

August 6, 2009

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

Dear Assistant Secretary Strickling:

The Broadband Data Improvement Act was envisioned by Congress to be a collaborative effort between government, mapping grant awardees and broadband service providers.¹ In this context, we appreciated the opportunity to share our concerns and to propose suggestions that will assist NTIA in achieving congressionally-mandated goals.

In particular, we believe that there are specific clarifications and discrete modifications that we discussed which can readily be made to the Broadband Mapping NoFA to significantly address current concerns without sacrificing Congress' and the agency's goals. More critically, such changes would help to cement an effective public-private partnership between NTIA, state awardees, and broadband providers that would speed cooperation and progress in compiling and reporting the requested data in a timely fashion.

In that spirit of collaboration, we appreciate your willingness to consider our concerns and agree with you that the following important modifications and clarifications would greatly aid the success of the program:

Confidentiality: The current NoFA, would be significantly strengthened by clarifying that States and state mapping grantees will be required to enter into confidentiality agreements where requested by providers. Additionally, as a condition of sharing data with other agencies or entities, NTIA should require that such agencies or entities also protect any confidential, proprietary or competitively sensitive data from disclosure. Such information should be afforded at least the same level of protection traditionally afforded by the Federal Communications Commission in its handling of Form 477 data, including advance notice and opportunity to object prior to any disclosure of data designated as confidential.

¹ Broadband Data Improvement Act ("BDIA"), Title I of Public Law No. 110-385, 122 Stat. 4096 (Oct. 10, 2008) at Sec. 106(e)(6).

Availability Data: Section 1(a) of the Technical Appendix currently requires awardees to provide NTIA with broadband availability data on a street-address level basis.² However, in light of significant burdens and a high likelihood of error in provisioning data at the street-address level, the NoFA should instead offer the alternative of seeking provider data (other than data specifically addressed below) at the following level of granularity rather than as provided in Section 1(a) of the Technical Appendix: (i) availability at the Census Block level for Census Blocks that are 2 square miles or smaller; and (ii) availability at the Street Segment Level (using the Census Bureau's TIGER database, TeleAtlas, or other database of similar granularity) for Census Blocks that are larger than 2 square miles. In collecting this data, awardees should not prohibit broadband operators from providing data on a more granular level, if doing so would be less burdensome. In turn, providers could assist awardees either by providing data at this level of detail or by providing street address availability data that awardees would conform to Census Block and Street Segment Level data, as appropriate. At this level of detail, providers would also agree to be identified by name as a company offering broadband service in a particular Census Block or Street Segment Level.

With respect to mobile wireless services, we would propose amending the "Available Area Shapefile Details" section of the Mapping NoFA that currently requires that the shapefile polygon show broadband service with speeds 95% of the time to within 50 feet of the polygon boundary.³ We would propose revising Detail No. 4 in that Section to read as follows: "Each polygon must indicate the subscriber broadband service authorized maximum downstream and upstream speed available." As discussed, this is consistent with FCC Form 477 and eligible entities could still provide "typical speeds" based on this information.

Broadband Speed Data: The NoFA currently obligates grantees to collect and report information regarding a provider's "subscriber-weighted nominal speed" and "typical speed" information, as defined in the Technical Appendix. In our view, NTIA could materially strengthen these requirements and better balance the limited benefits of such data against the significant burdens that would otherwise be imposed on providers. Specifically, the current NoFA would be significantly improved by direction from the agency requiring grantees to calculate advertised speed and "subscriber-weighted nominal speed" across a provider's service or local franchise area, by Metropolitan or Rural Statistical Area (MSA/RSA) or by some sub-set of MSA/RSA such as Census Tract, if the provider prefers.⁴ Likewise, because the obligation to report "typical speeds" falls on awardees, and not providers, NTIA should reiterate that providers are not required to collect or report such data, as this data is more appropriately obtained through end-user surveys or other third-party sources.

² Department of Commerce, National Telecommunications and Information Administration, State Broadband Data and Development Grant Program, Notice of Funds Availability (Docket No. 0660-ZA29, July 1, 2009) ("Broadband Mapping NoFA") at Technical Appendix p.1.

³ Technical Appendix at p. 6.

⁴ This change would not apply to wireless services not provided to a specific address. See Technical Appendix at p. 4. Given the technical nature of this and other data being collected, we also urge NTIA to ensure that awardees adhere to the record formats and accompanying instructions provided in the Technical Appendix to ensure that the agency receives a consistent and comparable data set from each state.

Broadband Service Infrastructure: Given the burdens and significant security risks of collecting such data and, more importantly, the network security risks associated with the aggregation of highly-detailed network infrastructure data, NTIA should revise the NoFA requirement that awardees obtain data concerning points of network traffic aggregation and interconnection.⁵ Based upon our conversations, we understand that NTIA has included this information in the Broadband Mapping NoFA for the purpose of providing awardees a tool for verifying otherwise problematic data. Rather than require this information be collected, we would commit to encouraging our member companies to make network infrastructure information available to awardees (subject to appropriate confidentiality protections) in specific instances where there are reasonable concerns with data reliability and no other avenues of verification are available. Providers should be expected to make available only information related to infrastructure necessary to assisting the awardee with validating specific information accuracy concerns and the awardee would not provide such data to NTIA

Average Revenue Data: Finally, given the critical need to focus energies on broadband availability data, NTIA should revise its NoFA to eliminate any requirement on awardees to collect Average Revenue per End-User (ARPU) data⁶ as this information is not necessary to satisfy its mapping obligations, would be extremely difficult to calculate in any meaningful fashion, is not available at a county level, and would be highly sensitive.

In sum, we, the undersigned associations and three largest providers of broadband service, remain committed to helping NTIA complete the important and difficult task of mapping broadband availability and believe that the modifications suggested above will improve and expedite these efforts. While we have expressed other concerns, we have limited this proposal to those that we are most confident will in no way detract from achieving NTIA's goals. If the agency is willing to implement these modifications, we would commit to encouraging the full cooperation of our companies and member companies in providing data to the state mapping awardees.

Thank you again for your willingness to listen to our concerns and to consider proposed changes.

Sincerely,



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⁵ Technical Appendix at pp. 8-11.

⁶ Technical Appendix at pp. 6-8.



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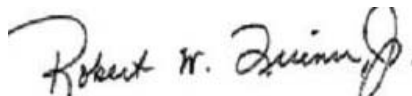
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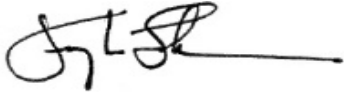


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