Broadband and the Economic Stimulus Bill --

What It Means for Communities and Other Stakeholders

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WeTEC Roundtable
Mobility & Community Vitality in a Broadband World
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Stimulus Overview

- American Recovery and Reinvestment Act of 2009 (H.R. 1)
  - $787 billion stimulus bill
  - $7.2 billion for broadband deployment (less than 1%)
    - $4.7 billion to NTIA (Commerce)
    - $2.5 billion to RUS (Agriculture)
    - Largest broadband appropriation for either agency
  - Other telecoms programs not addressed here
Broadband Technology Opportunities Program (B-TOP)

- 80% federal grant program
- Up to $350 million for nationwide broadband mapping
- At least $250 million for innovative programs to encourage sustainable adoption of broadband services
- Up to $200 million for public computer centers at colleges and libraries
- Up to $150 million for administrative costs, including $10 million for audits and oversight
- $3.75 billion for community-oriented network expansion
Eligibility for B-TOP

- State and local governments
- Indian tribes and native Alaskan and Hawaiian organizations
- Non-profit organizations
- Other entities that Assistant Secretary of Commerce determines by rule to be in public interest
- Preference, if possible, for socially and economically disadvantaged small businesses
B-TOP grants may be used for

- Acquisition of equipment, hardware, software
- Construction of infrastructure
- Access to broadband service by “community anchor institution”
- Broadband access for low-income, unemployed, vulnerable population
- Improvement of public safety broadband communications
Objectives of B-TOP

- Provide broadband access in unserved areas
- Improve access in underserved areas
- Provide broadband education, awareness, training to educational institutions, libraries, healthcare providers, community support organizations
- Improve public safety broadband access and use
- Stimulate demand for broadband, economic growth, job creation
• Supplemental appropriation for grants, loans and loan guarantees
• For distance learning, telemedicine, broadband infrastructure
• No restriction on nature of recipient
• 75% of area to be served shall be in rural area without sufficient access to high speed broadband service for rural economic development
  • To be determined by Secretary of Agriculture
• Priority to projects that will deliver end user more than one service provider
• Priority to existing and former borrowers under RUS programs
• Priority to projects that will be fully funded and will be completed
Emphasis on Rapid Deployment

• NTIA is to establish B-TOP in consultation with FCC “as expeditiously as possible”
• RUS is to give priority to activities that can “begin promptly following approval”
• §1602, preference to infrastructure activities that can use 50% of funds within 120 days of enactment of law (June 18, 2009)
• All funds must be used by September 30, 2010
• B-TOP projects must be completed within two years of award
• Both agencies must report to Congress on programs by mid-May 2009
Emphasis on Rapid Deployment

• Both agencies have announced three funding rounds (Notices of Funding Availability)

• NTIA
  ▪ April – June 2009
  ▪ October – December 2009
  ▪ April – June 2010

• RUS
  ▪ June – July 2009
  ▪ October – November 2009
  ▪ March – April 2010
Emphasis on Rapid Deployment

- FCC mandated to produce national broadband program by February 2010
  - Establish benchmarks for ensuring universal access to broadband capability
  - March 25 is due date for initial comments
- NTIA mandated to produce nationwide inventory map of existing broadband service from both commercial and public providers by February 2011
- Neither of these will be available to support mandate for rapid expenditure of funds
Substantial Agency Discretion

• Program established as “technologically neutral”
  ▪ No distinction between wired or wireless, terrestrial or satellite
• No minimum broadband speeds established
• No requirement for “open” network access
  ▪ NTIA to publish non-discrimination and network interconnection obligations
  ▪ FCC August 2005 general broadband policy statement
Policy Statement 05-151, adopted August 5, 2005
To encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet, consumers are entitled to:

1. access the lawful Internet content of their choice;
2. run applications and use services of their choice, subject to the needs of law enforcement;
3. connect their choice of legal devices that do not harm the network;
4. competition among network providers, application and service providers, and content providers.

Free Press complaint versus Comcast might provide more meaningful standards
Agencies Searching for Standards

- Private meetings initially invited by NTIA, and then rejected
- Six public meetings now being held on basic issues
  - definitions
  - role of states
  - relationship of B-TOP to RUS programs
  - grant selection criteria
  - potential role of for-profit providers
- Comprised of roundtables and public comments segments
• Agencies sending mixed signals
• B-TOP and RUS funds may not both be used for same project
• Separate funding, eligibility programs described by statute
• NTIA and RUS claim will collaborate to implement broadband stimulus plan
• “Joint” Request for Information
  • Responses due April 13, 2009
• Fifteen topics for NTIA, five for RUS
• Shall a percentage of appropriated funding be allocated to each statutory objective?
• What weight should be given to state priorities?
• How does NTIA ensure that private investment is not displaced?
• What factors should be considered to determine if more or less than 80% funding is appropriate for a project?
Request for Information

- What standard should apply to determine public interest of for-profit grant recipients?
- How to define “unserved” and “underserved” areas?
- How should “broadband service” be defined?
- Should different threshold speeds apply to different technologies?
- How should “rural” area for RUS be reconciled with “unserved” or “underserved” for NTIA?
Defining broadband

Stimulus bill initially had definitions of “current” and “next generation” broadband

- 10% tax credit for 5 Mbps downstream/1 Mbps up
- 20% tax credit for 100 Mbps downstream/20 Mbps up
- 20% tax credit for CMRS 3 Mbps downstream/786 Kbps up

FCC has adhered to definition of 200 Kbps in both directions

- Now collecting data on “tiered” broadband
Former NTIA Grant Programs

• 1994 – 2004 – Technology Opportunities Program ("TOP")
  ▪ Matching grant program to advance digital network technologies
  ▪ Subsequently called Telecommunications and Information Infrastructure Assistance Program ("TIIAP")
  ▪ 610 grants equaling $233 million and matched with $314 million private funds
  ▪ Non-profits, schools, libraries, police departments, local and tribal governments
Public Telecommunications Facilities Program

- Lasted over 30 years
- Federal funding support for telecommunications equipment for educational and cultural purposes
- Public TV and radio were primary beneficiaries

None of these NTIA programs survive today
Existing RUS Programs

- Broadband Access Loan Program
- Distance Learning & Telemedicine Grant Program
- Community Connect Broadband Grant Program
- RUS will not face same challenge as NTIA in adopting rules to use funding
Role of OMB

Office of Management and Business role could be important
• February 18, 2009 memorandum to heads of agencies on implementing stimulus bill
• Sets preservation and creation of jobs as top priority
• Emphasizes importance of competitive grant and loan procedures
• Wants agencies to engage in aggressive outreach to potential applicants
• Emphasizes use of Inspector Generals to avoid fraud, waste and abuse
• Predicts grants.gov Website will fail
Role of States

• Role in grants award still to be defined
• Will be eligible to compete directly with private applicants for funding
• California Emerging Technology Fund is playing pro-active role to identify and aggregate potential applicants in state
• Estimates 10-15% of stimulus funding should come to California, based on GDP and population
• Municipal broadband programs could prove controversial.
Disincentives For Bigger Commercial Providers

• Eligibility standards for NTIA grants
• Existing relationships with RUS will be preferred
• “Open access” could be disincentive
  ▪ Many commentators have advised agencies not to get bogged down on this subject
  ▪ AT&T plans to invest $17-18 billion of own funds in broadband
• Buy American Act
  ▪ Ultimately probably not major barrier
The Opportunity

• Preference for state/local governments, community non-profits, native American organizations
  ▪ Be prepared to move forward before commercial entities are authorized
• Preference for public-private partnerships
  ▪ Align with state interests
  ▪ Form consortia
• Preference for benefiting educational, public safety interests, underserved portions of populace
• Preference for projects impacting largest segments of population
• Preference for projects that are “shovel ready”
Maximize Chances for Selection

- Show you can leverage public dollars with private funds or other grants
  - But be ready to demonstrate your project would otherwise not go forward
  - Possible in-kind services for 20% match
- Demonstrate you will generate jobs
- Target rural or otherwise underserved areas
- Demonstrate project serves other stimulus objectives
  - education
  - healthcare
  - energy/smart grid
  - cyber security
  - public safety
- Provide highest broadband speeds
Be Prepared

- Follow development of regulatory standards
  - Particularly public meetings and RFI

- Provide detailed explanation of how funds will be used

- Be ready for
  - Public disclosure of application and grant
  - Reporting requirements
  - Post-performance audit

- Possibility of additional requirements
  - Environmental
  - Diversity
  - Labor standards
  - Disability access
THANK YOU

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