

Subject: Re: Draft Language Teeing up SDB Issues in the Joint Request for Information and Notice of Public Meetings

Date: Thursday, March 12, 2009 2:53 PM

From: David Honig <dhonig@crosslink.net>

To: Mark Seifert <mseifert@ntia.doc.gov>

Conversation: Draft Language Teeing up SDB Issues in the Joint Request for Information and Notice of Public Meetings

Mark – also want to affirm that our Chair, Henry Rivera, has recused himself on this matter and did not participate in the development, presentation or submission of the item below. His recusal should be noted as applying to this and all communications from MMTC regarding BTOP. Thanks --

David Honig
3/12/09

On 3/12/09 2:33 PM, "David Honig" <dhonig@crosslink.net> wrote:

Mark, good afternoon,

I've drafted some supplemental language that would ramp up the 8(a) implementation issues. Inclusion of this language would ensure that NTIA and RUS would compile a thorough record, and it would send a signal to the civil rights community that the agencies earnestly seek their full participation in the commenting process and the full participation of SDBs in the grant programs.

The new proposed language is in **BOLD**.

NTIA Section, ¶2: add new subparagraph (e):

(e) How should NTIA work with states to ensure that state procurement laws, rules, regulations and programs do not conflict with NTIA's implementation of Section 6001(h)(3), which provides for consideration of an applicant's status as a socially and economically disadvantaged small

business concern (“SDB”)?

NTIA Section, ¶4: add new subparagraph (c) and renumber current subparagraphs (c) through (h):

(b) How should NTIA most effectively and fairly implement Section 6001(h)(3), which provides for consideration of an applicant’s status as an SDB? In particular, what size or other definitional standards should NTIA apply in defining an SDB? Should an applicant receive additional consideration for grant and loan awards if it (i) partners with or contracts with SDBs and has an established method of tracking and reporting verifiable results; (ii) demonstrates a substantial and verifiable history of SDB utilization in the specific technical areas of the contract; and (iii) proposes substantial initiatives to hire and train skilled and low-skilled unemployed labor in broadband technologies? To most effectively advance Congress’ objectives in adopting Section 6001(h)(3), should NTIA take pro-active steps such as facilitating or performing technical assistance and training, conducting outreach, and organizing or assisting with networking initiatives?

NTIA Section, ¶5: add new subparagraph (c):

(c) How can NTIA avoid the imposition of market entry barriers that may impede the full participation of SDBs and other small businesses in the BTOP (e.g., aggregation of discrete projects or geographic areas into needlessly large bundles; excessive large project experience, years-in-business or bonding requirements, or truncated bidding and performance deadlines)? How can NTIA reduce paperwork requirements for small businesses (e.g. by authorizing self-certification of SDB status subject to careful monitoring)?

NTIA Section, ¶6: add new sentence at the end of subparagraph (b), to read:

(b) In particular, should Historically Black Colleges and Universities (HBCUs), Hispanic Serving Institutions (HSIs) Native American Serving Institutions (NASIs) and nonprofit organizations be considered as eligible recipients under this program?

NTIA Section, ¶8: add the **bold** language in subparagraph (c), which would now read:

(c) At what level of geographic, **race, age, language, income or poverty status**, or other granularity should the broadband map provide information on broadband service?

NTIA Section, ¶11: add new subparagraph (d), to read:

(d) should NTIA undertake to identify potentially inefficient grant recipients early and establish an independent mediation program through which NTIA would and undertake to cure any potential deficiencies?

NTIA Section, ¶12: add new sentence to subparagraph (a), to read:

Should NTIA and the USDA's Rural Development Office collaborate to ensure that the procedures NTIA will design to foster the participation of socially and economically disadvantaged businesses are also utilized by the USDA, especially in the administration of projects receiving funds from both NTIA and USDA?

NTIA Section, ¶14: add new subparagraph (b) and renumber the

current subparagraph (b) as subparagraph (c):

(b) How should NTIA determine, and report to Congress, on the success of BTOP in fulfilling the letter and spirit of the requirement in Section 6001(h)(3) that NTIA consider an applicant's status as a socially and economically disadvantaged small business concern in awarding grants?

RUS Section, ¶1: add new subparagraph (d):

(d) helps cure endemic disparities in broadband availability that may be exacerbated by a history of racial discrimination, language barriers, or structural poverty.

RUS Section, ¶2: add new sentence to subparagraph (b):

Should RUS adopt the procedures NTIA will design to foster the participation of socially and economically disadvantaged business concerns ("SDBs"), especially in the administration of projects receiving funds from both NTIA and USDA?

Best,

David

**MMTC Seventh Annual Access to Capital
and Telecom Policy Conference
Save the Date: July 20-21, 2009
Washington, D.C.**

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