provide free services to **commercially undesirable areas.** The additional operational cost of providing "As-Is" service should be minimal for state and local governments. As-Is service is free service offered to communities with a median income below the poverty line and is provided on a best effort basis.

We commend the Department of Commerce's National Telecommunications and Information Administration ("NTIA") and Rural Utilities Service (RUS) for the hard work involved in the development of the initial Notice of Funding Availability ("NoFA"), released July 1, 2009. After meeting with our Congressional delegation, we are confident that the comments expressed in this communication are supported by many of our members. We look forward to your response to our Round #1 Public Safety application and changes in the Round #2 NoFA guidelines which will more evenly stimulate our economy, create jobs in our more populated areas, and better protect our citizens and our country.

Sincerely,

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Executive Director
New York State Association of Counties

The Association of Public-Safety Communications Officials (APCO) International Press Release

FOR IMMEDIATE RELEASE

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PUBLIC SAFETY ASSOCIATIONS HOLD THIRD MEETING TO FORM CONSENSUS ON THE DEVELOPMENT OF A NATIONWIDE BROADBAND NETWORK

November 16, 2009, Alexandria, Va. - The Association of Public-Safety Communications Officials (APCO) International and the Major Cities Chiefs Association (MCC) co-hosted a meeting on Friday of nine major public safety organizations to further address matters related to the development of a nationwide interoperable broadband network. The meeting included representatives from the International Association of Chiefs of Police (IACP), International Association of Fire Chiefs (IAFC), Major County Sheriffs' Association (MCS), Metropolitan Fire Chiefs Association (MFCA), National Emergency Management Association (NEMA), National Emergency Number Association (NENA) and the National Sheriffs' Association (NSA) in follow up to two meetings convened in April and May of this year.

Friday's meeting, held at the City of New York's Police Headquarters, focused on continuing to foster consensus on the development and implementation of a public safety wireless broadband network. The group was welcomed and addressed by New York City Police Commissioner Raymond W. Kelly about the future and importance of technology for public safety. The Commissioner also committed the resources of the department to the efforts of the consensus group. The New York City Police Department's Real Time Crime Center and a citywide wireless network were featured as key examples of the use of broadband communications technology to enhance public safety.

Building on the success of the previous two meetings, the participating organizations substantially agreed:

- **that there are considerable efficiencies generated through the use of broadband technology for first response and other government agencies;**
- **to continue to support the approval of waiver requests for use of 700 MHz public safety broadband spectrum and early build-out in those areas requesting waivers;**
- **that the National Telecommunications and Information Administration (NTIA) should more clearly specify and delineate, and accept applications from, public safety as an entity to receive funding through the next round of the Broadband Technology Opportunities Program (BTOP).**

"These meetings continue to offer excellent continuity for discussion on critical issues associated with the development of the national broadband network," said APCO International President Richard Mirgon. "Participants discussed the importance of moving forward with purpose, in unity, to maintain momentum as the FCC and Congress consider these matters."

Several attendees were also present at the FCC's field hearing on Thursday of last week and commented that the hearing included a very constructive discussion of public safety broadband requirements. "We also express appreciation for the FCC's efforts to reach out to the public safety community in developing its National Broadband Plan," Mirgon added.

Although another meeting has not been scheduled, the group plans to continue to support a consensus-based approach to license and manage spectrum to create a nationwide broadband wireless network for public safety that addresses the needs of rural, suburban and metropolitan areas.

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About APCO International
The Association of Public-Safety Communications Officials (APCO) International is the world's oldest and largest professional organization dedicated to the enhancement of public safety communications. APCO International serves the professional needs of its 15,000 members worldwide by creating a platform for setting professional standards, addressing professional issues and providing education, products and services for people who manage, operate, maintain and supply the communications systems used by police, fire and emergency medical dispatch agencies. For more information, visit www.apcointl.org.