

APPA Webinar

Stimulus Funding Opportunities for Broadband Projects

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Disclaimer

This presentation does not constitute legal advice and should not be interpreted as such. For advice on federal, state or local law, please consult your legal counsel.

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Overview

- The American Recovery and Reinvestment Act
 - Explicit Broadband Provisions
 - Other Funding Opportunities
- Implementation by NTIA, RUS, FCC, other agencies
- Strategies for Successful Applications
- Q & A

American Recovery and Reinvestment Act

- \$787 Billion to stimulate economy, create or save jobs
- Includes \$7.2 Billion explicitly for broadband
 - \$4.7 Billion allocated to National Telecommunications and Information Administration of the U.S. Department of Commerce (“NTIA”)
 - \$2.5 Billion allocated to Rural Utility Service of the U.S. Department of Agriculture (“RUS”)
- Many additional programs – health care, energy, public safety, housing, etc.

NTIA “Broadband Technology Opportunity Program”

- \$3.89 Billion in competitive grants to:
 - Provide access in “unserved” areas
 - Improve access in “underserved” areas
 - Provide broadband support to schools, libraries, medical and health care providers, higher education institutions, other community-based groups that support vulnerable populations, and “job-creating strategic facilities” in various programs
 - Increase access to, and use of, broadband by public safety agencies
 - Stimulate demand for broadband, economic growth, and job creation
- NTIA must award grants by September 30, 2010; grantees must complete projects within 2 years of award

NTIA BTOP (continued)

- \$200 million or more in grants for expanding public computer center capacity, including at community colleges and libraries
- \$250 million or more in grants for “innovative programs to encourage sustainable adoption of broadband service”
- Up to \$350 million for developing and maintaining a broadband inventory map pursuant to Broadband Data Improvement Act
- \$10 million for auditing and oversight
- NTIA may transfer unspecified amount to the FCC for development of a national broadband plan

NTIA BTOP (continued)

- Eligible classes of entities
 - States
 - Political subdivisions (includes local governments)
 - Public-private partnerships
 - Non-profits
 - Indian tribes and native Hawaiians
 - Any other entity, including a private service or infrastructure provider, that NTIA determines *by rule* will meet a “public interest” test (TBD)

NTIA BTOP (continued)

- Eligible types of projects/services
 - Wide range of equipment, networking, hardware, software, and other infrastructure and facilities
 - Not only for end-user broadband services, but also for backhaul, middle-mile, wholesale transit, tower services, etc.
 - Includes costs of construction and deployment, but **not** ongoing operating expenses
 - Must serve statutory purposes or other purposes approved by NTIA
 - **Must comply with network non-discrimination and interconnection requirements to be established by NTIA, including at least FCC's "four principles"**

FCC's "Four Principles"

To encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet,

.... consumers are entitled to access the lawful Internet content of their choice.

... consumers are entitled to run applications and use services of their choice, subject to the needs of law enforcement.

...consumers are entitled to connect their choice of legal devices that do not harm the network.

... consumers are entitled to competition among network providers, application and service providers, and content providers.

NTIA BTOP (continued)

- Application Requirements:
 - Details to be developed by NTIA \approx June
 - Must submit complete, detailed, timely application
 - Must establish applicant's qualifications and ability to carry out project, including all federal, state, local requirements
 - Must disclose other federal funds
 - Must commit sufficient funds or in-kind contributions to satisfy (\approx 20%) matching requirements (See 15 CFR 24.24)
 - Must show project wouldn't proceed but for BTOP grant
Must commit to completion within 2 years of grant
 - Must show sustainability after federal funding ends
 - Must comply with Buy America Act

NTIA BTOP (continued)

- Evaluation Criteria:
 - At least one project in every state, if possible
 - Relationship among statutory purposes?
 - Preferences :
 - applicants that are socially or economically disadvantaged small businesses
 - projects that increase affordability, subscribership, of service to greatest population in an area
 - projects that provide **greatest speed to most users**
 - projects that enhance service for healthcare, education, or children to greatest number
 - **No double-dipping as result of other federal support**

NTIA BTOP (continued)

- Role of the States
 - NTIA has ultimate responsibility to establish criteria, make all final decisions
 - Act says NTIA *may* consult with states, including on state priorities, evaluation of projects
 - Tension: NTIA inexperienced, will be swamped, but –
 - States have different levels of experience, expertise
 - States will be applicants – conflict of interest
 - Some states heavily influenced by incumbents, particularly states that have barriers to public entry
 - Some projects cross state barriers

RUS's ARRA Programs

- \$2.5 Billion in new RUS funding under ARRA for Distance Learning, Telemedicine and Broadband Program
- ARRA funding triples existing RUS programs
 - Existing programs – the Broadband Loan and Loan Guarantee Program and the Community Connect Broadband Grant Program – characterized by:
 - Massive paperwork and other requirements
 - Limited eligibility (only areas where no service)
 - Very few municipalities applied – headache's weren't worth it
- RUS has said it will develop entirely new program to implement ARRA

RUS's ARRA Programs (continued)

- ARRA's RUS section much less detailed than NTIA section
 - at least 75% of the area to be served by a project receiving funds must be in a rural area without sufficient access to high speed broadband service to facilitate rural economic development
 - no area of a project funded with amounts made available by RUS may receive funding under BTOP
 - But NTIA and RUS have said that applicants can file for federal support from both NTIA and RUS

RUS's ARRA Programs (continued)

- Statutory “priorities” for:
 - Projects that “will deliver end users a choice of more than one service provider”
 - Projects that “will provide service to the highest proportion of rural residents that do not have access to broadband service”
 - Applications from or including current or former RUS funding recipients
 - Projects in which all elements will be fully funded
 - Projects that will be commenced promptly
 - Projects that will be fully completed

Other Programs That Could be Used for Broadband

- Department of Energy – Smart grid investment program (\$4.5B)
- Department of Health and Human Services – Health information technology (\$19B)
- Department of Transportation -- Highway/rail/transit infrastructure (approx. \$46.5B)
- Department of Housing and Urban Development – Public housing infrastructure (approx. \$12B)
- Department of Education – School construction (\$21B)
- States – Block grants for public safety and critical services (\$8.8B)

NTIA's/RUS's/FCC's Implementation of the ARRA

- Joint NTIA-RUS-FCC kickoff meeting – March 10, 2009
- NTIA-RUS joint Notice of Inquiry – March 12, 2009 (responses due 4/13/09)
- NTIA-RUS joint public hearings held April 16-23, 2009
- FCC Notice of Inquiry on “unserved,” “underserved,” “broadband,” and other issues (responses due 4/13/09)
- NTIA to issue rules, application requirements, three rounds of NOFAs: 6/09, 10-12/09, 4-6/10
- RUS also to issue three NOFAs: first in 60-90 days

Strategies and Tips

NTIA views BTOP grants as “a test bed or proof of concept for sustainable, viable, and scalable projects. For example, we encourage partnerships between small businesses, municipalities, and others that may demonstrate nontraditional but effective ways of getting broadband into communities.”

Mark Seifert, NTIA, Testimony at Oversight Hearing Before the House Commerce Committee’s Subcommittee on Communications, Tech. and the Internet (April 2, 2009)

Strategies and Tips

- Focus on main goals that permeate the Act :
 - Quick-hit “shovel-ready” projects that create jobs and promote economic growth
 - Provide access in “unserved” and improve access in “underserved” areas
 - Concentrate on high-value targets – e.g., schools, libraries, medical and health care providers, colleges, community-support organizations that serve vulnerable populations, public safety
 - Emphasize multiple-purpose, multiple party projects, that get “biggest bang” for federal bucks (e.g., Internet access + health care + energy + transportation ...)

Strategies and Tips (continued)

- (continued ...)
 - Focus on most **speed** for largest number (e.g. fiber v. DSL or cable)
 - Emphasize **affordability** – subsidized capital costs should lead to lower prices
 - **Network nondiscrimination and interconnection** – what do these terms mean? Can you exceed minimum requirements?
 - **Partnerships** – many, many varieties
 - Relationship to **states** – work with state agency? Bid separately?
 - State **barriers to public entry** – interpret narrowly?

Key Steps

- Read Stimulus Act and available agency materials
- Stay abreast of developments via APPA, Baller Herbst, etc.
- Identify potential projects and meet with potential partners
- Contact , register with, various federal and state agencies
- Define/describe project in terms of Stimulus Act goals
- Obtain relevant data and make preliminary projections
- Develop agreements with potential partners
- Obtain NTIA/RUS rules, forms, and instructions when released
- Develop and submit detailed proposal
- If funded, meet all compliance and reporting rules



Baller the Barbarian

Questions?

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