

August 31, 2009

Gwellnar Banks
U.S. Department of Commerce
Room 7845
1401 Constitution Avenue, NW.,
Washington, DC 20230

Dear Ms. Banks,

The Schools, Health and Libraries Broadband (SHLB) Coalition hereby submits the following comments on the information collection requirements set forth in the Notice of Funds Availability (NOFA) for the Broadband Technology Opportunities Program (BTOP).¹ The NOFA invited comments on:

- (a) Whether the proposed collection of information is necessary for the proper performance of the functions of RUS or NTIA, including whether the information will have practical utility;
- (b) the accuracy of the agencies' estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- (c) ways to enhance the quality, utility and clarity of the information to be collected; and
- (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.²

I. Introduction

The mission of the Schools, Health and Libraries Broadband Coalition is to improve the broadband capabilities of schools, libraries and health care providers so that they can enhance the quality and availability of the essential services they provide to the public. High-capacity broadband is the key infrastructure that K-12 schools, universities and colleges, libraries, hospitals, clinics and other health care providers need in order to provide 21st century education, information and health services. These institutions serve the most vulnerable

¹ The Public Notice published in the Federal Register on July 17, 2009 (74 FR 34558) established a deadline of August 31, 2009 for the submission of these comments.

² The NOFA was published in the Federal Register on July 9, 2009 (74 FR 33104).

segments of our society – rural, low-income, disabled, the elderly, students, immigrants and many others.

The SHLB Coalition consists of 49 members, many of whom filed applications for funding to provide broadband to anchor institutions. (A complete list of our members is attached to this filing.) Our members were enormously frustrated with the process of gathering and submitting information required by the NOFA. Some potential applicants for funding decided not to file an application, even though they have a need for greater broadband connectivity. Those that did file applications found the information requested by the application not only extremely difficult to gather, but unnecessary to determine whether an anchor institution should receive funding.

Anchor institutions do not object to most of the information collection requirements in the NOFA. While burdensome, we recognize that is fair for the application to request network deployment maps, technology plans, financial information showing sustainability of the project, etc. We recognize that this information, while at times difficult to compile, will assist the government in determining the merits of each application. We focus our comments below on the specific questions that should be eliminated and those technical requirements that could be substantially improved.

II. The NOFA’s Requirement that Anchor Institutions Must Serve Unserved or Underserved Residential Areas is Unnecessary, Is Inconsistent with the Statutory Language, and Imposes a Tremendous Information Collection Burden on Anchor Institutions.

We begin with the observation that the NOFA improperly and unnecessarily requires anchor institutions who seek infrastructure funding for broadband networks to serve “unserved” and “underserved” areas. For instance, section VI.C.1.c.iii. says that “applications for Middle Mile projects must be for unserved or underserved areas”. (NOFA lines 909-910). Later on, the NOFA states that Middle Mile applications will be scored based on “what proportion of the network’s end-points, points of interconnection, and projected end users are located in unserved or underserved areas.” (NOFA, section VII.A.2.c.ii.(2); lines 1485-1486)³

This requirement that anchor institutions must be tied to unserved/underserved areas does not appear in the statutory language. Under section 6001(b) of the American Recovery and Reinvestment Act (ARRA), projects to serve to *residential* consumers must be in unserved or underserved areas, but the community anchor institutions identified in paragraph (3) are not so

³ We recognize that the NOFA requires Middle Mile applications to have only one point of interconnection in an unserved/underserved area. This is only a minimum requirement, however. It is quite clear from the NOFA that applications will receive a higher score the more that they serve unserved/underserved communities. This scoring system will disadvantage applications that serve primarily or only anchor institutions.

limited.⁴ We believe this reflects Congress' determination that community anchor institutions provide valuable, essential services to vulnerable and disadvantaged population groups in and of themselves, and that all such institutions should be able to apply for funding, whether they are located in urban, suburban or rural areas.

By requiring anchor institutions to identify unserved and underserved areas, the NOFA imposes a difficult and nonsensical burden on applicants to determine whether the *residential* customers in an area have broadband service. According to the NOFA, an area is "unserved" based on how many residential consumers have access to broadband service, while the definition of "underserved" includes a three-part test based on the availability of broadband, the subscription rate, and the broadband speed that is advertised in the area. This information is not easily obtainable, and even if it is available from a commercial firm, the price can be exceedingly high. Much of the information is held by the broadband providers on a proprietary basis and is not publicly available.

Even more important, this information about residential customers should not be used to determine whether a school, health care facility or library can receive funding to improve its broadband network. Anchor institutions have much greater bandwidth needs than residential consumers. Many anchor institutions need 100 Megabit per second (Mbps) connections or a 1 Gigabit per second (Gbps) to provide telemedicine, distance learning, on-line job training, and other high-bandwidth services to multiple users simultaneously. But the NOFA provides that, if the local broadband provider can offer certain broadband services to residential consumers, the anchor institution in that area may not be able to receive funding. This is an "apples and oranges" situation. If a library, hospital or school needs a fiber connection to the Internet, why should it be denied funding because the surrounding households have DSL or cable modem service available to them?⁵

⁴ According to Section 6001(b) of the ARRA, one of the five purposes of the BTOP program is to

- ...
- (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;

See, American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, 123 Stat. 115 (2009).

⁵ The NOFA properly requires that these facilities should be open to interconnection by companies serving residential consumers (so-called "Last Mile" providers) after they are built. The SHLB Coalition endorses the notion that broadband networks should ultimately provide "jumping off" points from which last mile providers can expand their service to residential customers after the high-capacity broadband network is built. But requiring community anchor institutions to specify exactly how their network facilities will benefit residential consumers, and requiring them to itemize which Last Mile providers have agreed to interconnect with them, at the front end

The improper linkage of the unserved/underserved prerequisites to anchor institutions has significant consequences on the information collection burden on anchor institutions. Anchor institutions were directed to seek funding under the Middle Mile category of funding. Yet every Middle Mile applicant was required to provide significant amounts of information concerning the Last Mile population and service areas for **residential** consumers. The process set forth in the NOFA does not reflect that enhanced broadband service to community anchor institutions is beneficial in and of itself. For instance, Middle Mile applications to serve anchor institutions were required to generate the following information about **residential** customers in order to complete the application process:

1. Service area maps for each proposed service area to be funded, identifying the service area as: a) unserved; b) underserved; or c) for BIP, at least 75% rural. (Application Guidelines, Question 12.);
2. List of contiguous census blocks for proposed middle mile project (App. Guidelines Q. 14);
3. List of associated last mile service areas including the total population, total number of households, total number of businesses (App. Guidelines, Q. 14);
4. List of the Last Mile service providers with whom the proposed Middle Mile network proposes to interconnect. . . (App. Guidelines, Q. 18)

The Application Guidelines state that the above information **must** be provided for every proposed funded service area or the application will be deemed incomplete. (Application Guidelines, discussion of Q.14, p. 30). Further, the document states that

[a]pplicants must therefore thoroughly research the area(s) and carefully account for the market reality with regard to any existing broadband access, service provide speeds, or adoption rates. . . Applicants may also wish to conduct market surveys or carrier surveys to get this information with respect to their proposed funded service area. (Application Guidelines, discussion of Q. 17, p. 32)

Requiring community anchor institutions to conduct market surveys is simply not realistic, especially when many of them are government organizations that are reducing staff and services because of budget reductions.

Furthermore, the on-line application process required even more information than was identified in the NOFA or the Application Guidelines. For instance, the on-line application

of the application process well before the facilities are built is overly burdensome and simply discourages anchor institutions from applying for funding at all.

required each Middle Mile applicant to identify each and every census block *traversed* by a Middle Mile network span, even if the span did not have an interconnection point in that census block. Applicants were further required to identify whether each such census block was “unserved” or “underserved” (there was no option to identify a census block as “served”). This presented a particularly difficult challenge for applicants that proposed to build a high-capacity network including many spans over several states, or across an entire state.

Not only is providing this information of no value, it can be harmful. Network builders may not want to identify the exact route that a broadband facility might take for competitive or proprietary reasons. For national security reasons, it is unwise for applications to contain the exact whereabouts of every broadband facility. While it is understandable to ask about the points of interconnection to the network, it is unnecessary for the application to ask for the actual physical location of the broadband facility when it simply crosses the land area without providing any interconnection point.

For these reasons, the SHLB Coalition believes that future NOFAs should create a separate category (separate from either the Last Mile or Middle Mile categories) specifically designed for the types of broadband networks used by community anchor institutions. This category could encourage the deployment of high-capacity broadband networks and could be designed to elicit the kind of information that is most relevant to determining whether or not to fund a network that is dedicated to serving the needs of anchor institutions. Such a process will give anchor institutions a greater chance of receiving funding and will promote the deployment of high-capacity bandwidth across the country.

III. The Technical Burdens of the Application Process Were Substantial.

In addition to the concerns raised above concerning requiring anchor institutions to collect information concerning residential consumers, the SHLB Coalition also notes that the online application process was fraught with technical “glitches” that made the process of submitting an application tedious at best and tortuous for many. Several applicants who had finished writing the application and gathering the information report that they had to work into the middle of the night, arise well before daylight, and work on Saturdays and Sundays simply trying to upload documents into the system. Some struggled with this process for several days in a row.

As a general matter, the application process was designed for small grant requests rather than large aggregated applications. The irony is that the NOFA *encourages* large applications that serve multiple purposes, that allow communities to collaborate on multi-county applications, that serve large groups of disadvantaged and vulnerable populations, and that make shared use of facilities to maximize efficiencies. Those parties that followed this advice were often the

parties that had the most difficulty uploading documents and fitting their descriptions into the limited space made available.

Some of the technical difficulties included

1. Artificial limits on the number of characters permitted in an answer that were different than the announced page limits;
2. Artificial limits on the number of pages allowed on some documents (such as maps and financial spreadsheets) that were not identified in the NOFA or the Application Guidelines;
3. Requirements on state or local government agency applicants to submit detailed budget projections when their funding is part of a larger state government department budget;
4. Problems when using a specific Internet browser;
5. Help Desk email questions taking as many as four days to respond.

In addition, it would very useful for future application procedures to streamline the data input process. For instance, some applicants were able to encapsulate all middle mile service data into a single spreadsheet with multiple rows and columns. But the on-line application process did not allow this spreadsheet to be uploaded. It took many hours to input the data because of the variety of form entry and quality control criteria.

It would also be useful to improve the service area mapping process. Even when an applicant chose to use county boundaries for the last mile service areas, the mapping program required the applicant to spend hours tracing the county boundaries. There are many sources of publicly-available maps – for counties, cities, states, census-designated communities, census blocks and even geographic information systems (GIS) shapefiles. It would eliminate much of the burden on applicants if this publicly available mapping information could be built into the on-line application process. In addition, the household counts, population and total square miles could be automatically populated by the program, rather than requiring each applicant to re-create the same information.

IV. Conclusion

We appreciate the enormity of the task faced by NTIA and RUS in designing such a complicated application process in such a short amount of time. To their credit, NTIA and RUS recognized some of these difficulties and tried to address them as best they could by extending the deadline for filing the application and by adding additional servers to handle the documents. We note the problems above not to criticize but to assist NTIA and RUS as they consider how to improve the application process for the second and third rounds of funding.

The SHLB Coalition respectfully asks that applications to construct broadband networks dedicated to anchor institutions should not be linked to the “unserved/underserved” requirements that apply to residential consumers. Allowing anchor institutions in urban, suburban and rural areas to apply for infrastructure funding on their own (without requiring them to show that they serve unserved/underserved residential areas) will eliminate many of the burdens of collecting, analyzing and filing information about residential consumers that should be irrelevant to evaluating the needs of schools, health care providers and libraries for high-capacity broadband connections to serve their communities.

Funding anchor institution networks will bring very high-capacity, future-proof facilities into **every community in the country**. We urge the government to restore the priority for funding anchor institution broadband networks in all areas of the country as was established by Congress in the ARRA. Funding such capacity will have enormous economic and social benefits for the entire nation.

Sincerely,

A handwritten signature in black ink that reads "John Windhausen, Jr." The signature is written in a cursive style with a small flourish at the end.

John Windhausen, Jr.

Coordinator

Schools, Health and Libraries Broadband Coalition

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CC: Larry Strickling
Tom Power
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APPENDIX A:

MEMBERS OF THE SCHOOLS, HEALTH AND LIBRARIES BROADBAND COALITION: (49 Members - Updated as of August 31, 2009)

Sean McLaughlin
Access Humboldt

Joel Kelsey
Consumer's Union

George Boggs
American Association of Community Colleges

Gene Wilhoit
Council of Chief State School Officers

Mary Alice Baish
American Association of Law Libraries

Lillian Kellogg
Education Networks of America

Kristin Welsh
American Hospital Association

Wendy Wigen
EDUCAUSE

Lynne Bradley
American Library Association

Phil Halstead
Florida Lambda Rail

Prue Adler
Association of Research Libraries (ARL)

Ben Scott
Free Press

Shmuel Feld
Benton Foundation

H. Stephen Lieber
**Healthcare information and Management
Systems Society (HIMSS)**

Jill Nishi
Bill & Melinda Gates Foundation

Rick Whitt
Google Inc.

Malkia Cyril
Center for Media Justice

Hilary Goldmann
**International Society for Technology in
Education**

Dee Davis
Center for Rural Strategies

Susan McVey
Chief Officers of State Library Agencies

Marianne Chitwood
Indiana's Higher Education Network (I-Light)

Don Means
Community Telestructure Initiative

Chris Mullins
Instructional Telecommunications Council

Keith Krueger
Consortium for School Networking

Gary Bachula
Internet2

Bob Handell
KeyOn Communications

Mike Phillips
Lonestar Education and Research Network

Amalia Deloney
Main Street Project

Andrew J. Schwartzman
Media Access Project

Beth McConnell
Media and Democracy Coalition

Todd Wolfson
Media Mobilizing Project

Don Welch
Merit Network, Inc.

Paula Boyd
Microsoft

Helen DiMichiel
National Alliance for Media, Arts and Culture

Alex Nogales
National Hispanic Media Coalition

Tom West
National Lambda Rail (NLR)

Steve Solomon
National Medical Wireless Broadband Alliance, LLC.

Alan Morgan
National Rural Health Association

Michael Calabrese
New America Foundation

Tim Lance
New York State Education and Research Network (NYSERNet)

Joe Freddoso
North Carolina Research and Education Network

George Loftus
Ocean State Higher Education & Administrative Network (OSHEAN)

Harold Feld
Public Knowledge

Jen Leasure
The Quilt

Brian Quigley
Sunesys

Deanne Cuellar
Texas Media Empowerment Project

John Reynolds
21st Century Libraries

Susan Benton
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