



From: Joanne Hovis, President
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Date: April 13, 2009
Re: Strategic Guidance for Broadband Stimulus Planning in Light of New Developments

As we've communicated to you over the past few weeks, the American Recovery and Reinvestment Act of 2009 (ARRA) offers a dramatic opportunity for local governments, municipal electric utilities, educational institutions, and non-profits to facilitate economic development, digital inclusion, public safety, and education goals through \$7.2 billion in grants for qualified broadband projects. The stimulus law includes two categories of broadband funding: (1) \$2.5 billion for rural project grants, loans, and loan guarantees, which will be administered by the Rural Utilities Service of the Department of Agriculture; and (2) \$4.7 billion for grants to fund broadband projects throughout the country, including in suburban and urban areas, which will be awarded by the Commerce Department's National Telecommunications and Information Administration (NTIA) through the Broadband Technology Opportunities Program (BTOP).

This memorandum represents our most recent analysis of how the BTOP provisions of the ARRA may be implemented, and includes:

1. Our latest knowledge of some of the ideas under consideration by the Obama Administration, including timing for the opening of the first funding window
2. BTOP's five key purposes for grant funding—and strategic considerations for matching your project to those purposes
3. Our perspective, based on what we currently know, of the key considerations likely to determine grant awards

Timing: first funding window likely to open in June

NTIA has announced that it will offer three opportunities for submission of BTOP grant applications: one in late spring/early summer, one in the fall, and one in the spring of 2010.

We have been informed by reliable sources, though this is not yet official, that the first window will open at some point in the first two weeks of June, when NTIA releases a Notice of Funding Availability (NOFA).

In advance of the NOFA, NTIA has undertaken an expedited rulemaking process. It has solicited public comment (the comment period ended on April 13) and is anticipated to release

comprehensive guidance, rules, and scoring criteria for the grants sometime in the month following. We have been told, informally, that the rules will be released on June 1.

We recommend that you begin drafting your grant applications as soon as possible—even in advance of the release of the rules—given the potentially short time period between the release of the rules and the release of the NOFA (though these dates could still change).

BTOP's five key purposes for grant funding

The ARRA sets out five purposes for the BTOP grants that we believe will favor grant applications from local communities for networks designed to meet broadband access, digital inclusion, education, telehealth, and public safety needs.

The specifics, of course, depend on your unique circumstances. But you can craft a broadband proposal that should score well with NTIA's grant reviewers by addressing the *five key needs* referenced in ARRA. We list these below, along with our analysis of how you can capitalize on each in your application.

Purposes Nos. 1 and 2: unserved and underserved communities. ARRA instructs that the NTIA broadband grants should:

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

The Federal Communications Commission (FCC) is required to define “underserved” and “unserved” in advance of release of the NOFA. We have advocated for aspirational, inclusive definitions that enable deployment of new, superior networks even in areas where low levels of broadband (such as DSL and cable modem) exist. It is possible, however, that the definitions will disqualify some suburban communities that already have some form of broadband service. If that's the case, your application will need to focus on other preference areas (see below).

Purpose No. 3: community anchor institutions and vulnerable populations. The third preference area for BTOP grants encompasses a great many community resources and needs. It indicates that the broadband grants should:

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

This broad collection of favored entities represents a sweet spot for community broadband and government institutional projects. It comprises the community institutions to which a community would naturally turn as it seeks network stakeholders, and the “vulnerable populations” that those organizations are already dedicated to helping. Designing a network that can reach as many of these anchors as possible will only strengthen your application. It follows, then, that bringing together all of your stakeholders during the planning process will be crucial.

Purpose No. 4: public safety. BTOP’s fourth area of preference, and another key focus for all local governments, is to:

4. improve access to, and use of, broadband service by public safety agencies

Like the community institutions and vulnerable populations enumerated in the third preference item, public safety is a preference point that local government projects should embrace—not least because of the undeniable advantages that government-owned networks offer to public safety communications. This should be a bedrock part of your application.

Purpose No. 5: jobs and economic development. The final BTOP grant focus, and the biggest catch-all category for grant applications, is to:

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

ARRA is, first and foremost, a jobs-creation engine—and the broadband project grants are no exception. If you have a proposal that will lead to new jobs and economic growth in your community, your application will leapfrog those that don’t. Be as specific as possible in quantifying the positive economic impact of your proposed network. Recent market research or other hard data will be a plus here.

Strategic considerations for preparing your grant application

In advance of the release of rules, NTIA has provided few specifics about how it will score grant applications and allocate its funding. However, based on the language of the ARRA and discussions with sources, we offer these thoughts:

First, metrics and data collection. The administration very much sees the grant process as being a source of important data for the development of a national broadband strategy and for the administration’s ongoing and long-term broadband plans. This focus on data suggests a few things. First, your project will be more fundable if your grant application includes a thoughtful and nuanced discussion of what metrics you will use to determine your project’s success, how those measurements will be made, and what kind of data—from deployment and cost to uptake,

benefits, and outcomes—will be collected and made available. While we anticipate that NTIA’s rules will provide parameters for metrics and data collection, your application will be further strengthened by additional, customized evaluation of the data and metrics important to your community.

Second, innovation and experimentation. We believe NTIA is leaning toward funding a wide variety of different projects, technologies, and communities in order to explore a range of new models, rather than focusing on a single type of technology or a single type of region. This is a good sign that innovative, even experimental, projects will get serious consideration.

Third, past performance and sustainability. Despite the premium on demonstration and innovation, the administration does not see these grants as money for start-ups without track records, no matter how innovative the proposal. The law requires a grantee to demonstrate that it is “capable of carrying out the project or function to which the application relates in a competent manner in compliance with all applicable Federal, State, and local laws.”

We therefore recommend that you demonstrate a proven capability—in terms of technical expertise, business processes, and a realistic business model—to operate a network once the grant funding and construction are complete. You should be sure to document both past performance (such as your experience building and operating communications networks to date that demonstrates your ability to execute on your plans) and sustainability (a business plan or funding commitment that demonstrates your project will be viable when the federal grant funding period of two years expires). Partnerships can also be used to demonstrate both past performance and sustainability.

Fourth, accountability. NTIA will require grantees to demonstrate that they have internal controls and procedures for responsible expenditure of public monies. Applicants must show accountability for spending the money they receive. *Based on this, we recommend that you devise or document procedures for verifying and demonstrating your accountability for grant funds.* The law requires grantees to report quarterly, in a format to be specified by NTIA, regarding “use of the assistance and progress fulfilling the objectives for which such funds were granted.” The reports will be available to the public.

Fifth, efficiency and imminence. Applicants must commit to spending their funding expeditiously, within two years of receiving it. This requirement favors so-called “shovel-ready” projects, and those submitted by municipalities, utilities, and other entities with experience designing, constructing, and operating communications networks. The grant application should demonstrate shovel-readiness, ideally, in the forms of:

1. appropriate levels of engineering and design, including specifications
2. proof of commitments from partners, in the forms of Memoranda of Understanding or letters of commitment
3. demonstration that procurement processes will be efficient and/or expedited
4. copies of existing contracts, procurements, and/or purchase orders, or, if these are not yet feasible, bid documentation
5. copies of permits

Sixth, size. We anticipate that large projects will be favored. We know that there will be enormous competition for the grant funding. We would not be surprised if NTIA ultimately received tens of thousands of applications. And if the application numbers do reach those numbers, we believe that NTIA could be (quite understandably) overwhelmed by the workload. Given that all funding must be distributed by September 30, 2010, we continue to believe that NTIA will, out of administrative need, be looking to fund relatively large projects that meet many or all of the BTOP purposes described above.

If the bulk of the funding does indeed go to large projects (in the tens and perhaps hundreds of millions of dollars), this would clearly benefit communities that dream big, as well as smaller communities that band together to submit large, regional requests. For those who do not envision big projects, one potential strategy would be to aggregate with communities that are considering similar projects with similar technologies. (We can advise you on this strategy, and may be able to put you in touch with potential partners.)

Additional thoughts on the application planning process

Although the grant application process and timeline are not yet final, we believe quick action is warranted for clients who want to explore the opportunity. As we did in our earlier memorandum of March 4, we recommend that you take affirmative steps to begin the necessary analysis, build the necessary partnerships, and develop the preliminary documents necessary for a grant application. You should continue building partnerships and innovative approaches to maximize the chances of being funded. You should also develop key documents that are likely to serve as essential components of the grant application, including a business case, engineering plan, and long-term business/sustainability plan. Our March 4 memorandum has more detail regarding these items.

In addition, let us reiterate a couple of precautionary recommendations. First, we continue to recommend that you seek preliminary legal guidance as to any structural barriers that may exist in your community or state. Even if such a barrier exists, there are ways to structure your project to ensure that it runs no risk in this respect, and we recommend that preliminary analysis be undertaken now, before you submit a grant application.

Second, we recommend that you contact your state leaders to explain the value of your project. The ARRA allows NTIA to consult with the states regarding projects if it so chooses. We recommend that you attempt to secure the support of your state by educating the relevant decision-makers in your state as to the value and priority of your project. Ask that your group be the channel for stimulus grant applications—and ask for as much assistance as those decision-makers can provide for your application. To the same end, we recommend that you educate your congressional delegation and solicit any help they can offer.

A final thought on rewards and risks

Please keep in mind that any BTOP application faces considerable competition and long odds, simply because of the large number of applications that will be submitted. All communities face

the risk that the time and resources they spend creating their applications will not yield any funding. For this reason, we caution against raising expectations among elected officials and other decision-makers in your community.

At the same time, the potential rewards and opportunities that BTOP represents are exhilarating, as is the possibility of enabling extraordinary service, innovation, and economic and community development in your community.

Please feel free to contact us if you have any questions or concerns.