

S. HRG. 111-509

**OVERSIGHT OF THE BROADBAND STIMULUS
PROGRAMS IN THE AMERICAN RECOVERY
AND REINVESTMENT ACT**

HEARING

BEFORE THE

**COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE**

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

OCTOBER 27, 2009

Printed for the use of the Committee on Commerce, Science, and Transportation



U.S. GOVERNMENT PRINTING OFFICE

55-984 PDF

WASHINGTON : 2010

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

JOHN D. ROCKEFELLER IV, West Virginia, *Chairman*

DANIEL K. INOUE, Hawaii	KAY BAILEY HUTCHISON, Texas, <i>Ranking</i>
JOHN F. KERRY, Massachusetts	OLYMPIA J. SNOWE, Maine
BYRON L. DORGAN, North Dakota	JOHN ENSIGN, Nevada
BARBARA BOXER, California	JIM DEMINT, South Carolina
BILL NELSON, Florida	JOHN THUNE, South Dakota
MARIA CANTWELL, Washington	ROGER F. WICKER, Mississippi
FRANK R. LAUTENBERG, New Jersey	GEORGE S. LEMIEUX, Florida
MARK PRYOR, Arkansas	JOHNNY ISAKSON, Georgia
CLAIRE McCASKILL, Missouri	DAVID VITTER, Louisiana
AMY KLOBUCHAR, Minnesota	SAM BROWNBACK, Kansas
TOM UDALL, New Mexico	MIKE JOHANNIS, Nebraska
MARK WARNER, Virginia	
MARK BEGICH, Alaska	

ELLEN L. DONESKI, *Staff Director*

JAMES REID, *Deputy Staff Director*

BRUCE H. ANDREWS, *General Counsel*

ANN BEGEMAN, *Acting Republican Staff Director*

BRIAN M. HENDRICKS, *Republican Chief Counsel*

CONTENTS

	Page
Hearing held on October 27, 2009	1
Statement of Senator Rockefeller	1
Statement of Senator Hutchison	2
Prepared statement	3
Statement of Senator Kerry	4
Statement of Senator LeMieux	6
Statement of Senator Pryor	36
Statement of Senator McCaskill	40
Statement of Senator Ensign	42
Prepared statement	44
Statement of Senator Klobuchar	45

WITNESSES

Hon. Lawrence E. Strickling, Assistant Secretary, Communications and Information, National Telecommunications and Information Administration, U.S. Department of Commerce	7
Prepared statement	10
Hon. Jonathan Adelstein, Administrator, Rural Utilities Service, USDA Rural Development	13
Prepared statement	15
Mark Goldstein, Director, Physical Infrastructure Issues, U.S. Government Accountability Office	20
Prepared statement	21

APPENDIX

Response to written questions submitted to Hon. Lawrence E. Strickling by:	
Hon. John D. Rockefeller IV	53
Hon. John Kerry	55
Hon. Barbara Boxer	57
Hon. Maria Cantwell	59
Hon. Mark Pryor	62
Hon. Frank R. Lautenberg	63
Hon. Tom Udall	64
Hon. Mark Warner	67
Hon. Mark Begich	68
Hon. John Ensign	73
Hon. Jim DeMint	74
Hon. David Vitter	75
Response to written questions submitted to Hon. Jonathan Adelstein by:	
Hon. John D. Rockefeller IV	76
Hon. Mark Pryor	77
Hon. Frank R. Lautenberg	79
Hon. Tom Udall	80
Hon. Mark Begich	84
Written questions submitted to Mark Goldstein by:	
Hon. Mark Warner	86
Hon. Mark Begich	86

**OVERSIGHT OF THE BROADBAND STIMULUS
PROGRAMS IN THE AMERICAN RECOVERY
AND REINVESTMENT ACT**

TUESDAY, OCTOBER 27, 2009

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 2:55 p.m. in room SR-253, Russell Senate Office Building, Hon. John D. Rockefeller IV, Chairman of the Committee, presiding.

**OPENING STATEMENT OF HON. JOHN D. ROCKEFELLER IV,
U.S. SENATOR FROM WEST VIRGINIA**

The CHAIRMAN. This hearing will come to order.

And I apologize for my lateness. We had a variety of things going on—nominees, a lot of Commerce nominees who had been through the process, but which had been held up, but we got a lot of them through, and that's important.

But, this is a hearing on the oversight of the Broadband Stimulus Program in the Recovery Act, and it's an important one. Broadband can help us reinvigorate our economy. Without broadband, we won't have an economy. With the networks that we could produce, if we would, we can change education, we can change the way people think about the way they look at the world, the way they look at each other, interracial matters, the world at large. They're all available if we have broadband; and if we use it properly, we can learn how to be civil to each other, which would be a shock, but which would be very good for America. But, these are all good things, and that's why I've fought to make sure that broadband was included in the Recovery Act. I think sometimes it pays to be tenacious. In this case, Jonathan, you'll have to forgive me—I wasn't quite tenacious enough, because I really wanted all that broadband money to go to NTIA. And a certain Midwestern Senator, who is on Appropriations, and I was not, changed that. But, I care about you a great deal.

[Laughter.]

The CHAIRMAN. So, we tasked the Federal Communications Commission with drafting a plan to help crisscross the country with high-speed lines and deliver broadband across inner cities and mystical places in East Texas and southern West Virginia and—Do you have any mystical places?

Senator KERRY. Absolutely. Western Mass.

[Laughter.]

The CHAIRMAN. Yes, that's true.

I think the whole focus brought new energy to our Nation's broadband challenge. All of a sudden there was money to be spent. I believe the law sets us on the right road, but, make no mistake, if we want these programs to succeed, the NTIA and RUS and the FCC must address critical challenges ahead. And it's going to be very hard for them to do that. And that's what this is about.

First, we have the Broadband Technologies Opportunity Program at the NTIA. This is an extraordinary undertaking. It's a good one. That's about a \$4.7-billion allocation. It's high, but the rules governing it are very complex. Subject of our hearing: complex rules. I believe that, to be fair to applicants, we need to find a way to simplify the process, going forward. And so do you. I know you all do.

Second, we have the Broadband Initiatives Program as RUS. The inspector general at the Agriculture Department has criticized broadband programs at RUS in the past. And there are lingering doubts, as I guess I indicated, in the minds of some, that the Agriculture Department is the right place to be locating a broadband policy in the first place. But, Jonathan, you give us hope. So, it's our job, and the job of the new administrator of RUS to prove that these critics are wrong. And I'm sure that you will be up to the task.

Third, and finally, we have the National Broadband Plan in development at the FCC. This is not the subject of our stimulus focus hearing today but, it is vitally important, so let me say a few words about it. I want to see concrete action on the day the plan is delivered, because I believe we need real broadband solutions for real people, and we need them now. A mere menu of options for the FCC and the Congress, with far-off timeframes, isn't going to cut it. Furthermore, it's the agency's responsibility to use this plan to address the detail—in detail, the thorny issues, like universal service, that the FCC has dodged for too long, but can no longer.

And finally, some thoughts need to be given to how this plan can be harmonized between the NTIA and the RUS stimulus programs. And that will hard. Turf battles, things of that sort.

In short, before us today we are charged with making the stimulus program a success.

So, I thank all of you for your service. And I guarantee you the American people are looking forward to the process.

Senator Hutchison.

**STATEMENT OF HON. KAY BAILEY HUTCHISON,
U.S. SENATOR FROM TEXAS**

Senator HUTCHISON. Thank you, Mr. Chairman.

Let me say that this has been a very important priority for me, as well. I am concerned about having broadband throughout our country, and the priorities that we would put on the use of money that has been allocated for it. But, I do think it is such an important thing that we try to accomplish, and that is—the availability of distance learning for education, and also healthcare in rural areas, are the two major reasons that I think we need to pursue this. However, the estimates are that to solve the problem completely will cost about \$300 billion. And that is certainly something

that I don't think we can accomplish reasonably in the public sector. And that's why I introduced another bill, the Connecting America Act, that would give tax incentives for private companies to go into unserved areas and make continuing investments in existing facilities so that it wouldn't be a completely public burden to do the expansion of broadband.

The \$7 billion that was in the stimulus package now, I think, is in your hands, and we are responsible for oversight in that area. It's very hard, I think, to target funds to areas that need infrastructure without good data, and we don't have the full mapping plan yet for where we need to have it, where the priorities ought to be, because, for example, we don't have any service whatsoever, versus areas that may be underserved. And one of the things that I think is highly required here is that unserved areas go first, before underserved areas, if we're going to get the benefits for education and rural healthcare.

I'm concerned about some of the things that we have heard about putting volunteers into vetting the grant requests, and I'd like to—I will ask you to address that issue, and how we're sure that we have people with the knowledge to be able to determine where the grants ought to go. And also, the fact that the funding goes until probably 2012 or 2013, but the funding for oversight stops next year. So, I'm concerned that our oversight has not been well thought out, either.

So, these are some of the questions that I hope you will answer and I will look forward to hearing from you as we proceed, because if we don't use this money wisely, it will be certainly a waste of our resources, but also the waste of an opportunity to do something really important for our country.

Thank you very much.

Thank you, Mr. Chairman.

[The prepared statement of Senator Hutchison follows:]

PREPARED STATEMENT OF HON. KAY BAILEY HUTCHISON, U.S. SENATOR FROM TEXAS

Thank you, Mr. Chairman, for holding this important oversight hearing. I believe we all share the common goal of encouraging the development of broadband communications in areas of the country that continue to lack access. Texas is almost 80 percent rural, and I worry about the lack of access to broadband in many communities across my state.

The technology has a truly transformative capability. We can dramatically expand the availability of distance learning to improve educational opportunities, and increase the quality of rural health care delivery through telemedicine, including remote diagnostic services made possible through the sharing of detailed medical imaging across broadband facilities.

In short, we can bring a world of information to every child regardless of where they live, and guarantee that geography is not a barrier to receiving the best health care available. We can, and must, do more to close the gap on broadband access.

Tackling this issue will require that we find a way to meaningfully engage the private sector through incentives that will draw investment into unserved and underserved areas. This problem is simply too large to solve with public funding, Mr. Chairman. Estimates suggest it could cost as much as \$300 billion to ensure universal access to broadband.

That is why earlier this year, I introduced the Connecting America Act. This bill would provide tax incentives for private companies to invest in unserved areas and to make continuing investments in existing facilities to improve both capacity and capability of our broadband networks.

The bill also includes new authority for localities to offer broadband bonds to raise money for the design and construction of facilities if they are unserved. Local gov-

ernments would decide in consultation with private companies the infrastructure that best meets the needs of the homes and businesses in that area.

So, while we are here today to look at two Federal programs to encourage broadband construction and adoption, I hope that we will not forget that the private sector is a critical component of closing the access gap.

With respect to the publicly funded efforts to close the access gap, the Stimulus bill passed earlier this year includes more than \$7 billion in taxpayer money for grants and loans to further this purpose. That is a significant amount of money, and we need to make certain it is being spent effectively and that there are appropriate safeguards against waste, fraud and abuse in place.

I had significant concerns during the Stimulus debate about moving quickly to deploy public funds before the FCC completes its report to us on a national broadband plan, and before completing national broadband mapping efforts. It is extremely difficult to target funds to areas that need infrastructure without good data.

Since adoption of the Stimulus bill, I have consistently called on these two agencies to prioritize funding to areas that are completely unserved over areas that some feel are underserved. There are signs that the predictable challenges presented by the lack of good data are complicating efforts to confirm whether an area contained in an application for funding already has service. It is my hope that we can discuss these challenges today and implement safeguards before funding goes out.

If communities remain totally unserved after this effort, and we later discover that some of the funding went to projects in areas where service was already robustly available, I think we will have missed an important opportunity!

There are also concerns about plans for post-grant oversight by the agencies. I believe that it is critical that members of this committee understand the staffing levels and plans at both agencies here today to guarantee that projects they approve are completed on time, on budget, and in a way that ensures that the infrastructure remains viable for years to come.

Many of the projects funded through these programs will not be completed until 2012 or 2013, so it is important that we know the plans both agencies have in place to provide this crucial oversight to deter waste, fraud and abuse, and to verify that all of the projects are completed.

Based on what I have heard to date, I am deeply concerned that the oversight plans are inadequate. I look forward to Mr. Strickling and Mr. Adelstein detailing for us how they will address these issues, and to the recommendations of GAO on additional steps we can take to guarantee that we maximize the effectiveness of the money we committed to this effort.

Mr. Chairman, thank you again for holding this hearing.

The CHAIRMAN. Thank you, Senator Hutchison.
Senator Kerry.

**STATEMENT OF HON. JOHN F. KERRY,
U.S. SENATOR FROM MASSACHUSETTS**

Senator KERRY. Thank you, Mr. Chairman.

I was busy asking the staff, just trying to remind myself—I remember, back in 2004, President Bush promised that the United States was going to commit to this and that—the Administration would—and that we were going to get all of America access to broadband. Since then, I mean, we've gone from 4th in the world down to 15th or 16th, depending on whose measure it is. And obviously that's simply unacceptable, for reasons I want to talk about in a minute.

But, before I do, Mr. Chairman, I really want to thank you. You know, I remember sitting here in this committee when you and I probably sat way down there, I think it was, but for a long time, you have made tireless efforts to bring broadband, particularly, to rural America—to schools and to anchor institutions. And I remember your championing the E-Rate, which was so important to our ability to begin to do all of that. And you had the foresight to encourage broadband access and deployment long before it became, sort of, the core component of our political dialogue.

So, I want to make it clear, I do not believe we'd be in the position we are in today if it hadn't been for your efforts, and I thank you for championing that.

People—you know, we hear a lot of talk about the transformative power of broadband, and often it's put in the context—or it used to be, at least—when we began this discussion on this committee, it was in the context of access to information, shopping, social networks, all those things that broadband provides. And all of those are true. They're a part of it. But, as the Internet has matured, even to our position as 15th or 16th in the world, which is unacceptable, what was once a novelty is now an economic and fundamental necessity. And so, today broadband means educational tools. It means job opportunities. It means government services. It means healthcare, telemedicine. And those without that access are now in the minority, and they are at risk of being, frankly, second-class citizens as a consequence of that.

It's also discriminatory, incidentally. You know, the studies indicate that 78 percent of students regularly use the Internet for classroom work. Seventy-seven percent of Fortune 500 companies accept applications for jobs only online. So, if you don't have that access, or you don't know that—and most people who don't have access to broadband don't know that—you're out of luck.

More and more government services are being provided online. That means that children of families without broadband are at a disadvantage in school. Qualified workers lose access to jobs. Laborers are forced to take time off from work in order to go wait in the government office line in order to get what other people can get online.

And so, if you look at who those people are without broadband—no surprise, folks, in America—many are low-income households, the elderly, and those living in rural communities. According to an FCC presentation last month, only 35 percent of households with incomes less than \$20,000 use broadband service, compared to a nationwide average of 63 percent. So, those statistics and those realities really come home to roost.

In Boston, Mayor Tom Menino has developed a very ambitious and greatly needed Digital Inclusion Initiative in order to help increase access to broadband for the city's lowest-income neighborhoods. And that's well and good, and it's helpful, but it hasn't been able to, you know, do all we'd like to do. The Open Cape Corporation, from Cape Cod, has also put together a proposal to bring the next generation of broadband infrastructure to southeastern Massachusetts. And these are great examples of how the BTOP Program can help expand opportunity, improve public safety, and create jobs.

Now, the fact is that in the American Recovery Reinvestment Act, we recognized the need to promote equal access and opportunity for all Americans, no matter where you live. And, in particular, the BTOP, the Broadband Technology Opportunity Program, prioritized two categories of recipients—public computing centers and sustainable broadband adoption projects—as key to guaranteeing that no one is left behind.

Now, the public computing centers, such as libraries and schools, provide broad access for a lot of community members, many of

whom obviously would lack service without them. And these centers act as anchor tenants by bringing basic infrastructure to underserved areas. Once that infrastructure exists, then the cost of extending broadband service to the surrounding community comes down.

But, infrastructure is not enough. And adoption programs are critical to preventing the creation of a digital underclass. I don't think any child—I don't think anybody in this committee believes that any child's education ought to suffer because their parents can't afford broadband. And no worker ought to lose access to a job because they don't know how to apply online, or don't have the ability to.

So, in implementing this program, gentlemen, I am concerned—I think the Committee, and I know the Chairman is concerned—that the NTIA did not adequately prioritize grants to public computing centers and adoption projects. And I hope that in the next round of applications, we're going to dedicate greater resources to adoption programs, as well as recognize the community anchor institutions as priority recipients, consistent with the Recovery Act.

And finally, I'd be remiss if I didn't mention that the—the FCC's National Broadband Initiative. \$7.2 billion is a large amount of money, but it's not, compared to what Franklin Roosevelt did when he decided America had to have electricity and we put, back in the 1930s, about \$5 billion—you can do the math; it's somewhere in the 20, 30, 40 right now—in order to guarantee that people have access to something that becomes a fundamental necessity to sort of share a life on an equal basis in America in terms of access to the economy. I mean, we all understand there are—there are God-given and birth differentials. But, beyond those, we have an ability, as a government, to make some difference when we make choices, and this is one of those choices.

So, these are the things that I think we need to do. And I'm hopeful that the FCC plan is going to include self-executing steps to expeditiously make good on the promise of broadband to consumers across the country. I think our GDP will go up. I think our unemployment will go down. I think we will increase our sales in certain products. And we will expand opportunities significantly. And in the end, it will probably wind up returning far more than the cost, in terms of revenue to our country. So, we ought to get smart and make it happen.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Kerry.

In that we are a fair and balanced full committee, there will be two Democrats and two Republicans who speak. And Senator Thune came in just a bit too late.

[Laughter.]

The CHAIRMAN. So, Senator LeMieux is recognized.

**STATEMENT OF HON. GEORGE S. LEMIEUX,
U.S. SENATOR FROM FLORIDA**

Senator LEMIEUX. Thank you, Mr. Chairman. Thank you for having this important hearing on broadband deployment programs funded by the American Recovery and Reinvestment Act.

The \$7.2 billion in funding for these efforts dwarfs previous government efforts to expand broadband development to rural and underserved areas of the country. While these investments are certainly welcome to communities in Florida and across the nation, such a massive increase in funding brings with it a host of challenges. The agencies responsible for administering the programs must dramatically ramp up their efforts to ensure both timely and appropriate award of these funds. I will be interested to hear today how much you have spent and how much the progress of implementation has occurred.

Also, with such a large investment of taxpayer money, it is critical that those responsible for execution do all they can to avoid potentials for waste and fraud and abuse.

Additionally, it has been reported that many of the larger companies involved in broadband deployment commercially have not opted to participate in the programs due to some of the programs requirements, that these companies who are most involved in deploying broadband are not interested is interesting to me, and I will be looking forward to hearing from you on—your thoughts on why they have chosen not to participate.

I also have a letter here, dated October 14, 2009, from Don Winstead, who's the special advisor to the Governor in Florida, that I'd like to talk to you about, about some of the challenges and frustrations they're having in the implementation of this process.

But, again, Mr. Chairman, thank you for holding this important hearing, and look forward to the testimony of the witnesses.

The CHAIRMAN. Thank you, Senator.

And we go now immediately to the NTIA Administrator, Mr. Strickling.

STATEMENT OF HON. LAWRENCE E. STRICKLING, ASSISTANT SECRETARY, COMMUNICATIONS AND INFORMATION, NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

Mr. STRICKLING. Thank you, Chairman Rockefeller.

Members of the Committee, thank you for your invitation to testify today on behalf of the NTIA on the implementation of our Broadband Technology Opportunities Program, as well as the development of the National Broadband Map, as set forth in the Recovery Act. I thank the Committee for the leadership it has shown in this area and I welcome the opportunity to testify this afternoon, with the hope that we can engage in a productive dialogue and collaboration on our shared priorities of, first, fostering innovation and growth, and second, ensuring that all of our citizens are able to participate in today's information age.

I'm very pleased to appear here today with Jonathan Adelstein, who oversees the Broadband Initiatives Program at the U.S. Department of Agriculture. Our two agencies have worked hand-in-hand to implement the broadband provisions of the Recovery Act. And the result has been a highly coordinated and well thought out approach that has taken advantage of the individual expertise of each agency. Mr. Chairman, I assure you there have been no turf battles as we have worked together to put our programs together.

I'd also like to acknowledge Mark Goldstein and the work that the Government Accountability Office has performed with respect to our programs. We are working closely and cooperating fully with all of the inquiries from the GAO, as well as those from our Inspector General at the Department of Commerce. We appreciate the input that GAO and our Inspector General have provided to ensure that our program is managed fairly and effectively and that we distribute the grant funds in the most efficient and impactful way possible and with minimal risk of waste, fraud, and abuse.

Our agencies have received an extraordinary response to our initial round of funding, and we look forward to the challenge of awarding grants to a diverse set of grant recipients. I want to assure you today that these funds will be well spent. And with these funds, I am confident that America will take a significant step forward to achieve President Obama's vision of bringing the benefits of broadband to all citizens.

The President's Innovation Plan, announced in September, makes clear that the foundation for durable and sustainable economic growth must be innovation and investment. A key component of the President's plan is to invest in the building blocks of innovation, specifically including development of an advanced telecommunications ecosystem. The Recovery Act and its \$7 billion for broadband grants directly supports that initiative.

Today, we're in the thick of reviewing the initial applications we received in late August for our first round of funding. Between our two agencies, we received over 2200 applications, requesting nearly \$28 billion in funding, seven times the funding we had made available in the first round. We received at least one application for every State, territory, and the District of Columbia.

In our process, the applications are first reviewed by a panel of three independent experts. Those scoring the highest are being moved into our due diligence review, where NTIA staff, assisted by experts from our contractor, Booz Allen, perform a top-to-bottom review of all aspects of the applications.

We are finding that our applications, particularly those for infrastructure projects, are very complex. In addition, our review is taking into consideration the recommendations each state has submitted on the applications proposed for the State. And we are also going to need to factor in the responses, due tomorrow, from service providers as to whether the proposed service areas for infrastructure projects meet our definitions of unserved or underserved.

We want and need to provide full and fair consideration to our pool of applications. Given the large number of complex applications and the voluminous amount of information that we need to review, we have decided to expand our review period, and we are now targeting our first grant awards for mid-December, about a month later than we originally projected last July, when we announced the first round of funding.

Similarly, we will not conclude the first round of funding at the end of this year, as we had originally hoped. But, we expect to do so in February of next year.

I am confident that by expanding our first-round review period, we will maximize the significant and lasting improvements in

America's technological innovation and economic health promised by our program.

As we review the pool of applications, we are devoting substantial time and attention to determining how we can apply the Recovery Act funds to have the greatest impact in a number of dimensions: job creation, the expansion of infrastructure into unserved and underserved areas, the number of people subscribing or getting access to broadband, and the immediate and sustainable economic benefits of funding.

As we compare the different types of projects that have been proposed, we are starting to focus on what we call a "comprehensive communities approach" as the type of project that offers the greatest benefits per dollar spent. The paradigm for a comprehensive communities proposal is a middle-mile project that links the key anchor institutions in one or more unserved or underserved communities. And by "anchor institutions," I mean schools, community colleges, libraries, hospitals, government facilities.

The ideal project would also include commitments by providers of end-user services to use this new infrastructure, which is an open platform, to offer broadband services to end-users throughout these communities.

We also think that public-private partnerships may offer the greatest potential for the ultimate success of projects. The involvement of public entities ensures that the needs of communities are met. And the participation of qualified and experienced private companies gives us great confidence that the budget numbers and financial assumptions are reasonable and that the project is sustainable for the long term. We will continue to test these assumptions as we review our applications and select the best ones for funding.

But, even in the middle of all this activity to review our current applications, we're constantly thinking about ways we can improve the program. We are working with RUS to complete a request for information to collect input from the public as to how to improve the program in the second round, and we welcome your input, today and in the days to come, as we complete that evaluation. With this RFI, we will ask for suggestions as to how we can improve the application process and for comments on some of the key program definitions.

I would just like to take a second and update the Committee on our progress in developing the National Broadband Map. Under our Mapping Grant Program, for which Congress appropriated \$350 million, our plan is to award a broadband mapping grant to every state and territory, provided each applicant can demonstrate that it will collect and verify broadband data in accordance with the standards we've set.

We have now awarded eight grants, totaling over \$14 million, under this program to States, including Indiana, North Carolina, West Virginia, Arkansas and Vermont, as well as California, New York, and the District of Columbia.

In addition, we're in the final stages of awarding additional grants to be announced next week, and we will continue to announce these awards on a rolling basis.

One improvement we've already made to this program is to limit our funding to 2 years instead of the 5 years originally planned. This approach will allow us to conduct a complete program review next spring, after the States supply us their initial submissions, and in that review we will assess lessons learned, determine best practices, and investigate opportunities for improved data collection prior to awarding funds for subsequent years. At the end of the day, though, we will meet our goal and the statutory obligation to complete and publish this map on or before February 2011.

In closing, NTIA is working extremely hard to ensure that the broadband projects funded by the Recovery Act and the broadband mapping information developed by the Mapping Grant Program will serve as valuable inputs to our long-term broadband strategy.

I look forward to working with all of you in the months ahead to ensure that the Nation's policies benefit our communications and information industries and American consumers.

So, thank you for the opportunity to testify today. And I look forward to your questions.

[The prepared statement of Mr. Strickling follows:]

PREPARED STATEMENT OF HON. LAWRENCE E. STRICKLING, ASSISTANT SECRETARY,
COMMUNICATIONS AND INFORMATION, NATIONAL TELECOMMUNICATIONS AND
INFORMATION ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

I. Introduction

Chairman Rockefeller, Ranking Member Hutchison, and members of the Committee, thank you for your invitation to testify on behalf of the National Telecommunications and Information Administration (NTIA) on the implementation of the Broadband Technology Opportunities Program (BTOP) and the development of the national broadband map as set forth in the American Recovery and Reinvestment Act (Recovery Act).

I am pleased to be here today with Jonathan Adelstein, the new Administrator of the U.S. Department of Agriculture's Rural Utilities Program (RUS), which administers BTOP's sister project, the Broadband Initiatives Program (BIP). Our two agencies have worked together closely to implement the broadband provisions of the Recovery Act to ensure a well-coordinated and thoughtful approach that takes advantage of the individual expertise of each agency.

I also want to thank the Committee for its leadership on broadband policy, especially for your work to help enact the Recovery Act and Broadband Data Improvement Act. This Committee has a long history of furthering the Nation's economic activity and overseeing the infrastructure necessary for the Nation's commerce—whether in aviation or seaports, railroads or highways. The Recovery Act's broadband initiatives, crafted by Congress earlier this year, are the modern version of these past successes. These initiatives will not solve all of America's broadband challenges, but they will allow us to take significant steps in bringing the benefits of broadband throughout America.

I assure you these Recovery Act funds will be money well spent. Just as investments in transportation infrastructure supported the development of the national highway system, these investments will serve as valuable building blocks for future private investment that will ultimately deliver the promise of truly ubiquitous broadband. At NTIA, we will target Recovery Act funds to the areas of the country that need them the most. In doing so, we want to make broadband more widely available, especially to community anchor institutions, such as hospitals, schools, and libraries. In short, I believe that we can leverage these programs into significant and lasting improvements in America's broadband deployment, technological innovation, and economic health.

As directed by Congress, NTIA is implementing BTOP in line with several critical goals. First, reduce the broadband gap in America, focusing in particular on ensuring that unserved and underserved areas—whether rural or urban—have access to modern communications services and the benefits those services offer for education, high-value jobs, quality health care and more.

Second, bring the maximum broadband benefits possible to our community anchor institutions, such as schools, libraries, community centers, and medical centers.

Third, improve broadband service for public safety users, whose ability to access modern communications services is of vital importance in their role as first responders.

Fourth, help stimulate broadband demand, economic growth, and job creation. Broadband has a transformative power to generate growth across many sectors of the economy, improve America's overall competitiveness, and contribute to solving some of our Nation's most pressing problems. Our challenge is to award high-quality grants that will have measurable impacts on broadband availability and adoption in a time-frame that maximizes the usefulness of these dollars to help the Nation recover from the recession.

Additionally, NTIA will develop a publicly accessible and regularly updated national broadband map. This map will serve to educate consumers and businesses about broadband availability, enable broadband providers and investors to make better-informed decisions regarding the use of their private capital, and allow Federal, State, and local policy-makers to make more data-driven decisions on behalf of their constituents.

My testimony today will begin with a snapshot of the first round applications we have received. I will then briefly describe our review process for the first round and will conclude my testimony by discussing what is ahead for BTOP and the Broadband Mapping Program and by identifying a few issues and challenges I see on the horizon for NTIA in the coming months.

II. Overview of First Round Broadband Applications Received

The level of interest shown by applicants in the first round of BTOP and BIP funding has been extraordinary. We received almost 2,200 applications requesting nearly \$28 billion in funding for proposed broadband projects reaching all 50 U.S. states, five territories, and the District of Columbia. When including about \$10.5 billion in matching funds committed by the applicants, these applications represent more than \$38 billion in proposed broadband projects. The fact that applicants requested nearly seven times the total amount of funding available in this initial round of broadband funding underscores the interest for expanded access to broadband service throughout the country.

Applications came in from a diverse range of parties including state, tribal and local governments; nonprofits; industry; small businesses; anchor institutions, such as libraries, universities, community colleges, and hospitals; public safety organizations; and other entities in rural, suburban, and urban areas. As I mentioned, applicants proposed over \$10 billion in matching funds. The Recovery Act requires BTOP applicants to commit matching funds equal to at least 20 percent of the value of the project, but in the aggregate, applicants' proposed matches actually exceeded 25 percent of the value of all projects, meaning that the Recovery Act is already stimulating private sector interest and investment beyond the statutory baseline minimum.

A review of the first round applications also supports NTIA's and RUS's decision to implement our respective Recovery Act broadband initiatives in a coordinated fashion, and underscores the success of those joint efforts in both educating the public about BTOP and BIP and establishing rules and intake mechanisms that encourage diverse and broad-based participation.

One result of our collaboration was the decision to allow applicants in rural areas to apply for funding simultaneously under both RUS's BIP and under NTIA's BTOP, although pursuant to the Recovery Act, projects will only be funded in a single agency. Parties submitted more than 830 applications jointly, requesting nearly \$12.8 billion in infrastructure funding. A rural applicant who is not awarded funding by BIP remains eligible for BTOP funding without needing to refile.

NTIA received an additional 260 infrastructure applications that were filed solely with the BTOP program, requesting over \$5.4 billion in grants to fund broadband infrastructure projects in unserved and underserved areas. In addition, parties filed more than 320 applications with NTIA requesting nearly \$2.5 billion in grants from BTOP for innovative projects that promote sustainable demand for broadband services, including projects to provide broadband education, access, equipment or support, particularly among vulnerable population groups where broadband technology has traditionally been underutilized. Parties submitted more than 360 applications with NTIA requesting more than \$1.9 billion in grants from BTOP for public computer center projects, which will expand access to broadband service and enhance broadband capacity at public libraries, community colleges, and other institutions that provide the benefits of broadband to the general public or specific vulnerable populations. NTIA and RUS posted online—at www.broadbandusa.gov—a searchable database containing descriptions of all applications received, as well as maps

of the geographic areas of coverage proposed by applicants in the first funding round.

Having received nearly 2,200 applications in our first funding round, we are now fully engaged in reviewing these applications to determine which best meet the goals of the Recovery Act. In this phase, at least three expert reviewers are evaluating each application against established criteria, including the proposed project's purpose, benefits, viability, budget, and sustainability. Those applications considered the most highly qualified in this review phase advance for further "due diligence" consideration.

Each state, territory, and tribal government has been given the opportunity to prioritize and comment on the applications relevant to its jurisdiction, and I am pleased that every state has provided NTIA with its input. NTIA, like the Recovery Act, recognizes that state, territorial, and tribal officials have a unique perspective on broadband needs within their jurisdictions; we welcome and appreciate the effort and thought they have put into their admissions.

As applications qualify for the due diligence phase, applicants then submit supplementary information to NTIA as necessary to substantiate representations made in their applications. NTIA staff reviews and analyzes this supplemental information. I will make the final selections of BTOP awards, consistent with the statutory directives established by Congress in the Recovery Act.

III. Broadband Mapping

I also welcome the opportunity to discuss NTIA's State Broadband Data and Development Grant Program, commonly referred to as NTIA's Broadband Mapping Program. The Broadband Mapping Program, also funded by the Recovery Act, will increase broadband access and adoption over the long haul through better data collection and broadband planning. This is an unprecedented effort to collect data on broadband deployment in the United States, which will culminate in the creation of a national broadband map.

I am pleased that we have received broadband mapping application packages from every state, territory, and the District of Columbia, meaning that all governments that were eligible to apply for grants did so, whether directly or through a designated entity. These 56 applicants to the Broadband Mapping Program requested a total of approximately \$100 million in grant awards to fund broadband mapping projects and \$26 million to fund broadband planning projects. Unlike BTOP's multiple round approach, only a single, state-designated entity per state or territory is eligible to receive a grant, which helps guarantee that the projects will benefit from significant state involvement and oversight. As with BTOP, applications for broadband mapping grants also are being evaluated by at least three expert technical reviewers, with program staff performing a second review of the application.

NTIA is funding the state mapping and data collection efforts for a two-year period as opposed to the five-year period as originally contemplated. This approach will allow NTIA to assess lessons learned, determine best practices, and investigate opportunities for improved data collection methods prior to awarding funds for subsequent years. NTIA recently signed an agreement with the FCC through which the Commission will provide technical and other services needed to develop the national broadband map. As you know, the Recovery Act requires NTIA to make the national broadband map available to the public February 17, 2011.

Earlier this month, NTIA awarded the first four grants under this program to fund mapping activities in California, Indiana, North Carolina, and Vermont. Specifically, NTIA awarded \$1.8 million to the California Public Utilities Commission (CPUC); \$1.3 million to the Indiana Office of Technology (IOT); \$1.6 million to the Rural Economic Development Center, Inc. (e-NC Authority); and \$1.2 million to the Vermont Center for Geographic Information (VCGI) to collect and verify the availability, speed, and location of broadband across the states of California, Indiana, North Carolina, and Vermont, respectively.

Today, I am pleased to announce that NTIA is awarding four additional grants to fund broadband mapping and planning activities in West Virginia, Arkansas, New York, and the District of Columbia. We will continue to announce awards on a rolling basis throughout the fall.

We hope to provide a broadband mapping grant to every program applicant. If necessary, NTIA is working with applicants to revise and refine project proposals such that each proposal meets the program's standards. We will continue to award grants to other states as they improve and refine their applications to bring them up to our quality standards. The timing of subsequent award announcements will depend on the quality of the applications and the necessary amount of revision and refinement.

We aim to leverage the information gathered by this mapping program to make data-driven decisions on BTOP grants. We will have the first grantees' substantially complete broadband mapping data by February 2010, and we will complete a comprehensive, interactive national broadband map by February 17, 2011, as directed by the statute.

IV. Next Funding Round

As we prepare for the next funding round, the first task is to evaluate how the first round has worked. NTIA and RUS are finalizing a new request for information that will help us shape the Round Two process. The request for information will solicit the public's views on how the first round worked for applicants and what changes and clarifications should be made for the second round of applications. Our goal is to improve the broadband programs and specifically the application experience, and we will have the time necessary to adjust those aspects of the process that need to be improved. Also, parties who wish to collaborate on an application, such as through consortia or public-private partnerships, will have additional time to work out the details of those arrangements.

Looking forward, I must underscore the importance of our oversight objectives for the program. NTIA is committed to ensuring that taxpayers' money is spent wisely and efficiently. Since the inception of BTOP, we have been working with the Department of Commerce's Inspector General to design this program in a manner that minimizes the risk of waste, fraud, and abuse. As we move forward and project construction begins, NTIA will enhance its auditing and monitoring responsibilities, including site visits to grantees. I will, of course, keep the Committee apprised of our progress on those efforts.

NTIA also is working diligently to make certain that the broadband projects funded by BTOP and the broadband mapping information developed under the Broadband Mapping Program serve as valuable inputs to our long-term broadband strategy. At its core, the broadband initiatives in the Recovery Act offer a tremendous opportunity to stimulate job creation and economic growth both in the near term and for the future.

We will continue to ensure that implementation of the Recovery Act broadband initiatives is a collaborative and coordinated effort with RUS and others in the Administration. We are also committed to making this process as transparent and as efficient as possible, and we will obligate all \$7.2 billion in Recovery Act broadband funds by September 30, 2010, as the Act requires.

Thank you again for the opportunity to testify this morning. I will be happy to answer your questions.

The CHAIRMAN. Thank you very much.
And now Mr. Adelstein.

**STATEMENT OF HON. JONATHAN ADELSTEIN,
ADMINISTRATOR, RURAL UTILITIES SERVICE,
USDA RURAL DEVELOPMENT**

Mr. ADELSTEIN. Thank you, Mr. Chairman, members of the Committee. Thank you for inviting me back to the Committee. I—in my previous capacity in the FCC, I worked with a lot of you to try to promote broadband throughout the country, and to rural areas in particular. It's wonderful to be back, to be among so many of the great visionary leaders who moved broadband forward in this country, particularly you, Mr. Chairman, in your efforts on the E-Rate. As my colleague indicated, now we're going to build on those pioneering efforts to try to give even fatter pipes to these anchor institutions, including schools, libraries, hospitals, and other critical facilities. So, this is a great opportunity.

I think—you referenced your opening statement that—I think you've been just tenacious enough on the stimulus package. Increasing broadband deployment and—in rural areas, of course, has been a top priority for this President—President Obama—for USDA Secretary Tom Vilsak, and, of course, I know, for this Com-

mittee and for this Congress, as indicated in the enormous support you gave in the Recovery Act.

It's a special honor to appear with my good friend, Assistant Secretary Larry Strickling, who's done such an outstanding job of leading the NTIA. It's a real tribute to his leadership that we have worked so seamlessly together and that we have been able to do so much.

You've really given us a historic opportunity, in the Recovery Act, to improve access to broadband nationwide, something we've talked about for so many years together, and yet, it hasn't been accomplished. And it's because of your leadership, now we have an opportunity to begin moving much more down that path.

The RUS has a long and successful experience in doing this. Senator Kerry, you mentioned the Rural Electrification Administration. Of course, that was the beginnings of the—today's RUS. It began as the REA in 1935, as President Roosevelt sought to send electricity across America. It was our little agency that financed it. And we've since moved on to fund telephone and water service. In fact, tomorrow is the 60th anniversary of when the RUS first began to provide financing for telephone service in rural areas. So, we do have a long history, here. And we're now applying that expertise, that we developed over the years, to broadband.

Since 1995, we've been on the cutting edge. We have required all new telecommunications capacity that we finance to be broadband capable. We've also had great success with our Community Connect and distance learning and telemedicine programs. The USDA broadband loan program, which was created in the 2002 farm bill, has provided over \$1.1 billion in loans to more than 90 broadband projects in rural areas spanning 42 states. On top of that, we provided \$4.4 billion, since 2001, in loans, to our regular program for broadband-capable infrastructure.

The Recovery Act, though, marks a major new chapter in this effort. As GAO indicated, it is a big challenge, and it's much bigger than what we've done in the past.

Since the enactment of it, we have worked side-by-side with our partners at NTIA, the FCC, the White House, to fulfill the President's vision for promoting broadband access across America. And as the Secretary indicated, the collaboration has been unprecedented.

RUS and NTIA are now fully engaged in our respective reviews of applications for over \$28 billion in funding requests. We at RUS have 75 years, as I've said, in lending experience in rural America, and our default rate is less than 1 percent in our telecommunications portfolio. And we want to try to replicate that success.

Using the \$2.5 billion in funds the RUS received, we plan to leverage these funds, to use our budget authority, provided by Congress, to provide loans—grants and loans, and combinations of them, to prospective applicants. So, we hope to stretch that \$2.5 billion significantly to facilitate the deployment of more broadband to more parts of the country.

We are now in the process of evaluating the first-round applicants and expect to begin issuing awards as soon as possible. As the Assistant Secretary indicated, our initial plan to begin making award announcements in early November may slip, due to program

complexity and the overwhelming demand that we've experienced, but we hope to begin making announcements only about a month after our initial estimate.

And well over half of the total investment projected under the BIP program has been reserved for subsequent funding rounds. So, there's still—the vast bulk of the money is left to be distributed under the new rules that we can develop, with your input. It continues to be our belief that we should move to combine the plan for second and third rounds into a single round, in order to give applicants additional time to create strong proposals and to ensure that we're able to meet to goal of obligating all funds by September 30, as you required. So, we hope to put forward announcements soon on this.

And we'll take what we learn in that first round of funding to heart in developing our next round of funding. We're aware of concerns that have been raised on a wide range of issues. These include the definition of "rural" and "remote" areas; eligibility standards for unserved and underserved areas; scoring rates for various factors; and concerns regarding satellite service. Without speculating about specific changes, we will be guided by an evaluation of our experience and the feedback that we're getting on this first round, and we're prepared to make changes accordingly.

So, we certainly welcome input from everyone on this committee, input from GAO on how best to move forward and apply the lessons learned in round one toward the work ahead of us in the next round, which we anticipate will be announced in the coming months. To that end, RUS and NTIA plan to seek formal written comments on ways to better meet the requirements of the Recovery Act. We'll be releasing a Request For Information shortly to gather that information. And we'd certainly welcome the Committee's input on any key issues you think we need to be raising.

We'll continue to ensure that the implementation of the ARRA Broadband Initiative is collaborative and a coordinated effort with our partners at NTIA and throughout the Administration.

It's certainly an honor to work with you on behalf of the 65 million Americans in our rural communities, and we look forward to continuing to work closely with Congress in making affordable broadband service available widely throughout America.

Thank you for inviting me to testify, and I'd be happy to answer any questions.

[The prepared statement of Mr. Adelstein follows:]

PREPARED STATEMENT OF HON. JONATHAN ADELSTEIN, ADMINISTRATOR,
RURAL UTILITIES SERVICE, USDA RURAL DEVELOPMENT

Mr. Chairman, Ranking Member Hutchison, and distinguished members of the Committee, thank you for the opportunity to testify on the U.S. Department of Agriculture's Broadband Initiatives Program (BIP). Having testified before this Committee previously as a member of the Federal Communications Commission, I have had the pleasure of working with you Mr. Chairman and many of the Committee members to promote the deployment of affordable quality broadband service in rural America, and throughout the country.

I commend your leadership and the ongoing work of this Committee to promote the critical role that broadband plays in our Nation's economic recovery efforts. The major commitment of resources in the American Recovery and Reinvestment Act (ARRA) sends a strong message about the need to provide improved access to high speed network facilities in a timely and effective manner nationwide. Broadband

erodes the barriers of time and distance that traditionally have hindered rural communities from enjoying the access to health care, educational opportunities and financial markets. Today, broadband is a key foundation of our economy and necessary for rural businesses to survive and remain competitive.

Together, we can foster the greatest level of broadband access throughout rural America. The funds we will administer in the next 12 months will cultivate new investment opportunities in as many rural remote communities as possible.

On behalf of Secretary Vilsack, USDA stands committed and ready to fulfill its rural broadband mandate outlined by this Congress and the President. Improving the quality of life for rural families and businesses is the centerpiece of USDA's overall mission. Secretary Vilsack has repeatedly acknowledged how this Congress and the Administration have helped to provide the building blocks for a new rural economy. These building blocks include renewable energy, local and regional food systems, regional collaboration and investment in broadband. Each of these areas is a key component of USDA's focus toward rebuilding and revitalizing economic growth in rural America. However, broadband enables all of these building blocks to function and deliver benefits to rural Americans.

To underscore the importance of broadband in renewing the rural economy, Secretary Vilsack directed the USDA's Economic Research Service (ERS) to examine the economic effects of having broadband access in rural communities. In August, the ERS published a report, entitled "Broadband Internet's Value for Rural America," which concluded that employment growth was higher and non-farm private earnings greater in counties with a longer history of broadband availability.

The report also cited certain key benefits of broadband access in rural communities. Such benefits include access to online course offerings for students in remote areas and the access to telemedicine and telehealth services which often reduce transportation costs for patients living in rural areas in need of urgent care. Agricultural workers and farm based businesses are also more reliant on Internet access to conduct sales transactions, marketing and advertising, monitor real time changes in the commodities markets and track global trends that impact U.S. crop prices to stay in business.

I am pleased to provide you with a roadmap for how the Rural Utilities Service will accomplish President Obama's goal of investing heavily in rural America with broadband. First, I want to provide you with a brief overview of our mission in serving rural communities and how we are prepared to meet the goals articulated in the Recovery Act.

Since 1935, beginning with the Rural Electrification Administration, we have been a premier lender for rural infrastructure investment. Our current loan portfolio is over \$54. billion and includes Federal financing for water and wastewater, telecommunications, broadband, electric and renewable energy infrastructure projects.

We are now tasked with applying the technical skills and historical knowledge we have amassed in issuing financing for electricity, telecommunications and water over the past 75 years to obligate the funds over the next year to construct next generation broadband facilities in rural areas to serve as many customers as possible with the funds provided.

Our goal is to recreate the successes we have achieved in financing the electric grid for rural utilities toward building new broadband networks in the most rural and remote regions of the country.

We are grateful to Congress and the Administration for giving the USDA the opportunity to contribute its expertise toward rebuilding economic prosperity in rural America. Through the Recovery Act, Congress and the Administration entrusted the Rural Utilities Service with nearly \$4 billion in stimulus funds for infrastructure investment, dedicating \$2.5 billion for rural broadband deployment and \$1.38 billion for rural water infrastructure projects.

Since the enactment of the Recovery Act in February, we have worked side by side with our partners at the National Telecommunications Information Administration (NTIA) and the Federal Communications Commission to fulfill the President's vision for promoting ubiquitous broadband access across the Nation. Assistant Secretary Larry Strickling has been an outstanding and visionary partner throughout this process. The Federal Communications Commission has also been an active contributor to this discussion. I am grateful for this Committee's continued leadership and guidance as we work toward accomplishing this mandate.

RUS and NTIA are fully engaged in our respective reviews of applications for over \$28 billion in funding requests. There is a high degree of interest in our respective loan and grant programs and the great demand for broadband in rural America.

However, it's worth noting that RUS has encountered several challenges as we have worked to review applications for this round of funding. These concerns have prompted us to consider alternative approaches for the second round of funding that

would simplify the application process and support our efforts to fund high-quality projects. In particular, we have seen applicants struggle to comply with the requirements of the “remote” definition for last-mile rural remote projects. This definition was an attempt to ensure that the program targets funding to some of the most remote and difficult to serve areas in the United States, which we understand is the intent of Congress. The use of this term was also part of an effort to correct previous program criticism that RUS has historically funded less-remote project areas. We are contemplating major revisions that will continue to target highly-rural areas that are difficult to serve while making it easier for applicants to comply with any new definition we may establish.

Among other issues, we have also seen some applicants encounter challenges with our program’s rural definition. In addition, some applicants have found it difficult to comply with the loan requirement for middle mile and last mile non-remote projects.

We will be working with NTIA to publish a Request for Information (RFI) in the near future that asks questions about these items and many others. We would welcome the Committee’s input on these key issues.

USDA’s Historic Role in Telecommunications Infrastructure Investment

USDA has a history of success in this arena. The telecommunications program was initiated in 1949 to fund the build out of telecommunications facilities in rural America. By the 1970s, the Telecommunications Program led the Nation in funding one of the first commercial fiber optic systems, Commonwealth Telephone Company in Pennsylvania.

To ensure that rural communities get access to quality broadband services, since 1995 RUS required that telecommunications infrastructure for both new construction and upgrades of existing systems be capable of supporting at least 1 Mbps in both directions. Today, the RUS Telecommunications portfolio—built up over 60 years—totals \$4.1 billion.

As technology continues to evolve, we will continue to find new ways to deliver next generation services and facilities to end users in rural and high cost areas. We are committed to ensuring that all infrastructure awards are made in a technology neutral manner so that rural end users get the benefit of a variety of technologies servicing their region, not just one.

Our legacy in funding telecommunications facilities was enhanced in both the 2002 and 2008 Farm Bills, which authorized RUS to administer three broadband-related programs. The most prominent of these is the Broadband Loan Program, which to date has approved over \$1.1 billion in loans to more than 90 broadband infrastructure projects in rural communities spanning 42 states. In addition, through the Community Connect Grant Program and the Distance Learning and Telemedicine Loan and Grant Program, we have achieved considerable success and gained invaluable experience in deploying broadband and related services to remote rural and underserved communities. Through these two programs, RUS has invested \$498 million in rural underserved areas.

Applying the Lessons Learned from the 2002 Farm Bill to Future Applications

Since the enactment of the Broadband Loan Program in 2002, we have gained tremendous insights into the unique challenges of deploying loan financing for next-generation Internet architecture in rural high-cost markets. As we develop the regulations for the changes required under the 2008 Farm Bill, we are incorporating the lessons we have learned since 2002 regarding the funding of broadband networks in a competitive environment to improve our existing track record. Once these regulations are published, we will launch a national outreach effort to help guide applicants on the new requirements and how to apply for funding. Outreach and education are important function of our work in reaching as many rural populations as possible, and we will continue to dedicate resources and attention toward educating the American public of our Farm Bill once regulations are released.

To further assist prospective applicants with the new Farm Bill requirements, we will utilize the expertise of our nationwide network of Rural Development field offices and RUS’ own General Field Representatives (GFRs), who are stationed in local communities across the country to hold workshops, deliver presentations, and respond to inquiries about the program. Within weeks of my arrival at RUS, I met with most of our GFRs and State Directors, who are among our most effective resources throughout the Federal Government in reaching rural Americans.

Rural Development has hundreds of experienced field professionals who work with the community every day in every way. We have approximately 6,000 employees in over 470 offices nationwide. Through the outstanding local outreach per-

formed by our field staff, we have enormous capacity to coordinate our programs and provide assistance and guidance to our borrowers. Our field staff stands ready to assist service providers and rural community leaders with these programs, as well as with the current loan and grant programs. We expect that these new regulations and procedures will continue to keep our loan portfolio healthy well into the future.

Implementation of the BIP Program under the American Recovery and Reinvestment Act: Building on our Service to Rural America

In February of this year, ARRA provided the USDA with \$2.5 billion in budget authority to deploy broadband in rural, unserved and underserved areas nationwide under the Broadband Initiatives Program (BIP). Of the funds we received in the Recovery Act for broadband, we estimate that we could deliver up to \$7 to \$9 billion in loans, grants and loan grant combinations to prospective applicants, based on our ability to leverage our funding levels. This strategy is designed to build on RUS' demonstrated expertise in finance and to complement NTIA's Broadband Telecommunications Opportunity Program (BTOP), which is a grant-only program. Supporting investments through our loan authority will help leverage Federal resources, and is a goal that we intend to continue to promote.

Under our first Notice of Funding Availability (NOFA), published on July 9, 2009, RUS made available up to \$1.2 billion for Last Mile projects, up to \$800 million for Middle Mile projects, and established \$325 million for a National Reserve.

Our goal is to move further toward the President's vision of improved access, ensure that every community has a fair opportunity to compete for available funding, and leverage taxpayers' dollars to the greatest extent possible. We are careful stewards of funds we manage and obligate, which is how we built our reputation as an attractive low-cost lender.

To implement our coordinated broadband program, in March the USDA and NTIA initially published a joint Request for Information in the *Federal Register* soliciting public comment on implementation of ARRA. We held six public meetings to provide an opportunity for further public comment and received over 1,000 comments from institutions and individuals on key questions, including the definitions of "broadband," "unserved," and "underserved." Based on the diverse nature of comments received from a wide cross section of public and private stakeholders, our agencies drafted a Notice of Funds Availability (NOFA) which was posted on-line on July 1 and published in the *Federal Register* July 9.

The NOFA incorporated the requirements for both the BIP and BTOP programs so that applicants could file a single application for one or both funding opportunities offered. This NOFA announced the first round of funding under ARRA, with the expectation that one or more additional NOFAs will be released in Fiscal Year 2010. We are mindful of the fact that all funds must be obligated no later than September 30, 2010, so we are trying to move as quickly, but as prudently, as possible to meet the objectives outlined in the statute.

RUS and NTIA Coordinated Outreach and Public Education

An outreach and communications strategy was developed jointly by both agencies to ensure that the prospective applicants and other stakeholders would receive accurate, timely and comprehensive information on the programs. The objective of the outreach strategy was to explain the application process to prospective applicants in a short period of time. USDA and the Department of Commerce determined that a series of joint how-to-apply workshops would be conducted by program staff from both agencies. Since the Federal Communications Commission (FCC) is an integral partner to both agencies in addressing telecommunications issues, the FCC was invited to participate in the workshops to provide information on broadband technologies and resources available at the FCC.

The outreach and education workshops jointly sponsored by RUS and NTIA were held in a variety of regions throughout the country, with locations chosen to provide maximum geographic diversity and to focus on targeted applicant segments. Workshop locations were also chosen based on their proximity to transportation to facilitate attendance from surrounding areas. We promoted the effort through the USDA/Department of Commerce joint ARRA broadband website (www.broadbandusa.gov), as well as through our own agency websites and Public Information Coordinators throughout the country, targeted media alerts and e-mailings to state economic development organizations, industry and consumer associations, prospective applicants, and state/local government offices nation wide.

The Application Process

The application window opened on July 14 and the electronic application system went live on July 31. The volume of applications and the compressed time-frame led

to a number of application processing issues, and we took a series of steps to deal with these issues. First, we added server capacity. We also extended the deadline to submit electronic applications from August 14 to August 20. Applicants who had submitted core applications by 5 p.m. (EST) on August 14, 2009 (the original application deadline), were also given the opportunity to submit electronic applications through August 20.

We notified applicants by posting the deadline extension on both the BroadbandUSA.gov joint website and respective agency websites. We published a legal notice in the *Federal Register* and sent it to each applicant by e-mail. The website help desk hours and staff were increased to answer questions from applicants throughout the weekend.

Due to the extraordinary level of demand to upload attachments directly into the system, the RUS and NTIA issued an additional notice on August 19 informing applicants that they would be permitted to submit attachments to their application by alternative means that included CD, DVD, thumb drive, or other electronic media. Attachments delivered by regular mail postmarked by August 24, 2009, were accepted.

Next Steps for Round One and Round Two

We are now in the process of evaluating First Round applications and expect to begin issuing awards shortly. The first NOFA made available up to \$2.4 billion in program level (loans and grants) funding. Well over half of the total investment projected under the BIP program has been reserved for subsequent funding rounds. There have been previous conversations regarding plans for subsequent funding. It continues to be our belief that we should move to compress the planned-for second and third rounds into a single round in order to give applicants additional time to create strong proposals and to ensure that we are able to meet the goal of obligating all funds by September 2010. We continue to work through mechanics of effectuating this change, and we hope to put forward an announcement in the near future on this matter.

Subsequent funding may include enhancements to eligibility and scoring criteria used in Round One. We are cognizant of the concerns and suggestions that have been raised regarding a wide range of issues including the definition of rural and remote areas, eligibility standards for unserved and underserved areas, scoring weights for various factors and concerns regarding overlapping service territories for satellite providers. It would be premature to speculate about specific changes to our regulations until we have completed the evaluation of first round projects, but it is important to note that this is not a static process. We will consider changes to these rules based on the feedback we have received to date.

We welcome input from everyone on this Committee on how best to move forward and apply the lessons learned in Round One toward the work ahead of us in the next round of funding, which we anticipate will be announced in the coming months. To that end, RUS and NTIA plan to seek formal written comments on ways to better meet the requirements of the Recovery Act and will be releasing a Request for Information (RFI) very shortly to gather such information. Our next steps will be guided by the input we receive during this process. We will make necessary changes based on these suggestions and our experience.

We will continue to ensure that implementation of the ARRA broadband initiative is a collaborative and coordinated effort with our partners at the NTIA and in the Administration. We are also committed to making this process as transparent and as efficient as possible. The purpose of the Recovery Act is to spur job creation and stimulate long-term economic growth and investment. To date, we are on track to obligate the \$7.2 billion in ARRA broadband budget authority by September 30, 2010.

This week we are celebrating our 60 year anniversary of financing telecommunications infrastructure, which has evolved from delivering voice to distance learning, telemedicine and broadband. On behalf of all of us at USDA Rural Development and the Rural Utilities Service, thank you for your continuing and generous support of this critical mission. Our ability to offer programs to create economic opportunity and improve the quality of life in rural America is a result of your work. It is an honor and privilege to work with you on behalf of the 65 million Americans in our rural communities. We look forward to working closely with Congress and our Federal partners throughout the Obama Administration in making affordable broadband service widely available throughout rural America.

Thank you again for inviting me here to testify and I will be glad to address any questions you have.

The CHAIRMAN. Thank you, sir.

Mr. Goldstein.

**STATEMENT OF MARK L. GOLDSTEIN, DIRECTOR,
PHYSICAL INFRASTRUCTURE ISSUES,
U.S. GOVERNMENT ACCOUNTABILITY OFFICE**

Mr. GOLDSTEIN. Thank you, Mr. Chairman and Members of the Committee. Thank you for the opportunity to discuss GAO's preliminary findings on Broadband Telecommunications and Recovery Act Programs, designed to increase access for all Americans and to stimulate the economy and create jobs.

Access to broadband service is seen as vital to economic, social, and educational development. Yet, many areas of the country lack access to, or their residents do not, use broadband.

To expand broadband deployment and adoption, the Recovery Act provided \$7.2 billion to the Department of Commerce's NTIA and to the Department of Agriculture's Rural Utility Service for grants or loans to a variety of program applicants. The agencies must award all funds by September 30, 2010.

This testimony provides preliminary information on the challenges NTIA and RUS face, steps taken to address the challenges, and the remaining risks in evaluating applications and awarding funds, and overseeing funded projects. This statement is based on related ongoing work that GAO expects to complete in November. While this testimony does not include recommendations, we do expect to make recommendations in our November report.

We recognize this program is just getting started, but its impact can be considerable. Despite significant efforts, we do have some observations. Our preliminary findings are as follows:

First, with respect to application evaluation and awards, NTIA and RUS face scheduling, staffing, and data challenges, in evaluating applications and awarding funds. NTIA, through its new Broadband Technology Opportunities Program, and RUS, through its new Broadband Initiatives Program, must review more applications and award far more funds than the agencies formerly handled through their legacy telecommunications grant or loan programs.

Additionally, NTIA and RUS initially proposed distributing these funds in three rounds. To meet these challenges, the agencies have established a two-step process that uses contractors and volunteers for application reviews, and plan to publish information on applicants' proposed service areas to help ensure the eligibility of proposed projects. While these steps address some challenges, the upcoming deadline for awarding funds may pose risks to the thoroughness of the application evaluation process. In particular, the agencies may lack time to apply lessons learned from the first funding round and to thoroughly evaluate applications for the remaining rounds, even if an extension does occur as NTIA indicates.

The agencies also face problems with the process of allowing challenges by existing companies to claims for service areas. Concerns have been raised that the current 30-day challenge period is not sufficient.

GAO also remains concerned that the Broadband Mapping Program, with its current timelines, may not be completely useful for helping NTIA and RUS determine how best to award funding in ways that meet the goals of the Recovery Act.

Second, with respect to oversight of funded projects, NTIA and RUS will oversee a significant number of projects, including projects with far larger budgets and diverse purposes and locations. In doing so, the agencies face the challenge of monitoring these projects with far fewer staff per project than were available for their legacy grant and loan programs. To address this challenge, NTIA and RUS have hired contractors to assist with oversight activities and plan to require funding recipients to complete quarterly reports and, in some cases, obtain annual audits.

Despite these steps, however, several risks remain, including a lack of funding for oversight beyond Fiscal Year 2010 and a lack of updated performance measures to ensure accountability for NTIA and RUS.

In addition, NTIA has yet to define annual audit requirements for commercial entities funded under the Broadband Technologies Opportunities Program.

Mr. Chairman, this concludes my statement. I'd be happy to respond to any comments or questions you may have.

[The prepared statement of Mr. Goldstein follows:]

PREPARED STATEMENT OF MARK L. GOLDSTEIN, DIRECTOR, PHYSICAL
INFRASTRUCTURE ISSUES, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Mr. Chairman and Members of the Committee: We appreciate the opportunity to participate in this hearing to discuss the implementation and oversight of the broadband programs funded through the American Recovery and Reinvestment Act¹ (the Recovery Act). As you know, access to broadband is seen as vital to economic, social, and educational development, yet many areas of the country lack access to, or their residents do not use, broadband. The Recovery Act appropriated \$7.2 billion to extend access to broadband throughout the United States. Of the \$7.2 billion, \$4.7 billion was appropriated for the Department of Commerce's (DOC) National Telecommunications and Information Administration (NTIA) and \$2.5 billion for the Department of Agriculture's (USDA) Rural Utilities Service (RUS). Specifically, the Recovery Act authorized NTIA, in consultation with the Federal Communications Commission (FCC), to create the Broadband Technology Opportunities Program (BTOP) to manage competitive grants to a variety of entities for broadband infrastructure, public computer centers, and innovative projects to stimulate demand for, and adoption of, broadband. Of the \$4.7 billion, up to \$350 million was available pursuant to the Broadband Data Improvement Act for the purpose of developing and maintaining a nationwide map featuring the availability of broadband service, with some funds available for transfer to FCC for the development of a national broadband plan to help ensure that all people in the United States have access to broadband. Similarly, RUS established the Broadband Initiatives Program (BIP) to make loans and to award grants and loan/grant combinations for broadband infrastructure projects in rural areas.

NTIA and RUS have taken many important steps to implement the broadband provisions in the Recovery Act. NTIA, RUS, and FCC held a series of public meetings in March 2009, explaining the overall goals of the new broadband programs. NTIA and RUS also sought public comments from interested stakeholders on various challenges that the agencies would face in implementing the broadband programs through these meetings and by issuing a Request for Information. NTIA and RUS received over 1,500 comments. FCC, in a consultative role, provided support in developing technical definitions and participated in the public meetings. NTIA and RUS initially indicated that they would award Recovery Act broadband program funds in three jointly-conducted rounds. On July 1, 2009, Vice President Joe Biden, Secretary of Commerce Gary Locke, and Secretary of Agriculture Tom Vilsack announced the release of the first joint Notice of Funds Availability (NOFA) detailing the requirements, rules, and procedures for applying for BTOP grants and BIP grants, loans, and loan/grant combinations.² Subsequently, the agencies held 10 joint informational workshops throughout the country for potential applicants to ex-

¹ Pub. L. No. 111-5, 123 Stat. 115 (2009).

² 74 Fed. Reg. 33104 (2009).

plain the programs, the application process, and the evaluation and compliance procedures, and to answer stakeholder questions. NTIA and RUS coordinated and developed a single online intake system whereby applicants could apply for either BTOP or BIP funding. NTIA and RUS must award all funds by September 30, 2010, and both BTOP and BIP projects must be substantially complete within 2 years and fully complete no later than 3 years following the date of issuance of their award.

My testimony today discusses: (1) the challenges and risks, if any, NTIA and RUS face in evaluating applications and awarding funds, and the steps they have taken to address identified risks, and (2) the challenges and risks, if any, the agencies face in overseeing funded projects, and the steps they have taken to address identified risks. My testimony presents preliminary observations based on ongoing work we expect to complete this fall.

To conduct our work, we are reviewing FCC, NTIA, and RUS program documentation. We are also interviewing relevant staff from the three agencies regarding their agencies' efforts to implement the broadband provisions of the Recovery Act. We are reviewing relevant laws and regulations; guidance from the Office of Management and Budget (OMB), DOC and the Department of Justice, and the Domestic Working Group; and prior GAO reports. We are comparing the agencies' efforts to the laws, regulations, and guidance to identify strengths and weaknesses in their efforts. To determine what reporting and audit requirements will apply to recipients of NTIA and RUS funding, we are reviewing the Single Audit Act,³ agency regulations and documents, and OMB guidance, and interviewing agency officials. Finally, we are interviewing stakeholder organizations representing a range of interests, including associations representing wireline, wireless, cable, and satellite service providers; consumer advocates; telecommunication policy researchers; and state telecommunications regulators to obtain their views on the potential challenges and risks facing the agencies. We are conducting this performance audit, which began in April 2009, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

NTIA and RUS Have Taken Steps to Address Scheduling, Staffing, and Data Challenges; However, Some Risks Remain

NTIA and RUS face scheduling, staffing, and data challenges in evaluating applications and awarding funds. The agencies have taken steps to meet these challenges, such as adopting a two-step evaluation process, utilizing nongovernmental personnel, and publishing information on the applicant's proposed service area. While these steps address some challenges, the agencies lack the needed time to apply lessons learned from the first funding round and face a compressed schedule to review new applications. As a result, the agencies may risk awarding funds to projects that are not sustainable or do not meet the priorities of the Recovery Act.

NTIA and RUS Face Scheduling, Staffing, and Data Challenges in the Evaluation of Applications and Awarding of Funds

Scheduling challenges. The agencies have 18 months to establish their respective programs, solicit and evaluate applications, and award all funds. While in some instances a compressed schedule does not pose a challenge, two factors enhance the challenges associated with the 18-month schedule. First, NTIA must establish the BTOP program from scratch, and RUS has existing broadband grant and loan programs, albeit on a much smaller scale than BIP. Second, the agencies face an unprecedented volume of funds and anticipated number of applications compared to their previous experiences.

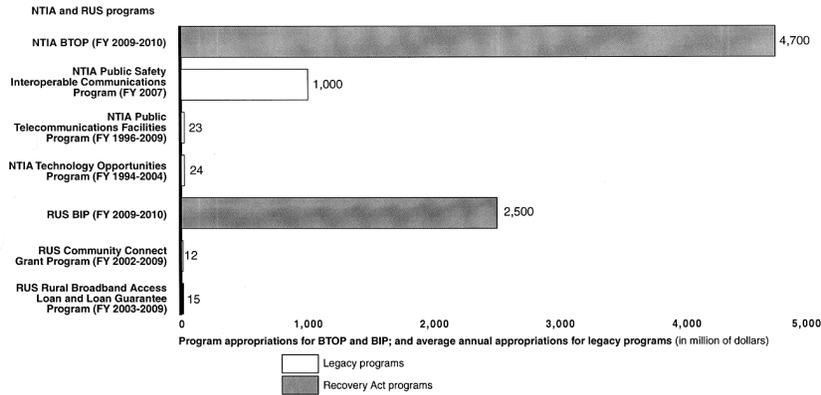
The funding associated with BTOP and BIP exceed NTIA's and RUS's prior experience with other grant or loan programs (see fig. 1). In comparison to the \$4.7 billion appropriation NTIA received for BTOP, its Public Telecommunications Facilities Program received an average of \$23 million annually and its Telecommunications Opportunities Program received \$24 million annually. NTIA also administered the one-time Public Safety Interoperable Communications Program (PSIC), with an appropriation of about \$1 billion, in close coordination with the Department of Homeland Security (DHS). In comparison to the \$2.5 billion appropriation RUS received for BIP,⁴ its Community Connect Program's average annual appropriation was \$12

³31 U.S.C. ch. 75.

⁴RUS received \$2.5 billion for both grants and the cost of loans. RUS stated that it will allocate \$2 billion for grants and \$500 million for loans. RUS expects the \$500 million allocation to support loans with a total principle amount of approximately \$7 billion.

million and its Broadband Access Loan Program's average annual appropriation was \$15 million.

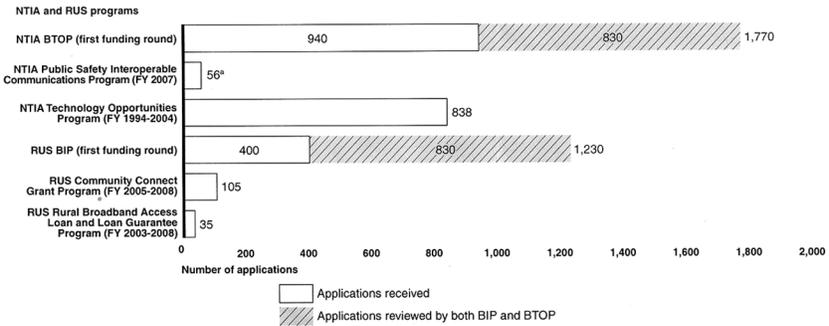
Figure 1: Average Annual Appropriations for NTIA and RUS Telecommunication Grant and Loan Programs



Source: GAO analysis of NTIA and RUS data.
 Note: RUS's loan allocation will support a principal amount exceeding the appropriation. For example, RUS expects the \$500 million allocated to loans under BIP will support a total principal amount of loans of about \$7 billion. Similarly, RUS officials indicated that, on average, the corresponding annual total principal amount for loans under the Broadband Access Loan Program was \$300 million.

NTIA and RUS also face an increase in the number of applications that they must review and evaluate in comparison to similar programs (see fig. 2). According to preliminary information from the agencies, they received approximately 2,200 applications requesting \$28 billion in grants and loans in the first funding round. Of these 2,200 applications, NTIA received 940 applications exclusively for BTOP and RUS received 400 applications exclusively for BIP and 830 dual applications that both agencies will review. In comparison, NTIA received an average of 838 applications annually for the Telecommunications Opportunities Program; for PSIC, NTIA and DHS received 56 applications from state and territorial governments containing a total of 301 proposed projects. RUS received an average of 35 applications annually for the Broadband Access Loan program and an average of 105 applications annually for the Community Connect Program.

Figure 2: Average Annual Applications for NTIA and RUS Telecommunication Grant and Loan Programs



Source: GAO analysis of NTIA and RUS data.
^aIn 2007, through the PSIC grant program, NTIA coordinated with the DHS's grants office to review 56 grant applications from states and territories, representing about 301 individual projects, and awarding almost \$1 billion in grant funds to assist public safety agencies in enhancing communications interoperability nationwide.

Staffing challenges. NTIA and RUS will need additional personnel to administer BTOP and BIP. NTIA's initial risk assessment indicated that a lack of experienced and knowledgeable staff was a key risk to properly implementing the program in accordance with the priorities of the Recovery Act. In its Fiscal Year 2010 budget

request to Congress, NTIA estimated that it will need 30 full-time-equivalent staff in Fiscal Year 2009 and 40 more full-time-equivalent staff for Fiscal Year 2010. While RUS already has broadband loan and grant programs in place and staff to administer them, it also faces a shortage of personnel. RUS's staffing assessments indicated that the agency will need 47 additional full-time-equivalents to administer BIP.

Data challenges. NTIA and RUS lack detailed data on the availability of broadband service throughout the country that may limit their ability to target funds to priority areas. According to the agencies, priority areas include unserved and underserved areas. The agencies require applicants to assemble their proposed service areas from contiguous census blocks and to identify the proposed service area as unserved or underserved. However, the agencies will be awarding loans and grants before the national broadband plan or broadband mapping is complete. FCC must complete the national broadband plan by February 17, 2010, and NTIA does not expect to have complete, national data on broadband service levels at the census block level until at least March 2010.⁵

NTIA and RUS Have Taken Steps That Address Some Challenges in the Evaluation of Applications and Awarding of Funds

Two-step evaluation process. To address the scheduling and staffing challenges, NTIA and RUS are using a two-step process. In the first step, the agencies will evaluate and score applications based on the criteria in the NOFA, such as project purpose and project viability. During this step, the agencies will select which applications proceed to the second step. After the first step is complete and the pool of potential projects is reduced, the agencies intend to conduct the second step—due diligence, which involves requesting extra documentation to confirm and verify information contained in an application. Since not all applications will proceed to the second step, not all applicants will be required to submit extra documentation which will reduce the amount of information the agencies must review.

Use of nongovernmental personnel. Both NTIA and RUS are using nongovernmental personnel to address anticipated staffing needs associated with the evaluation of applications and awarding of funds. To evaluate applications, NTIA is using a volunteer peer review system, in which three unpaid, expert reviewers examine and score applications; these volunteers must have significant expertise and experience in broadband-related activities, such as the construction and operation of a broadband network. In addition, NTIA will use contractors in an administrative role to assist the expert reviewers. RUS will also use contractors to evaluate and score applications. Regardless of who reviews the application, the final selection and funding decisions are to be formally made by a selecting official in each agency.

Publish applicant information. To address the challenge of incomplete data on broadband service, NTIA and RUS require applicants to identify and attest to the service availability—either unserved or underserved—in their proposed service area. In order to verify these self-attestations, NTIA and RUS will post a public notice identifying the proposed funded service area of each broadband infrastructure applicant. The agencies intend to allow existing service providers in the proposed service area to question an applicant's characterization of broadband service in that area. If this information raises eligibility issues, RUS may send field staff to the proposed service area to conduct a market survey. RUS will resolve eligibility issues by determining the actual availability of broadband service in the proposed service area. NTIA has no procedure for resolving these types of issues.

The Agencies' Remaining Schedule May Pose Risks to the Review of Applications

During the first funding round, the compressed schedule posed a challenge for both applicants and the agencies. As mentioned previously, NTIA and RUS initially proposed to utilize three separate funding rounds during the 18-month window to award the \$7.2 billion. As such, each funding round would operate under a compressed schedule. Eight of the 15 industry stakeholders with whom we spoke expressed concern that a small entity would have difficulties in completing an application in a timely manner. The compressed schedule also posed challenges for the agencies. During the first funding round, the agencies missed several milestones. For example, RUS originally intended to select a contractor on June 12, 2009, and NTIA intended to select a contractor on June 30, 2009; however, both agencies missed their target dates, with RUS selecting its contractor on July 31, 2009, and NTIA selecting its contractor on August 3, 2009.

⁵ As required by the Recovery Act, NTIA must make available a national broadband map by February 17, 2011.

Because of the compressed schedule within the individual funding rounds, NTIA and RUS have less time to review applications than similar grant and loan programs. In the first funding round, the agencies have approximately 2 months to review 2,200 applications. In contrast, from Fiscal Year 2005 through 2008, RUS took from 4 to 7 months to receive and review an average of 26 applications per year for its Broadband Access Loan Program. NTIA's Public Telecommunications Facilities Program operated on a year-long grant award cycle. For the PSIC program, NTIA and DHS completed application reviews in roughly 6 months.

Based on their experience with the first funding round, NTIA and RUS are considering reducing the number of funding rounds from three to two. In the second and final funding round, the agencies anticipate extending the window for entities to submit applications. This change will help mitigate the challenges the compressed schedule posed for applicants in the first funding round. However, it is unclear whether the agencies will similarly extend the amount of time to review the applications and thereby bring the review time more in line with the experiences of other broadband grant and loan programs. NTIA officials indicated that the agency would like to make all awards by summer 2010, to promote the stimulative effect of the BTOP program. Alternatively, RUS officials indicated that the agency will make all awards by September 30, 2010, as required by the Recovery Act, indicating a potentially longer review process.

Depending on the timeframes NTIA and RUS select, the risks for both applicants and the agencies may persist with two funding rounds. In particular, these risks include:

- *Limited opportunity for "lessons learned."* Based on the current schedule, NTIA and RUS will have less than 1 month between the completion of the first funding round and the beginning of the second funding round. Because of this compressed timeframe, applicants might not have sufficient time to analyze their experiences with the first funding round to provide constructive comments to the agencies. Further, the agencies might not have sufficient time to analyze the outcomes of the first round and the comments from potential applicants. As such, a compressed schedule limits the opportunity to apply lessons learned from the first funding round to improve the second round.
- *Compressed schedule to review applications.* Due to the complex nature of many projects, NTIA and RUS need adequate time to evaluate the wide range of applications and verify the information contained in the applications. NTIA is soliciting applications for infrastructure, public computer center, and sustainable adoption projects. Therefore, NTIA will receive applications containing information responding to different criteria and it will evaluate the applications with different standards. Even among infrastructure applications, a wide variability exists in the estimates, projections, and performance measures considered reasonable for a project. For example, in RUS's Broadband Access Loan Program, approved broadband loans for the highest-cost projects, on a cost-per-subscriber basis, ranged as much as 15, 18, and even 70 times as high as the lowest-cost project, even among projects using the same technology to deploy broadband.
- *Continued lack of broadband data and plan.* According to NTIA, national broadband data provide critical information for grant making. NTIA does not expect to have complete data for a national broadband map until at least March 2010. Also, as mentioned previously, FCC must deliver to Congress a national broadband plan by February 17, 2010. By operating on a compressed schedule, NTIA and RUS will complete the first funding round before the agencies have the data needed to target funds to unserved and underserved areas and before FCC completes the national broadband plan. Depending on the timeframes the agencies select for the second funding round, they may again review applications without the benefit of national broadband data and a national broadband plan.

NTIA and RUS Face Staffing Challenges in Overseeing Funded Projects, and Despite Steps Taken, Several Risks to Project Oversight Remain

NTIA and RUS will need to oversee a far greater number of projects than in the past, including projects with large budgets and a diversity of purposes and locations. In doing so, the agencies face the challenge of monitoring these projects with far fewer staff per project than were available in similar grant and loan programs they have managed. To address this challenge, NTIA and RUS procured contractors to assist with oversight activities and will require funding recipients to complete quarterly reports and, in some cases, obtain annual audits. Despite the steps taken, several risks remain to adequate oversight. These risks include insufficient resources to actively monitor funded projects beyond Fiscal Year 2010 and a lack of updated

performance measures for NTIA and RUS. In addition, NTIA has yet to define annual audit requirements for commercial entities funded under BTOP.

A Large Number of Projects to Oversee Creates Staffing Challenges

NTIA and RUS will need to oversee a far greater number of projects than in the past. Although the exact number of funded projects is unknown, both agencies have estimated that they could fund as many as 1,000 projects each—or 2,000 projects in total—before September 30, 2010.⁶ In comparison, from Fiscal Year 1994 through Fiscal Year 2004, NTIA awarded a total of 610 grants through its Technology Opportunities Program—or an average of 55 grants per year. From Fiscal Year 2005 through Fiscal Year 2008, RUS awarded a total of 84 Community Connect grants, averaging 21 grants per year; and through its Broadband Access Loan Program, RUS approved 92 loans from Fiscal Year 2003 through Fiscal Year 2008, or about 15 loans per year.

In addition to overseeing a large number of projects, the scale and diversity of BTOP- and BIP-funded projects are likely to be much greater than projects funded under the agencies' prior grant programs. Based on NTIA's estimated funding authority for BTOP grants and RUS's estimated potential total funding for BIP grants, loans, and loan/grant combinations, if the agencies fund 1,000 projects each, as estimated, the average funded amount for BTOP and BIP projects would be about \$4.35 million and \$9 million, respectively. In comparison, from Fiscal Year 1994 to Fiscal Year 2004, NTIA's average grant award for its Technology Opportunities Program was about \$382,000 and from Fiscal Year 2005 to Fiscal Year 2008, RUS awarded, on average, about \$521,000 per Community Connect grant award. Further, the agencies expect to fund several different types of projects that will be dispersed nationwide, such as infrastructure and public computer center projects.

Because of the volume of expected projects, NTIA and RUS plan to oversee and monitor BTOP- and BIP-funded projects with fewer staff resources per project than the agencies used in similar grant and loan programs (see table 1). NTIA reported that it will need 41 full-time-equivalent staff to manage BTOP; at the time of our review it had filled 33 of these positions. Based on NTIA's estimate of funding 1,000 projects and its estimated 41 full-time-equivalent staff needed, NTIA will have about 1 full-time-equivalent staff available for every 24 projects. NTIA reported that it is continually assessing its resources and is considering additional staff hires. Similarly, RUS reported that it will need 47 full-time-equivalent staff to administer all aspects of BIP, and the majority of these positions were to be filled by the end of September 2009. These 47 staff members are in addition to the 114 full-time-equivalent staff in the Rural Development Telecommunications program which support four existing loan or grant programs.⁷ If RUS funds a total of 1,000 projects, as estimated, based on the 47 staff assigned to BIP, it would have 1 staff of any capacity available for every 21 funded projects. RUS reported that it could use other staff in the Rural Development Telecommunications program to address BIP staffing needs, if necessary.

⁶Based on the average request in the first funding round, NTIA and RUS may fund fewer projects than they originally estimated, but those funded projects may be of higher cost. For example, according to NTIA and RUS data, the average funding request for infrastructure projects in the first round was more than \$20 million for BTOP, more than \$12 million for BIP, and more than \$15 million for projects requesting funding from either agency. If NTIA and RUS fund projects at the average requested funding amount—and based on the total available funding for the different types of projects—NTIA and RUS would award about 930 projects in total.

⁷These programs are RUS's Telecommunications Infrastructure loan program, the Distance Learning and Telemedicine loan and grant program, the Broadband Access Loan Program, and Community Connect grant program.

Table 1: Estimated NTIA and RUS Full-Time-Equivalent Staff for Grant and Loan Programs

Program	Average number of projects funded per year	Average full-time-equivalent staff per year	Ratio of funded projects to full-time-equivalent staff
NTIA BTOP (FY 2010) (NTIA estimate)	1,000 in FY 2010	41	24 to 1
NTIA Technology Opportunities Program ^a	55	16	3 to 1
RUS BIP (FY 2010) (RUS estimate)	1,000 in FY 2010	47	21 to 1
RUS Broadband Access Loan Program ^b	15	17	.9 to 1

Source: GAO analysis of NTIA and RUS data.

Note: In our review, we did not evaluate whether the per-project staffing levels available to NTIA for its Technology Opportunities Program or to RUS for its Broadband Access Loan Program were appropriate for those programs.

^aNTIA Technology Opportunities Program data are for Fiscal Years 1994 through 2004.

^bRUS Broadband Access Loan Program data are for Fiscal Years 2003 through 2008. RUS Community Connect Grant program data are not included here because RUS reported that it does not have full-time staff dedicated to this program.

To Address Project Oversight Challenges, NTIA and RUS Are Procuring Contractor Services and Requiring Funding Recipient Reports and Audits

Contractor services. NTIA and RUS will use contractors to help monitor and provide technical assistance for BTOP and BIP projects. On August 3, 2009, NTIA procured contractor services to assist in a range of tasks, including tracking and summarizing grantees' performance, developing grant-monitoring guidance, and assisting with site visits and responses to audits of BTOP-funded projects. On July 31, 2009, RUS awarded a contract to a separate contractor for a wide range of program management activities for BIP. RUS's contractor will be responsible for a number of grant-monitoring activities, including developing a workflow system to track grants and loans, assisting RUS in developing project monitoring guidance and policies, and assisting in site visits to monitor projects and guard against waste, fraud, and abuse.

In addition to its contractor, RUS intends to use existing field staff for program oversight. RUS reported that it currently has 30 general field representatives in the telecommunications program and 31 field accountants in USDA's Rural Development mission area that may be available to monitor broadband programs. In addition, RUS officials told us that Rural Development has an estimated 5,000 field staff available across the country that support a variety of Rural Development loan and grant programs. Although these individuals do not have specific experience with telecommunications or broadband projects, according to RUS, this staff has experience supporting RUS's business and community development loan programs, and this workforce could be used for project monitoring activities if there were an acute need. Unlike RUS, NTIA does not have field staff. According to NTIA, the agency has been in talks with RUS about sharing some of RUS's field staff to monitor BTOP projects, although no formal agreement is in place.

Recipient reports and audits. To help address the challenge of monitoring a large number of diverse projects, NTIA and RUS have developed program-specific reporting requirements that are intended to provide transparency on the progress of funded projects. Based on our review of the requirements, if NTIA and RUS have sufficient capacity to review and verify that information provided by funding recipients is accurate and reliable, these requirements could provide the agencies with useful information to help them monitor projects. The following reporting requirements apply to BTOP and BIP funding recipients:

- **General recovery act reports.** Section 1512 of the Recovery Act and related OMB guidance requires all funding recipients to report quarterly to a centralized reporting system on, among other things, the amount of funding received that was expended or obligated, the project completion status, and an estimate of the number of jobs created or retained through the funded project, among other information.⁸ Under OMB guidance, awarding agencies are responsible for ensuring that funding recipients submit timely reports, and must perform a data

⁸Pub. L. No. 111-5, div. A, tit. XV, § 1512(c),(d) (2009).

quality review and request further information or corrections by funding recipients, if necessary.⁹

- *BTOP-specific reports.* The Recovery Act requires BTOP funding recipients to report quarterly on their use of funds and NTIA to make these reports available to the public.¹⁰ NTIA also requires that funding recipients report quarterly on their broadband equipment purchases and progress made in achieving goals, objectives, and milestones identified in the recipient's application, including whether the recipient is on schedule to substantially complete its project no later than 2 years after the award and complete its project no later than 3 years after the award. Recipients of funding for infrastructure projects must report on a number of metrics, such as the number of households and businesses receiving new or improved access to broadband as a result of the project, and the advertised and averaged broadband speeds and the price of the broadband services provided.¹¹
- *BIP-specific reports.* RUS requires BIP funding recipients to submit quarterly balance sheets, income and cash-flow statements, and the number of customers taking broadband service on a per community basis, among other information. BIP funding recipients must also report annually on the number of households; businesses; and educational, library, health care, and public safety providers subscribing to new or improved access to broadband. RUS officials reported that it plans to use quarterly reports to identify specific projects for on-site monitoring and to determine when that monitoring should take place.

NTIA and RUS also require some funding recipients to obtain annual, independent audits of their projects; however, NTIA has yet to determine what annual audit requirements, if any, will apply to commercial grantees (see table 2). The primary tool for monitoring Federal awards through annual audits is the single audit report required under the Single Audit Act, as amended.¹² We recently reported that the Single Audit is a valuable source of information on internal control and compliance for use in a management's risk assessment and monitoring processes—and with some adjustments, we said, the Single Audit process could be improved for Recovery Act oversight.¹³ The Single Audit report is prepared in accordance with OMB's implementing guidance in OMB Circular No. A-133.¹⁴ All states, local governments, and nonprofit organizations that expend over \$500,000 in Federal awards per year must obtain an annual Single Audit or, in some cases, a program-specific audit. Commercial (for profit) entities awarded Federal funding of any amount are not covered by the Single Audit Act, and states, local governments, and nonprofit organizations expending less than \$500,000 in Federal awards per year are also not required to obtain an annual Single Audit under the Single Audit Act.¹⁵ RUS, however, requires all commercial recipients of BIP funds to obtain an annual, independent audit of their financial statements under requirements that also apply to

⁹See OMB memorandum, M-09-21, *Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009* (June 22, 2009).

¹⁰Pub. L. No. 111-5, div. B, tit. VI, § 6001(i)(1) (2009).

¹¹BTOP recipients of sustainable adoption and public computer center funding must report project-specific information, such as the increase in the number of households, businesses, and community anchor institutions subscribing to broadband service and the primary uses of the public computer center. 74 Fed. Reg. 33104, 33125.

¹²31 U.S.C. ch. 75. A Single Audit consists of: (1) an audit and opinions on the fair presentation of the financial statements and the Schedule of Expenditures of Federal Awards; (2) gaining an understanding of and testing internal control over financial reporting and the entity's compliance with laws, regulations, and contract or grant provisions that have a direct and material effect on certain Federal programs (*i.e.*, the program requirements); and (3) an audit and an opinion on compliance with applicable program requirements for certain Federal programs. The audit report also includes the auditor's schedule of findings and questioned costs, and the auditee's corrective action plans and a summary of prior audit findings that includes planned and completed corrective actions. Auditors are also required to report on significant deficiencies in internal control and on compliance associated with the audit of the financial statements. Entities that expend Federal awards under only one program may elect to have a program-specific audit in lieu of the single audit.

¹³See GAO, *Recovery Act: As Initial Implementation Unfolds in States and Localities, Continued Attention to Accountability Issues Is Essential*, GAO-09-580 (Washington, D.C.: Apr. 23, 2009), and *Recovery Act: States' and Localities' Current and Planned Uses of Funds While Facing Fiscal Stresses*, GAO-09-831T (Washington, D.C.: July 8, 2009).

¹⁴OMB Circular No. A-133, *Audits of States, Local Governments, and Non-Profit Organizations*.

¹⁵Under DOC regulations, for-profit hospitals and commercial and other organizations not subject to the Single Audit Act may be subject to an audit requirement to the extent one is included in the Federal award document. See 15 C.F.R. § 14.26.

RUS's existing broadband grant and loan programs.¹⁶ NTIA has yet to determine what annual audit requirements, if any, will apply to commercial grantees.

Table 2: Annual Audit Requirements for BTOP and BIP Funding Recipients

Amount of federal awards expended annually	Type of entity	BTOP annual audit requirements	BIP annual audit requirements
More than \$500,000	Nonprofit organizations, state or local government, or tribal authority	Single audit, OMB Circular A-133	Single audit, OMB Circular A-133
	Commercial organizations	To be determined	Financial statement audit, 7 CFR 1773.3
Less than \$500,000	Nonprofit organizations, state or local government, or tribal authority	To be determined	None
	Commercial organizations	To be determined	Financial statement audit, 7 CFR 1773.3

Source: GAO analysis of NTIA and RUS data.

Several Risks to Project Oversight Remain

Lack of sufficient resources beyond Fiscal Year 2010. Both NTIA and RUS face the risk of having insufficient resources to actively monitor BTOP- and BIP-funded projects after September 30, 2010, which could result in insufficient oversight of projects not yet completed by that date. As required by the Recovery Act, NTIA and RUS must ensure that all awards are made before the end of Fiscal Year 2010. Under the current timeline, the agencies do not anticipate completing the award of funds until that date. Funded projects must be substantially complete no later than 2 years, and complete no later than 3 years following the date of issuance of the award. Yet, the Recovery Act provides funding through September 30, 2010. The DOC Inspector General has expressed concerns that “without sufficient funding for a BTOP program office, funded projects that are still underway at September 30, 2010, will no longer be actively managed, monitored, and closed.”¹⁷ NTIA officials told us that NTIA has consulted with the OMB about seeking BTOP funding after September 30, 2010, to allow it to close grants. RUS officials reported that given the large increase in its project portfolio from BIP, RUS's capacity to actively monitor these projects after its BIP funding expires may be stressed. Without sufficient resources to actively monitor and close BTOP grants and BIP grants and loans by the required completion dates, NTIA and RUS may be unable to ensure that all recipients have expended their funding and completed projects as required.

Lack of updated performance measures. The Government Performance and Results Act of 1993 (GPRA) directs Federal agencies to establish objective, quantifiable, and measurable goals within annual performance plans to improve program effectiveness, accountability, and service delivery.¹⁸ Specifically, performance measures allow an agency to track its progress in achieving intended results and help inform management decisions about such issues as the need to redirect resources or shift priorities.

NTIA has established preliminary program performance measures for BTOP, including job creation, increasing broadband access, stimulation of private sector investment, and spurring broadband demand. However, NTIA has not established quantitative, outcome-based goals for those measures. NTIA officials reported that the agency lacks sufficient data to develop such goals and is using applications for the first round of funding to gather data, such as the expected number of households that will receive new or improved broadband service. According to NTIA officials, data collected from applications for the first funding round could be used to develop program goals for future funding rounds.

RUS has established quantifiable program goals for its existing broadband grant and loan programs, including a measure for the number of subscribers receiving new or improved broadband service as a result of the programs. However, according to USDA's Fiscal Year 2010 annual performance plan, RUS has not updated its measures to reflect the large increase in funding it received for broadband programs

¹⁶ 7 C.F.R. § 1773.3. All RUS commercial grantees must obtain an annual audit of their financial statements by an independent, certified public accountant meeting the standards set by RUS.

¹⁷ Department of Commerce, *Office of Inspector General Recovery Act Flash Report: NTIA Should Apply Lessons Learned from Public Safety Interoperable Communications Program to Ensure Sound Management and Timely Execution of \$4.7 Billion Broadband Technology Opportunities Program* (Washington, D.C., March 2009).

¹⁸ 31 U.S.C. § 1115.

under the Recovery Act. In addition, RUS officials told us that the agency's existing measure for the number of subscribers receiving new or improved broadband access as a result of its programs is based on the estimates provided by RUS borrowers in their applications. Consequently, these program goals do not reflect actual program outcomes, but rather the estimates of applicants prior to the execution of their funded projects.

Undefined audit requirements for commercial recipients. At the time of our review, NTIA did not have audit requirements or guidelines in place for annual audits of commercial entities receiving BTOP grants. NTIA officials reported that because BTOP is the first program managed by NTIA to make grants to commercial entities, the agency does not have existing audit guidelines for commercial entities. However, NTIA reported that it intends to develop program-specific audit requirements and guidelines that will apply to commercial recipients that receive broadband grants and it plans to have those guidelines in place by December 2009. In the absence of clear audit requirements and guidelines for commercial recipients of BTOP funding, NTIA will lack an important oversight tool to identify risks and monitor BTOP grant expenditures.

Mr. Chairman and Members of the Committee, this concludes my prepared statement. Our future work, which we expect to complete in November, will provide additional information on the implementation and oversight of the broadband programs. We also expect to make recommendations at that time. I would be pleased to respond to any questions that you or other members of the Committee might have.

The CHAIRMAN. Thank you very much, Mr. Goldstein. Actually, you were quite provocative, and helpfully so.

I will start the questioning with you, Jonathan Adelstein. There's—and, Mr. Goldstein referred to this—a definitional problem, which actually becomes a very large problem. And, you know, you've got your BIP program, but only projects in remote areas—that's your term—are eligible for 100-percent grant funding.

If I were to look at West Virginia, I would say that most of it was remote. If I were to look at it with your eyes, I could not say that, because we have one City of almost 50,000 people, but no more. And therefore, the definition of the word "remote" is extremely important to us. This definition doesn't make any sense to me when you're trying to put broadband into areas that need it the most. The classic pattern, of course, is for broadband providers—Verizon, in our State, and others—to simply go to where the companies are and where the population is. And that's relatively easy. But, then you go into southern West Virginia or into the eastern highlands, just across from the Virginia border, and that becomes much more difficult.

So, the question is—remote becomes very important, because—let's say you're in a farming community and the average age is somewhere between Senator Kerry's and mine, and you would say, "Well, I mean, these folks really don't know—you know, they don't do Internet, and they're probably not going to react to this, so this probably isn't a wise allocation of funding." And I just reject that the same way as I reject the fact that there are plenty of people in West Virginia and other States that don't sign up for the Children's Health Insurance Program because they don't know where to sign up, how to sign up, and maybe don't know how to write, in some cases. So, this is the culture which is not unique to West Virginia. I'm sure it's true in all of our States. So, I'm very interested in how you define "remote" and how, in fact, you're going to target, from RUS's point of view, your contributions to areas that need it the most, and how you'll be able to do that.

Mr. ADELSTEIN. Senator Rockefeller, I absolutely understand your concerns. I mean, we've heard a lot of concerns about the defi-

inition of “remote,” and we’re going to completely revisit that in the next NOFA. As I indicated, we’re going to put out comment requests very shortly. And one of the big questions we see is, How do you deal with this? I’ve been to West Virginia. I’ve seen how remote it is. That’s what I love about it. I think it’s beautiful. I think we need to get broadband into some of those hollers, where it’s not available right now. We need to get out to the most remote areas. But, the question becomes, as you raised it, Is a 50-mile definition, from an urban area, the best way to go? And, I think, we’re beginning to reach the conclusion that there are real problems with that, as you’ve indicated; how it affects the eastern part of the United States versus the western part. What are some of the other factors? We are looking at other factors that we could use besides just remoteness from an urban area. You could look at density, you could look at income. Geographic barriers are a harder thing to measure, but certainly, when it comes to a place like West Virginia, they are very real. So, we are looking at other ways to evaluate this.

The goal—just so I can get this out—is that we wanted to have a place that was the hardest to reach, where we’d focus our grants, and have loans in areas that are not as hard to reach. I think there is widespread agreement, we might not have gotten the balance right in setting the remote definition as a 50-mile distance. And we are completely open to changing that, and are asking all of the questions in our upcoming Request For Information.

The CHAIRMAN. So, that will be done.

Mr. ADELSTEIN. We’re going to review that, top to bottom.

The CHAIRMAN. Is the planning for that to be a fact underway?

Mr. ADELSTEIN. Yes, we are—we’re already thinking about other ways of defining—

The CHAIRMAN. So, you’ll take in, for example, that some roads go like that, and that’s a lot of “that” to get to 50 miles; the fact that some people are just detached and, you know, the sun doesn’t come up, because the mountains are high where they are, until noon, on any given day. You don’t see it. And those are remote. But, those are people, they have needs, and they need to do the things that Senator Kerry talked about, and that is to be able to make application online. And their children are going to know how to do that and they’ve got to know how to do that. And it’s being taught in the schools. So, there’s really no excuse for us not being able to do that, at which point I have run out of my time.

So, I’m now turning to Senator Hutchison.

Senator HUTCHISON. Well, thank you.

I’m interested in a couple of things. First of all, I’m concerned that we are—and frankly, the bill was written this way so, it is no fault of any of yours here—but, my concern is that we have the mapping that is required to see where the real priorities in America because they don’t have broadband, and where it’s most needed or the most unserved area. And yet, the funding has to start before the mapping is finished. And it seems like—I understand that this was a stimulus package, and it was supposed to be stimulative, but I also am concerned that we’re not going to be using the right priorities for the taxpayer dollars that we—if we don’t have the mapping first.

So, can you answer for me, either Mr. Strickling or Mr. Adelstein, if that is a valid concern, and if there is any—do you have anything preliminary that gives you a priority, or are you just looking at grants and making these decisions based on the grant request, rather than our information about what the priorities are?

Mr. STRICKLING. I'll speak first.

At NTIA we are not relying solely on the information the applicant provides us. You are correct that the National Broadband Map is not scheduled to be completed until 2011. Our goal is to make sure that the money is spent wisely. And, at least for the infrastructure projects, our focus is on unserved and underserved areas. We do not need a National Broadband Map to make that evaluation. We do have other sources of information. And let me enumerate them for you:

First, we do have the information that each applicant has supplied with its application, in terms of the census blocks in their proposed service area. And they characterize it, with whatever data they have, as unserved or underserved.

In addition to that, the states—some have already done their own mapping projects, so we have access to that information.

In addition, we invited every state to provide us input as to what they viewed as their priority areas within the state. This is not an actual mapping tool, but it allows each state to provide input—and each state, in fact, has provided that input—to tell us that a particular part of a state is an area of particular need and interest for them. So, we have that information.

In addition, there is a process underway, that will conclude tomorrow, I believe, where existing service providers, if they're not the applicant in a given location, may provide very specific information to us, in terms of the availability and the subscribership for broadband services in an area.

So, if we take all of that information together, I think we have a pretty good picture for the particular applications we're looking at, as to whether or not they are truly unserved or underserved, or whether or not they're within the priority areas identified by the state.

You are right that, in a perfect world, if we had the map, our task would be simpler. But, I don't think we are in any way thwarted from carrying out the legislative goals with the information we do have.

Senator HUTCHISON. Did you have anything to add?

Mr. ADELSTEIN. Just that, yes, I think you're right. Ideally, we would have the maps first, but given—as you also indicated, this is a stimulus package, the need to urgently get the jobs back in America, we needed to move forward, and we're using all the tools at our disposal to try to target those funds, as you indicated in your opening statement, toward the areas that are unserved first, areas that don't have any service at all. And we are having to basically look application by application to determine if those areas are, in fact, unserved. Looking at our own due diligence, we've gone into the areas where we're looking at applications to see if, in fact, they say they're unserved, if they are; looking at all the other tools that are available, with state broadband data, with FCC data, other data that we can use.

Senator HUTCHISON. Let me just ask you also, quickly, the volunteer program that is being utilized, can you describe how you use the volunteers and how you assure that the agency personnel are following up or making a decision based on more information, perhaps, than the volunteers could provide? Or just how is that working? Because it's a little bit of a concern. Maybe it's not warranted. But, why don't you describe how you're using 1100 volunteers—is that correct?

Mr. STRICKLING. Approximately 1,100, that's correct. And I prefer to refer to them as independent experts, but they—yes, they are volunteering their time, and we thank them for stepping up—

Senator HUTCHISON. Do they have qualifications that you could—

Mr. STRICKLING. They do. Each person who offered their services—and I have to emphasize that these include executives from telecommunications companies; in one case, I know, we have the former chair of the State Public Utility Commission who is participating; we have very well known academics who are participating. So, these are very expert people who are participating in this program. But, nonetheless, for the entire pool, each person had to submit their credentials in the form of a resume. Each person also had to provide a conflict of interest certification to us, to ensure that we don't have issues of people working on applications, but then also seeking to evaluate other applications. So, everybody was screened. I think, as I remember the numbers, we have about 1,100 who have come through the process. And at least 200 or 300 were rejected, either for conflict of interest or for lack of qualifications. So, I think that shows the seriousness with which we took the obligation to vet these people before we sent applications to them.

I also want to emphasize that their role is the first-round screener. In other words, they are not making determinations or selecting applications for funding. What they're helping us to do is to identify the cream of the application pool. With seven times over-subscription, there are going to be very good applications that do not get funded out of this program, with the dollars we have available to us. I view my mission, and I remind our staff constantly, that our mission is to make sure we don't fund any bad applications. And, in that sense—in that context, if you understand what the reviewers are doing, is really letting us focus in on that part of the application pool that offers the greatest potential for the—to provide the greatest benefits. We then do a top-to-bottom scrub in due diligence of these applications, and make the real determinations. Is this project sustainable? Is the budget reasonable? Do these people have a track record that demonstrates they can build this project? What are the benefits that are going to happen? So, we're making independent evaluations for those projects that pass through to due diligence, to ensure that when we pick a project for funding, it will be a quality and successful project.

Senator HUTCHISON. Thank you. Thank you, very much.

The CHAIRMAN. Thank you very much, Senator Hutchison.

And now Senator Kerry, who's actually—this is his Subcommittee. I'm just cheating.

Senator KERRY. Thank you, Mr. Chairman.

I'd ask unanimous consent that the list—the OECD broadband statistics list, which makes us number 15—be placed in the record. The CHAIRMAN. Unhappily, it will be.
[The information referred to follows:]

OECD Broadband Statistics [oecd.org/sti/ict/broadband]
OECD Broadband Subscribers per 100 Inhabitants, by Technology, June 2009

Rank	Country	DSL	Cable	Fibre/ LAN	Other	Total	Total Subscribers	Source
1	Netherlands	22.5	13.7	1.1	0.8	38.1	6,262,500	Government supplied.
2	Denmark	22.4	9.9	3.9	0.9	37.0	2,031,000	Government supplied.
3	Norway	22.7	7.7	3.5	0.7	34.5	1,645,619	Government supplied.
4	Switzerland	23.3	10.0	0.2	0.3	33.8	2,603,400	Government supplied.
5	Korea	7.2	10.5	15.1	0.0	32.8	15,938,529	Government supplied.
6	Iceland	30.7	0.0	1.3	0.7	32.8	104,604	Government supplied.
7	Sweden	18.5	6.3	6.7	0.1	31.6	2,915,000	Government supplied estimates.
8	Luxembourg	26.0	5.3	0.0	0.0	31.3	153,172	Estimate: OECD.
9	Finland	24.9	4.1	0.0	0.8	29.7	1,579,600	Government supplied.
10	Canada	13.2	15.2	0.0	1.3	29.7	9,916,217	Estimate: OECD estimation based on company reporting.
11	Germany	26.7	2.4	0.1	0.1	29.3	24,043,000	Government supplied.
12	France	27.5	1.6	0.1	0.0	29.1	18,675,000	Government supplied.
13	United Kingdom	22.8	6.1	0.0	0.1	28.9	17,742,676	Government supplied.
14	Belgium	16.3	11.8	0.0	0.2	28.4	3,041,311	Government supplied.
15	United States	10.3	13.8	1.6	0.9	26.7	81,170,428	Estimate: OECD estimation based on company reporting.
16	Australia	19.4	4.3	0.0	1.2	24.9	5,356,000	Government supplied.
17	Japan	8.5	3.3	12.4	0.0	24.2	30,927,003	Government supplied.
18	New Zealand	20.4	1.4	0.0	1.0	22.8	980,649	OECD estimation based on government-supplied data.
19	Austria	14.5	6.8	0.1	0.5	21.8	1,821,000	Government supplied.
20	Ireland	15.5	2.8	0.1	3.0	21.4	950,082	Government supplied.
21	Spain	16.6	4.0	0.1	0.2	20.8	9,477,901	Government supplied.
22	Italy	19.2	0.0	0.5	0.1	19.8	11,878,000	Government supplied.
23	Czech Republic	7.0	3.9	0.9	6.3	18.1	1,891,958	Government supplied.
24	Portugal	10.0	6.7	0.1	0.2	17.0	1,809,354	Government supplied.
25	Greece	17.0	0.0	0.0	0.0	17.0	1,908,000	Government supplied.
26	Hungary	8.2	7.6	1.0	0.0	16.8	1,688,414	Government supplied.
27	Slovak Republic	6.6	1.3	2.7	2.0	12.6	680,351	Government supplied.
28	Poland	7.4	3.7	0.1	0.1	11.3	4,307,992	Government supplied.
29	Turkey	8.5	0.1	0.0	0.0	8.7	6,188,676	Government supplied.
30	Mexico	6.3	1.9	0.0	0.2	8.4	8,959,426	Government supplied.
	OECD	13.7	6.6	2.1	0.5	22.8	271,134,392	

Source: OECD
Notes: See source column of table

Senator KERRY. And I'd just note that, you know, Korea is number 6. Countries with large spaces, like Norway, Sweden, are number 3 and 7. Canada is number 10. United Kingdom, number 11. So, I think everybody would agree, you know, we can do better, and I hope this list serves as a good motivator.

Administrator Adelstein, let me just ask you very quickly—I have the same issue that Senator Rockefeller does, and I just want to hear where you're going on the definition. I mean, most people—you know, we don't technically qualify with remote areas under your—under the current definition. And I know you've said you're going to consider it, et cetera, et cetera. But, I just want to make the point. The Berkshires, in Massachusetts, we work to—I don't know, maybe 8 or 9 years ago, we put together something called Berkshire Connect, because we have to work out a special kind of pool deal to try to attract people to bid, because they wouldn't bid, and they wouldn't come in with broadband, because there weren't sufficient people. They didn't deem it—it's remote. Believe me. You can go out there and find plenty of remote communities, which is part of what people love about it. But, you know, we're fighting for economic development out there. We're struggling with small startups. A lot of the quality of life, which is terrific, it's very attractive to a lot of people. But, we need high speed. We need

broadband. We need the capacity to be able to do that. In places like that, there are those concerns.

So, just share with us very quickly, sort of, what changes you're specifically considering in the application process to create a greater accessibility to the funding on this remote area. Could you just be more specific?

Mr. ADELSTEIN. Everything is on the table. I mean, we are really asking for a top-to-bottom review of, How are we going to target these funds to areas that most need it? Remoteness from an urban area is one measure, but it's only one measure. It's also something we need to do in a way that's easy for applicants to understand. I mean, if we give them a very complex formula that, well, you have to be this far from an urban area, you have to have this density and this income level, how do you make that simple for applicants, so that there's no confusion, and so that they can easily apply, without having undue challenges? I mean we—you and me were actually supposed to meet in the Berkshires to talk about broadband a few years ago, but there was a blizzard that snowed us out. I wish we could have done that, but I—

Senator KERRY. It made it even more remote.

Mr. ADELSTEIN. That's right. They needed broadband out there, when they were stuck inside with 2 feet of snow.

We do need to think about this. And we're going to ask for comment about it. I mean, this is the idea. We want to put this out. We're not going to prejudge exactly what we're going to arrive at. We're thinking very hard about it now.

Senator KERRY. Well, we'll help you. And I hope you'll just take note of what I've, sort of, said, because you're well aware of here, and you understand the complication there.

Boston, incidentally, is one of the few cities, if not the only city, to apply for BTOP money for underserved communities. And their research shows that fewer than—what is it—40 percent of the residents in certain census blocks have adopted broadband service. So, my question is, Are you going to treat underserved blocks within an urban area with the same sense of priority that you give to other areas, where broadband is not there? Because those can be even more impacting and discriminatory, for all the obvious reasons.

Mr. STRICKLING. This is really a question limited to our program at the Department of Commerce. And yes, we're very focused on underserved areas along with unserved areas. I mean, it is a fact that in an underserved area, under our definitions, there is a very large number of unserved members of that population in that community, and we have to be concerned about their access to broadband services, just as we would in an area that was totally unserved.

Senator KERRY. So, you're saying you will treat them in the same way? You're planning to, in this next round?

Mr. STRICKLING. Not only that—well, not just in the current round. Plus, as you mentioned in your opening remarks, Senator, we also have specific buckets of funding for public computer centers and for sustainable adoption projects. Those dollars really are headed—are going to be used, more likely than not, in underserved

areas more in the urban areas. And as—not just limited to rural areas. So, those are two other tools we have to combat this issue.

Senator KERRY. Before my time runs out completely, let me just ask you quickly, and I ask you for a fairly rapid answer. But, can you help us on the anchor institutions—the hospitals, the schools, libraries, et cetera? What’s your approach going to be on the anchor institutions? Because a lot of them are feeling unsettled, and I think you’ve probably heard from them.

Mr. STRICKLING. We have. And as I indicated in my remarks, we’re actually thinking that those are the types of projects where we perhaps should be focusing most of our money, both in round one, the current pool, as well as round two.

Senator KERRY. Good. Well, I appreciate that very much.

Thanks, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Kerry.

According to our order-of-arrival tradition here, Senator Pryor is next.

**STATEMENT OF HON. MARK PRYOR,
U.S. SENATOR FROM ARKANSAS**

Senator PRYOR. Thank you, Mr. Chairman. And thank you for your leadership on this.

And I do believe that broadband—the broadband portion of the American Recovery and Reinvestment Act is an unprecedented opportunity. We know that broadband has the power to create jobs, expand economic opportunity, and enrich the lives of the public through education, healthcare, social and civic engagement.

One of the things that I did before this hearing is, we contacted our local phone companies there, the small rural phone companies that are family owned, and we ask them about how it is to get—how hard it is to get broadband out to rural Arkansas. And one of the interesting stories that we got back—and I’ll quote from the e-mail. It says, “one of our broadband customers who lives off the Cave Mountain Road in Newton County”—which is very remote—“is a computer programmer without commercial power.” He doesn’t have electricity, he lives so far out. He uses both solar power and batteries. This customer lives over 1 mile from the county road and over 10 miles from a paved road. But, what they’ve done is, they’ve installed some—they call it, I think, a closer cabinet. I’m not quite sure what that is. But, it allows him to have broadband. And apparently it’s solar powered. So, here’s a person who’s making a living as a computer program—computer programmer, literally out in the mountains and out in the woods. But, that’s the power of broadband. You can do that. And it connects you to the world and connects you to the economy in ways that, before, weren’t possible.

My staff has put up two maps here. And the one map is the one that you all are using, about remote. And you can see that we just have a couple of areas in our state that are quote/unquote, “remote,” like in West Virginia. And I’ve looked at some of the other States involved. Basically, if you’re east of the Mississippi River—we’re immediately west of it—but, if you’re east of the Mississippi River, you have a very, very small footprint for access to this funding. Within this Arkansas wireline and broadband availability map is what our state really looks like. And it’s a little complicated be-

cause of the different colors, but you can see, in the eastern part of the state and the southern part of the State, clearly those are underserved areas. And it actually goes—loops on around into the western part, as well.

So, I just—I know that you’ve all said that you will change this, next time. And I hope you do. And I hope you’ll take into consideration the reality on the ground and not just arbitrary X number of miles from certain things.

Let me ask about how—if you know, because I’m not sure either of you were there—but, how did the 50-mile radius come into being? Who made that decision and how did that happen?

Mr. ADELSTEIN. I wasn’t at the agency at the time, but my understanding is that the goal was to make sure there is an area where you focus the grant funds. RUS has the unique opportunity to provide loans, which can leverage Federal dollars, basically, 14 to 1. So, we want to be able to maximize the Federal investment by doing that. And we said, Which areas would be the most difficult to serve? And they used that definition as the basis of saying, “We’re going to target funds to the rural remote areas.” You might recall, the RUS was criticized in the past for focusing some of its funds in areas that weren’t as rural. And that’s what some of the IG report, that the Chairman referred to at the beginning—so, the idea was to actually go more remote. Now, maybe they didn’t reach the exact line that was appropriate, but that was the goal. I think it was a good goal, and it’s a goal that we continue to pursue, which is figuring out, Where do you target the grant funds? Where do you try to get the loan funds? And, speaking of loans, your constituent with no energy, we can get that energy loan to your local coop and maybe get them powered up.

Senator PRYOR. Yes, we do some of that, too. And thank you for that.

Now, one more thing to cover before I ask my last question, and that would be—there is an open network provision that is causing question marks with several of the people that might apply for this. And you don’t have to do it for us today, because it’s probably too technical for us, on what you—how that will be interpreted, but I hope you will give clarification to the industry and to interested parties on what you mean by “open network,” because that is causing some concern.

Let me ask about the goals and if we’re accomplishing the goals of the American Recovery and Reinvestment Act, and that is to create jobs. Are we creating jobs through this? How many jobs are we creating? And I know that you’re going to have some jobs in just the hardware, stringing the wire, et cetera, et cetera. But, also I’m assuming there’s some way to measure the number of jobs you create by having broadband going into rural areas. So, can you all discuss that?

Mr. ADELSTEIN. Well, one of the primary metrics that we have in our Notice of Funds Availability is the number of jobs created. So, we’re asking each company to tell how many jobs are created by the project itself. It’s much more difficult to measure how many jobs are created by the availability of broadband in areas that otherwise didn’t have it. We know from experience that it is an enormous number. And the increase in productivity and the economic

growth is very large, based on what we know. But, actually measuring it, saying, "This particular project created this many jobs," is somewhat difficult for the government. So, our metrics, at this point, are focused on how many jobs are created by the actual infrastructure development.

Senator PRYOR. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Pryor.

Senator LeMieux.

Senator LEMIEUX. Thank you, Mr. Chairman.

I want to follow up on my colleague's questions concerning how many jobs have been created or how much money has been actually granted. My understanding of this \$7.2 billion is, the grants have not yet been issued. Is that—am I correct in that?

Mr. STRICKLING. Other than the \$14 million for mapping, that's right.

Senator LEMIEUX. OK.

Well, it seems to me—I guess this was appropriated in February, and I understand we have to have a thorough process, Mr. Chairman, to make sure that there are appropriate applications, but I would think, one, that you had a sense of where the areas that were underserved were when the money was appropriated, and here we are, 8 months later, we have more than 10 percent unemployment in Florida; almost 10 percent unemployment, nationwide. And I'm a little concerned that money that's supposed to stimulate the economy is not yet out there turning dirt, stimulating the economy.

To that, I want to, if I can, bring up to you some concerns that were raised by Don Winstead, who is the special advisor to the Governor in Florida. I mentioned to Mr. Strickling before the hearing started today, he prepared a letter on October 14, and he—they're having some challenges. Under your provisions, you've asked for the Governors to provide feedback on the best way to provide this funding and provide a list of prioritization and recommended projects. And he says in his letter that, of 52 applications for expanding broadband infrastructure, there was no factual proof in the applications of the need for investing the funds in the area. He also says that the reviewers were hindered by Florida's coverage map not yet being available, which goes to the point that was being raised earlier. And perhaps most importantly, "NTIA will not provide us with the information it's collecting from challenges to coverage area attestation."

So, here's a guy on the ground, trying to get the stimulus money spent so that we can create jobs. And I would like for you to talk to his concerns, and also, you know, what's your focus on getting this money spent as quickly as possible so we can stimulate the economy?

Mr. STRICKLING. Right. Well, let me speak specifically to the latter. There may be a misapprehension, in terms of what exactly we asked the states to do. We invited states to provide us whatever input they wanted to. Our concern and our interest was hearing from them about the areas of the state that they viewed as priority areas. To the extent that they wished and were able to provide specific comments on specific applications, we certainly did not discourage that, but we certainly weren't requiring it. So, I'm not sure

that—some of the categories of information that you listed from his letter, I don't know would necessarily have been pertinent to answering the question we asked them, which was, What are the priority areas in your state? If they were hampered by not having that information from their own mapping efforts, I think that was shared by a number of other states. Yet, many states have their own broadband commissions or committees and have anecdotal information about their state even if they don't have precise maps. So, most states, I think, were able to comply with our request, as we asked them to.

In terms of the speed of getting the dollars out, I don't think anybody feels the pressure more than Administrator Adelstein and myself about the need to get these dollars out. At the same time, this—in our case, this is a totally new program. We are dependent on the quality of the applications that are brought to us by the applicants. And as you indicated from the letter you just read from, it sounds as if Florida is concerned that many of the applications in their state just aren't up to snuff. Well, I will not fund a bad application. We have to fund grants that are going to be successful projects that—5 years from now, after the Federal money is long gone, these projects need to be continuing to be operating and be out there serving their community. Otherwise, this program won't be a success. And, as I indicated in my opening remarks, we're going to take a few more weeks here to make sure we get this right. And we absolutely understand the need to use this money to stimulate the economy. But, I don't think anybody will be happy if we rush the dollars out a few weeks early now, and 5 years from now we're wondering why the project failed.

Senator LEMIEUX. Have you gotten any good applications yet?

Mr. STRICKLING. As the selecting official, I look at the slates of grants as they're presented to me through the staff process. So, I am not personally reviewing applications. I hear from my staff that we have lots of very high quality applications.

Senator LEMIEUX. Can we start funding the ones that are high quality now instead of waiting for another month?

Mr. STRICKLING. Well, we would like to be able to do that, but I think it's incumbent upon us to really understand the situation in individual states before we fund any particular application in a state. So, even if I have a good project now, if I have three more in the queue from that same state that may be better projects, I really want to have the ability to look at these and rate them against each other so we're picking the best of the best.

Senator LEMIEUX. Mr. Adelstein? You want to speak to those issues?

Mr. ADELSTEIN. Well, we certainly are trying to move as quickly as possible. I share your frustration about how long it takes. Our agency, for example, has \$4 billion in stimulus funds for water programs, and we've been able to obligate \$1.8 billion already. So, it's not the nature of the agencies, it's the nature of the program, in its complexity, in its being a new program that we haven't initiated before, and needing to establish new standards and ensure that we target the money properly.

Senator LEMIEUX. Yes. I mean, I'm all for doing it the correct way. And obviously we want it to be done—targeted properly. It

just—thinking that this is almost 1 percent of the entire stimulus package, and we're 8 months down the road, and we haven't—you know, except for the mapping dollars, we haven't put one dollar on the street yet—we've got people who are hurting, who need jobs. So, that's what was the purpose of the stimulus appropriation, as I understand it. So——

But, I thank you for your answers.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator McCaskill.

**STATEMENT OF HON. CLAIRE McCASKILL,
U.S. SENATOR FROM MISSOURI**

Senator McCASKILL. Thank you, Mr. Chairman.

Let me just start by saying, while it's great to see you both, Mr. Strickling and Mr. Adelstein, I must make one comment, and there shouldn't be two of you here. Only in the Federal Government would we have two different departments of government doing the same thing. And I don't care how closely you're working together, there is duplication, there is overlap. And I know it goes to the culture of jurisdiction in this august body I'm lucky to serve in, but it is nonsense that we have two different programs. And it makes it complicated for people who are trying to access the programs. It really makes it complicated for those of us who are trying to oversee the programs. So, if I could wave a magic wand, I would morph you into one person and combine your two agencies with a snap of the fingers.

I have a tendency to look at IG and audit reports, as you all well know. And the last time we had a hearing about this was in April 2007, and I had only been here a few months, and I had spent time reading a 2005 IG report as it related to RUS. At that point in time, there was an issue because there was two problems that were pointed out in that IG report. One was the definition of "remote" and "rural" and the other was providing funding in areas that already had multiple providers, because these monies are supposed to be going to areas that are unserved, was the idea, that we were going to get broadband where it wasn't.

Now, that audit was done. We had this hearing, and then nothing happened. And ironically, the excuse RUS used was, they were waiting for the farm bill. OK? That they didn't want to pay out guidance or regulations yet, because they knew the farm bill was coming. The farm bill was going to change all that.

Well, so the farm bill comes out and redefines both of those issues in specific language. Now, here's the unbelievable part. They define what "remote" is. So, we have this stimulus money, and guess what happens? RUS picks a new definition. Why in the world, when RUS used the definition that was passed in the farm bill—I mean, this thing is—the print's not even dry on the farm bill. Congress had just said specifically what the definition of "remote" was: less than 20,000 inhabitants that is not in an urbanized area contiguous and adjacent to a city or town greater than 50,000 inhabitants. And then somebody decided to improve upon the farm bill and pulled "50 miles" out of the air. How did that happen? Who did that? Who was the person who did that?

Mr. ADELSTEIN. That definition was used for the definition of “rural areas.” That was the definition of “rural,” but it wasn’t the definition of “remote.” The definition of “remote” was the one that was “50 miles or more from a urban area.” So, the—we only fund areas that are in the definition of “remote” that was used in the farm bill. But, we try to target funds toward a more—the more remote area—the grant funds—towards the areas that were the hardest and most expensive to serve. So, that was the distinction.

Senator MCCASKILL. OK. Well, it—to me, it seems like that we worked pretty hard on getting language in the farm bill, and everybody at RUS said they couldn’t do anything on the recommendations in the IG report til the farm bill was over, and then the farm bill’s over, and they do a new and different definition. It just seems nonsensical to me.

On the second point—let me talk about the second point. This IG report, that came out in March of this year, went back and looked at all of the funding, 37 applications approved by RUS since September 2005, and they received \$873 million, those 37 applications. Only three of those 37 provided service to totally unserved areas. Only three. Even though there had been a finding in the audit saying that this should not be a program that’s providing competition, with government help, to four or more providers that are already in the area. So, three out of 37 were totally unserved. And here’s the kick in the gut. One of those three was, in fact, in a pretty large-sized community, but you guys had to fund it, because it was laid out in an earmark that you’re required to fund two communities in Florida, by name. So, that means two applications out of 37, in the time period between 2005 until this audit came out, actually went to areas where someone hadn’t already come in, without any help from the government, and provided broadband service. Two, totaling \$25 million.

Now, that’s a problem. And I know you’re new there, and I have great confidence that you’re going to try to change things, but do you agree that you need to—as you all review these applications, that we shouldn’t be providing loans and grants to compete with companies that have not done it with Federal money when they’re already serving these areas?

Mr. ADELSTEIN. I think we do need to move toward areas that are unserved. As a matter of fact, that’s exactly why, in response to the IG report, that the RUS decided to come up with this 50-mile “remote” definition, for which we’re now hearing so many concerns, and valid concerns. We were trying to move away from what was being criticized, and I think legitimately so, of going to areas that had service, by saying, “Let’s go to places that are unserved. Let’s go to the most remote places, and really focus our grant money there.” So, that was a direct response. As a matter of fact, we went beyond what the farm bill required, in trying to push money even further away from cities—for example, suburban areas that were funded under the previous administration—for which the RUS was criticized. So, you know, we, on the one hand, take criticism for going too remote, on the other hand, say that we are not supposed to do that. So, we’re in a—between a rock and a hard place on that.

I think we really do need to think about how we target resources to places the market won't serve. That's where Federal taxpayer dollars should be focused. How do we help that happen? And we try to do that also through loans, to ensure that the market can pick up on it. So, we wanted to use our loan authority in order to have sustainable projects that—for areas that could get revenue, that weren't so remote and unserved that they could prove they had a business plan that would be able to repay, and we could take one Federal dollar that you appropriated, and come up with \$14 in loans for it, and stretch those monies as far as possible, but, for those areas that were the furthest away, really target the resources that Congress provided to those remote areas. And that's what the RUS was trying to do.

Senator MCCASKILL. Well, I—and I know I'm out of time, but, I just think it just—you know, I sit here and I'm following it, and I've read a lot about it, and my head starts spinning. Seems to me it's a pretty simple test. Is this a small community? And are there already three or more providers there? And, if it is a small community, not contiguous or adjacent to an urban community, and if there are three or fewer providers there, I think that's just all we'd have to say, isn't it? Why would we have to say anything more than that? Wouldn't that get it?

Mr. ADELSTEIN. Well, that is the definition of "rural" that we use, where we will fund applications for areas that are underserved. We also, as I said, tried to target areas that are unserved, that are even more remote than that. In other words, let's take the money even further away from being just outside of a City of 50,000, or just outside a City of 20,000, or town of 20,000; go even further out. And it turns out maybe we went too far, and a lot of West Virginia wasn't counted, and a lot of Arkansas wasn't counted. So, now we're thinking back, How do we do that? But, our goal is, I think, shared, which is to take that—those funds and reach the hardest-to-reach areas.

Senator MCCASKILL. Yes. I just don't want Federal money competing with people who have made investments without the help of Federal money. I don't think that's fair to those companies, and I know how many communities there are in my state that are not going to get help under this NOFA because they happen to be within 50 miles of—a community called St. Joseph Albany is a good example—1,900 people within 50 miles of St. Joseph, and I think St. Joseph has run at about 25-percent unemployment right now, so they're—they need this stimulus badly.

Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator McCaskill.

Senator Ensign.

**STATEMENT OF HON. JOHN ENSIGN,
U.S. SENATOR FROM NEVADA**

Senator ENSIGN. Thank you, Mr. Chairman.

Yes, I agree with you, I don't think it's a good idea for the government to compete with the private sector. Just a little side comment there. I have a couple of questions.

First of all we know that the BTOP program is a massive undertaking. And while I'm concerned about the evaluation of the award-making process during this first fund round, I am just as concerned about NTIA's ability to oversee the BTOP projects once the money has gone out the door. Mr. Goldstein, in your testimony, you note that the NTIA has never made grants to commercial entities, and that it has no audit guidelines or requirements in place. It seems to me that having such processes in place is extremely important to prevent funds from being wasted. What sort of problems with BTOP could arise if NTIA does not implement such procedures before funds are awarded? Without adequate audit processes, is there a higher risk of fraud and abuse?

Mr. GOLDSTEIN. Well, at this point in time, there are no audit guidelines for the commercial entities. There are, for the nonprofit entities and the States and the like. There are required reports that OMB is going to ask all recipients of recovery funds, for one thing, which will provide, I believe, quarterly reports, which will help NTIA and RUS evaluate how funds are being spent and, you know, rates of completion of projects and things like that. But, there is some concern, certainly. There is a cutoff, even for—in the single audit act, it has to be \$500,000 and above for them to be covered, even for the nonprofits and State and local governments and the like. But, there are no requirements, at this point, for the commercial entities. And it's one of the things that we feel probably ought to be considered, and is one of the preliminary recommendations that we've made to NTIA in our report.

Mr. STRICKLING. And, Senator, if I could add, there will be audit requirements for commercial entities.

Senator ENSIGN. That was going to be my question of you.

Mr. STRICKLING. Right.

Senator ENSIGN. What would those audit requirements be? I want to ask you that question, and then ask Mr. Goldstein if he thinks they are going to be adequate.

Mr. STRICKLING. Right. Well, we'll be working on that. But, we won't be issuing grants to commercial entities without those requirements being scoped out. And we'll be working with our Inspector General as well as keeping GAO informed of those requirements, as we develop them, because we want to have an effective set of requirements. And they will be in place before a commercial entity receives any grant money.

Senator ENSIGN. And obviously GAO will be following up with that to make sure that the—

Mr. STRICKLING. Yes.

Senator ENSIGN.—whether they've been effective. One of the things that Congress does, in our oversight role, and it is the same thing with the GAO, is to make sure that there isn't fraud, there isn't abuse going on in these especially massive programs, where the money is put out so quickly. There is a large potential for abuse.

I just want to make one more comment. A lot of folks up here have been drilling you all about these "remote" versus "rural" distinctions. I realize your job is very difficult, with some of these definitions, because the states are so different and your challenges are huge. But, your goal, I think, is right, in trying to focus more on

the completely unserved communities versus the underserved communities. And I would encourage you to not completely go away from what you've been doing, but maybe try to strike just some balance there.

I appreciate that you both have huge challenges. We've put a big job on your plate, and you have a lot of work to do. And with all this money, I just hope that you do take your time, you do do it as well as you can possibly do it, and then we'll have IGs and GAO and everybody point out exactly what you did wrong. And then we'll have you before the Committee again.

Mr. STRICKLING. Right. It comes with the territory.

Senator ENSIGN. Mr. Chairman, I'd ask my opening statement also be made part of the record. And thank you, for holding this hearing.

The CHAIRMAN. Thank you. And it will be a part of the record. [The prepared statement of Senator Ensign follows:]

PREPARED STATEMENT OF HON. JOHN ENSIGN, U.S. SENATOR FROM NEVADA

Thank you, Mr. Chairman, for holding today's hearing on the Recovery Act's broadband stimulus programs.

As we all know, the Internet is the most transformational technology of the last 20 years. It has democratized information, created millions of jobs, and made the world a smaller place. It is now an indispensable part of our lives.

Because of the immense benefits the Internet provides to families and businesses alike, demand has spurred tremendous investment in our Nation's broadband Internet infrastructure. Indeed, according to the Federal Communications Commission, 96 percent of all households in America have access to broadband at least as fast as 3 megabits per second—which is fast enough to stream video online. Over 70 percent of homes can subscribe to broadband service fast enough to watch high-definition video on their computers, speeds nearly unheard of just 5 years ago.

While such rapid deployment of broadband is extremely impressive, we want to make sure all Americans participate in the Internet revolution and do not fall victim to a Digital Divide. This is precisely why BTOP and BIP were created.

While I would have rather seen the government pursue market-based proposals rather than top-down government grant programs, I know that everyone here today shares the goal of getting broadband to more Americans and wants to see BTOP and BIP succeed. With over \$7 billion in taxpayer money at stake, we must ensure that these programs are as effective and efficient as possible.

Unfortunately, Congress did not make that easy for the agencies represented here today. Mr. Strickling and Mr. Adelstein, I do not envy the task in front of you. Congress dealt you both a difficult hand.

According to GAO, the size of the broadband programs is unprecedented, and their scope exceeds the previous experiences of both NTIA and RUS. Furthermore, Congress ensured that the programs would be completed in reverse order by requiring over \$7 billion to be spent well before the national broadband map is completed. Too big, too new, and too fast—this is not a recipe for success.

Congress also put the cart before the horse by starting the broadband programs before the FCC could complete its comprehensive national plan for broadband.

Going forward, I hope NTIA and RUS will focus primarily on bringing broadband to communities that do not have any access, rather than subsidizing multiple competitors or experimenting with unproven business models. Furthermore, the agencies should err on the side of caution and take every possible step to reduce the very real risk of waste, fraud, and abuse.

I hope that Congress, NTIA, and RUS will work together in a deliberative manner to ensure that these programs are implemented properly. The last thing I want to see a year from now is a front page headline screaming about taxpayer dollars being wasted and misused in these programs.

Again, thank you Mr. Chairman for holding this hearing. I look forward to listening to our witnesses.

The CHAIRMAN. Senator Klobuchar.

**STATEMENT OF HON. AMY KLOBUCHAR,
U.S. SENATOR FROM MINNESOTA**

Senator KLOBUCHAR. Thank you very much, Mr. Chairman.

Thank you, to our witnesses.

I want to thank you, Mr. Chairman, for your leadership in working with so many of us to make sure that this money was contained in this stimulus package. I know you have some issues in your state with broadband, which we have as well in Minnesota. I always figure I'd rather have kids that grow up in the rural area of our state be able to work in Thief River Falls or in Lanesboro, Minnesota, rather than having these jobs go to China or India. And that's why I'm devoted to this idea of investing in broadband in our country.

My state actually is 44th out of 50 when it comes to Internet speed. And so, I'm focused on that issue, because I've seen the issues where you may have some kind of access, but it's very slow and cumbersome. So, that's my first question, is about that. Our average broadband speed in our country compares very poorly with other industrialized nations. And, in the programs, the broadband programs that you administer, the speed has been defined as 768 kilobits for broadband. How does that compare to the average speed in the rest of the world? And do you think that we need to rethink that minimum speed requirement for the next round of funding?

Mr. STRICKLING. I'll take it. First, understand that that figure was just set to determine the eligibility for filing an application. We made it very clear, in the notice that was put out last July, that one could get additional consideration for their application if they were proposing faster speeds. And I'm reasonably confident, based on what I'm hearing about the applicant pool, that, for the most part, we will be awarding grants at substantially higher speeds than 768 kilobits. So, it was there as an eligibility criteria, because we didn't want to be excluding any particular area of the country where it might actually be the case that 768 is the best that could be done in an area. And if we had picked a speed substantially above that, we might have basically told parts of the country, "You can't even apply, because there's no technology that will work in your—in that particular geographic area." So, we kept it low, as an eligibility criteria. And you'll see grants awarded at higher speeds. And yes, we will ask folks about that issue, in the request for information, before we put the second round together.

Mr. ADELSTEIN. That definition reflects a floor. And we provide higher points for higher speeds. So, we recognize speed matters, and we are trying to promote higher speeds in the application process.

Senator KLOBUCHAR. So, you know, hearing from all my colleagues here, and some of the concerns, do you think you're going to make some changes as you prepare for the next round of funding, in terms of criteria?

Mr. ADELSTEIN. We will. No question.

Senator KLOBUCHAR. Not just on speed; anything.

Mr. ADELSTEIN. No question we're going to make changes. I mean, there's a—we're putting the RFI out shortly, and we're going to learn from this round. I mean, there has been enormous experi-

ence that we've gained through this. And we really welcome your input, GAO's input, expert input that we're going to be soliciting over the next week or so, to figure out, top to bottom, How can we change this? How can we make sure we get to those remote areas you talked about and yet not exclude certain areas that we all would agree should be reached?

Mr. STRICKLING. And I would just add, and echo Administrator Adelstein, we want to apply the lessons from the first round to the second round. And that will be reflected in the questions we ask in this RFI that will come out shortly. It will be reflected in the actual notice, when that is issued later on.

Senator KLOBUCHAR. So, were the number of applications and demand higher than you envisioned? And is that the issue with having to use volunteers and contractors?

Mr. STRICKLING. Well, we had always planned to use independent experts to review the applications. I think the size of the applications, the fact that we were oversubscribed seven times, yes, that surprised me. I didn't expect we would see that level.

Senator KLOBUCHAR. You should have gone on the broadband tour I took in Minnesota—

Mr. STRICKLING. Right.

Senator KLOBUCHAR.—to 22 cities. I could have guessed that—

Mr. STRICKLING. Right.

Senator KLOBUCHAR.—that might happen. But it's—so, it's—just was more than you thought would come in the door?

Mr. STRICKLING. In terms of the dollar amount, absolutely.

Senator KLOBUCHAR. So, when you use these volunteers and contractors, where do they come from? Is there a check on them? Is there any kind of conflicts that you look at before they sign on?

Mr. STRICKLING. Yes. As I mentioned earlier in my testimony, first off, this is just an issue for the Department of Commerce, and Jonathan has not been using these independent experts who have volunteered their time. But, as I indicated earlier, these folks are very accomplished in their field. I am aware of one former chair of a state public utility commission that is serving as a reviewer. We have former senior executives from telecommunications companies who have built these kinds of projects before and are volunteering their time. We have, I think, roughly around 200 folks from the U.S. Government who are experts in economic analysis, who are engineers. Many of the people in my organization, who are not devoted to the program, have been serving as experts. In every case, however, we review the qualifications of anyone seeking to serve as an expert. We, I think, received about 1,300 expressions of interest to serve as a reviewer. We've rejected, I think, roughly 300 people, either due to a conflict of interest, because we also have very a tight conflict of interest provision, as well as not having the qualifications reflected in their resume that we thought would be useful to us.

Senator KLOBUCHAR. Very good. Well, I just want to thank both of you. I know this has been more work than was anticipated, but I think you also understand how important this work is. I know, from working with you, that you do. And we're looking forward to working with you on the criteria for the next round of funding.

Thank you.

The CHAIRMAN. Thank you, Senator Klobuchar.

Let me just conclude with a final question and a small sermon. Is it not true that applicants have to submit separate applications to each of you?

Mr. STRICKLING. They can submit an application and then indicate they want both of us to review it. So, we do have a number of—I think, roughly, 800 or so joint applications.

Mr. ADELSTEIN. Eight hundred or twelve hundred.

The CHAIRMAN. All right. Well then, I'll stick to my text, that it was structured in a manner that requires individuals to submit a significant amount of data both to NTIA and RUS.

Mr. STRICKLING. That's true.

The CHAIRMAN. Is that used in the same way by you both? Do you read it, both, the same way? Do you react to it, both, the same way?

Mr. STRICKLING. I hope so.

The CHAIRMAN. Well, let me give you my philosophy. I'm on the Intelligence Committee, and it's been absolutely stunning over the years to watch the FBI not respond to their newfound responsibilities to act as an intelligence agency. They're all, by definition, lawyers, they carry long legal yellow pads, and they like to arrest people for breaking the law. But surveilling people who might lead them to much further and broader and more dangerous networks is not something they do. Moussaoui is the classic case of that. They arrested him because his French driver's license had expired; the worst possible thing they could have done.

Now, the Director of the FBI would come up, and he couldn't get his, you know, computer system to work, and so, he'd buy another one for another \$350 million, and it didn't work, so he'd get another one. And he'd come up and, "We need time. We need time." And in the meantime, the fact of the matter was that, in the world of intelligence, there really wasn't a cultural change taking place in either the CIA or the FBI, that the FBI, after all, was made up of leaders—and I'm looking right at you, Jonathan—or, I should say, Your Excellency—and that you want this change to work. And that—it has been, in an odd way, reconfigured so that you need to. I don't approve of the way it was done, but that's what we're living with, and you're going to try your very best. But, for example, when you came in, all the rules for "remote" had already been set by the bureaucracy—you didn't have anything to do with it. So, now you've got to change those. You can't just do that by yourself. Or maybe you can. How many people do you have working for you?

Mr. ADELSTEIN. We have about 300 in Washington—

The CHAIRMAN. Well, you have a 3 percent chance, then, of getting it done. But, you understand what I'm saying. Bureaucracies don't change. I'm not helping by saying that I don't think that you all should have gotten it, I think it should have all gone to them. That's what we've all said. That's what you've heard from the House. And now we're talking about the definitions of "remoteness" and the difficulties of integrating your work together, and NOFAs going out and, Is there going to be more coordination on all of that? And, my conclusion is that we are where we are. And therefore, you have to work. But, after 9/11, the first law that we had to pass was allowing the CIA and the FBI to talk to each other. We actu-

ally passed a law, a week later. They previously weren't allowed to talk to each other. Now they both do intelligence, but in a discrete and external/internal manner. But, it has not worked well. It has not worked well.

Now, national intelligence is probably a higher priority, given the state of the world, than broadband, but viewed from West Virginia, it isn't. I mean, we don't advance, and Senator Klobuchar's folks don't advance unless they have a broadband package which is coordinated and which works.

So, what I want each of you to do is to—you don't have to look at each other as you do this, but I want you to tell me what troubles you have as a result of this being a bifurcated process. And don't tell me you don't have any, because I won't believe it.

Mr. STRICKLING. Do you want to go first?

Mr. ADELSTEIN. I'll go first, if you insist.

I think one of the issues is—the loan versus grant is a big issue, because people actually want grants. They don't want loans. If they can get all Federal money, they'll take it. And yet, our expertise, since 1935, is finance, is doing loans. We're a bank, a rural development bank with a \$54 billion portfolio. So, we want to take those dollars and stretch them as far as possible. And a lot of people looked at the applications and they said, "Well, you know, we're forced into the loan portfolio, but we really would rather get a grant." And that's been a fairly big issue. So, I think the hardest thing for us—

The CHAIRMAN. That's a fairly big problem. Maybe some people will decide that a loan, to them, means that they're not certain that they have your full confidence, or that's not what they've come to expect, let's say, from NTIA. And you can correct me if I'm wrong. But, then they may withdraw or lose enthusiasm. I'm probing.

Mr. ADELSTEIN. They certainly seem to prefer—

The CHAIRMAN. You do loans. That's what you've always done. That's what I didn't want to hear.

Mr. ADELSTEIN. Well, what I'm saying is that we want to stretch those dollars as far as possible, and we want to leverage our expertise in this in order to have stable business plans. I think—the important thing is, if they can pay back a loan, we look in great detail on their ability to pay it back. As I said at the beginning, we only have a 1 percent default rate. So, we have the ability to say, "Give us a business plan that works." If we just give you all a grant, you can go out, you can blow the money, and then, 5 years later, there'll be nothing for the community, because they didn't have a business plan that could sustain that investment. But, if we can give them half of it in grant, to get them over the hump and get them out to those areas that are hard to serve, and make them pay back the other half, we can double, almost, the amount of investment that is leveraged by those Federal dollars, and we can make sure they have a sustainable business plan. So, I think it's a very good policy goal. It's a very good fiscally responsible goal. But, it's not necessarily in cahoots with human nature, which is, "I'd rather just have all grant." And so, trying to coordinate these two programs to ensure that he gets the grant money out, we get the loan money out, and we maximize the bang for the buck, has been a challenge for us.

The CHAIRMAN. Well, that implies that, if you do primarily grants, that you're kind of pitching your money out there into the wind. I'm sorry, but this is what I wanted to get. I mean, you're saying his grants plan is not a wise one because people just say, "Good. Now we'll just do whatever we want." Yours, you're saying, is more disciplined. And I'm suggesting that this is exactly what confuses people, and probably prevents a lot of people from applying—you know, you have \$28 billion worth of applications, and I understand that. It's very impressive. On the other hand, maybe there are missing people, who could really do much more valuable work, but they just sort of get confused as to what they're meant to do. They've got these two agencies they've got to do business with.

Mr. STRICKLING. Well, the rules were structured to require people who could qualify under the RUS program to have their application considered there first. In line with the policy initiatives that Jonathan mentioned, which were, "The dollars will go further if we can give loans out before we resort to grant dollars," it's hard to argue with that logic. The dollars will go further. It's also absolutely the fact that there have been people who have not applied for this program because they didn't want to take a loan and were concerned that they wouldn't ever get to the grant piece of this, because they might well be awarded a loan, under the RUS program, which they don't want to take. So, as a result, they just didn't apply. I'm aware of companies in that situation, and they are companies that we would like to have in the program. I mean, these are, you know, significant companies that just felt discouraged by the way the rules were set up. So, you have the—

The CHAIRMAN. OK. So, how do you harmonize that?

Mr. STRICKLING. Well, the problem is that if we're going to take, as the national goal, to have the dollars go as far as possible, it's hard to reconcile the two, because as Jonathan mentioned, you have human nature, which wants the full grant, if they can get it, and not the loan, as against the national policy of trying to make the loan dollars go out first as a way to make the total appropriated \$7 billion go as far as possible.

And I think—we will continue to evaluate this for round two but—

The CHAIRMAN. So, I'm reading—

Mr. STRICKLING.—there is a natural tension here.

The CHAIRMAN.—I'm reading you both to say that you basically agree with the criticism that is being showered upon you, but you're stuck with what you got, and you've both got to proceed as best as you can. And so, you just don't want to be sidetracked by those issues. I mean, you have a couple good companies that you missed because they wanted grants, not loans. And Jonathan was shaking his head a little bit, like that, so he obviously agreed with that. So, we just—

Mr. STRICKLING. I think we'll look at it again for round two.

The CHAIRMAN.—we just have to accept it.

Mr. STRICKLING. Yes, well, we will look at it again for round two, but I think the policy imperative is strong enough here, I wouldn't tell you, today, we will definitely change from what we had in round one.

The CHAIRMAN. All right. Well, let me ask you one final question. And, Senator Klobuchar, if you've got questions—

Senator KLOBUCHAR. No.

The CHAIRMAN.—you're welcome to them.

Sometimes, an underserved area or an unserved area may be, in fact, the next terrific industrial park, but it hasn't been established yet, and the businesses haven't come yet, and the land movers haven't flattened it yet. But, it fits. And somewhere, unbeknownst to some of us, let's say, in each State, there are entrepreneurs who want to do business and want to build factories in those areas, but they're underserved and they're remote. They're not going to show up in either of your definitions. But, if you are looking toward the growth of a State, and bringing jobs to a state through broadband, it may be that this remote—and actually I'm thinking, you know, people love to beat up on mountaintop removal, but in West Virginia, only 4 percent of our land is flat and the rest of it going either up or down—that's the only place you build all of your high schools, you build all of your airports, you build all of your industrial parks on tops of mountains. Now, they're very ugly, right after you stop removing, you know, the overburden of the coal, whatever, but that changes very quickly, and they can be used for industrial parks. Now, how do you take that kind of thing—I mean, to me, that's stimulus, that's what you ought to be looking at. But, it doesn't sound to me like you can.

Mr. ADELSTEIN. Well, one of the things that the Secretary of Agriculture is very focused on is regional economic development, not just in one community, but looking at, How are regional plans developed which would involve having those kind of areas that are enterprise zones? And how does that fit into the broader—

The CHAIRMAN. Yes, but he doesn't know about it. He doesn't know this is going on. And you don't know that it's going on. There's a plan where there are a couple of entrepreneurs—I can think of four or five instances, as I'm talking right now, and I'm sure Senator Klobuchar can do the same—where there are entrepreneurs who have big plans for remote areas, because they're remote. If they were served by broadband, of course, they would become extremely popular and create a lot of jobs. But, you can't know that.

Mr. ADELSTEIN. It's sort of our job to know that. We have 5,000 people in offices in 47 states—470 offices across the country do rural economic development. And we are going every day and talking to local entrepreneurs and businesspeople about, What can we do to support your efforts to build new jobs, to build new factories, to find places that are underused and make them happen? And what are the resources we have available—one of them being broadband—to make that happen? So, the Secretary really wants us to find out, he wants us to—

The CHAIRMAN. No. Now, wait. Jonathan, you're making this too easy on yourself. "We know what's going on." First of all, I'm skeptical about that. "Well, we've got people in offices and they know what's going on." Well, I'm skeptical about that. Decisions of these sorts are usually made on an inner-sanctum basis, within a Governor's office, and it's all highly confidential and nobody's saying anything to anybody, because they want it to happen and nobody

is meant to know about it. But, it will not happen at all unless there's broadband made available to those areas. And I'm sort of asking you to—you know, to push back on me, if you think you can do it. I don't think you can.

Mr. STRICKLING. I don't think our grant programs are well suited for this type of initiative. However, the hypothetical you describe—I would be willing to wager, that the organizers of that sort of project, particularly if it's a greenfield project, almost certainly would have the capability to build broadband into their development plans. And then the only question is, Can they get a connection back into the overall network? And, at that point, if they really are putting a big project together, it's hard for me to imagine that private industry wouldn't step up to provide the connection, the middle mile into that type of significant development, once it's built. But, we're speculating, here, in the absence of specific facts, obviously.

The CHAIRMAN. OK. Well, look, this has been useful, this has been helpful. I'm not thrilled, but you're two good people and you're running one and a half good organizations. And——

[Laughter.]

The CHAIRMAN.—and I don't mean to be unkind about that, but I do feel that way. I don't know why it was divided up the way it was, but that's what political power does around here. And I'm unhappy about that.

And broadband, you know, I think that I was fighting for broadband before I was fighting for E-Rate, back in the mid-1990s. But, that doesn't make any sense; you can't fight for broadband before you fight for E-Rate. But, it's very, very important, that's all I'm saying; the results of this are very, very important. And so, your work has to really be clever, and you'd better, you know, bug a lot of Governors' offices or something so you can find what's being secretly planned, because a lot of what's being planned is planned in secret.

End of hearing.

[Whereupon, at 4:35 p.m., the hearing was adjourned.]

A P P E N D I X

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV
TO HON. LAWRENCE E. STRICKLING

Question 1. Congress intended that the Broadband Technology Opportunity Program (BTOP) and the Broadband Infrastructure Program (BIP) be targeted to unserved and underserved communities. In order to identify such areas, the applicant must provide broadband availability data to the National Telecommunications and Information Administration (NTIA) and the Rural Utility Service (RUS). In addition, the BTOP and BIP rules allow existing service providers to provide comment on proposed projects, including data regarding broadband service in such areas. The rules suggest that if existing service providers do not provide such data within 30 days, the agencies will presume that there is no existing service provider in those areas.

Incumbent providers have complained that the database used to collect data is cumbersome and inefficient. As a result, they may not be able to provide complete information by the deadline set forth in the rules. What is being done to make sure that RUS and NTIA have sufficient and accurate information on which to base their funding decisions? Are there ways for incumbent providers to supply additional data after the deadline?

Answer. NTIA and RUS provided existing service providers with a 30-day window to voluntarily submit information regarding the proposed funded service areas of BTOP/BIP infrastructure applicants to help us ensure that BTOP funds support projects in areas that meet the definition of unserved or underserved. NTIA and RUS worked diligently to ensure that existing providers had an adequate opportunity to provide information regarding their services. To the extent that existing providers were not able or willing to use the online tool, they were invited to submit supplemental information in writing to NTIA. NTIA will consider this information, along with any other data at its disposal, as part of its due diligence review process.

Comments were permitted after the 30-day window, but the agency informed service providers that it could not guarantee that late-filed comments will be considered. In addition to the availability data submitted by applicants and incumbent providers, the agencies have access to additional information to evaluate whether an area is unserved or underserved, including broadband maps compiled by States and additional comments submitted by State Governors. We are confident that NTIA will have sufficient and accurate information on which to base funding decisions.

Question 1a. Conversely, applicants have voiced concern that incumbent providers may supply inaccurate data that they will not have the opportunity to rebut. Is there an appeals process to the extent that there is a conflict over the data provided to the RUS and NTIA?

Answer. Before making a grant, NTIA will determine whether an area is unserved or underserved based on all information available to it. The submissions of service providers are not dispositive but are just additional information we will consider. NTIA is also utilizing any other data at its disposal to help evaluate claims made by both applicants and commenters. Although there is no appeals process regarding NTIA's determination of the unserved or underserved status of a proposed funded service area, NTIA may request additional information from applicants and commenters as necessary and appropriate.

Question 1b. Once an application reaches the second due diligence phase, what efforts will be made to assess the accuracy of the broadband service data in the proposed project areas?

Answer. NTIA will review submissions made by existing service providers and compare them against proposed funded service area designations and the methodology used to evaluate the unserved or underserved status of the area. NTIA is also utilizing any other data at its disposal to help evaluate claims made by both applicants and commenters. The NOFA provides that RUS and NTIA will reject an application if it is determined that a proposed funded service area identified by an appli-

cant does not meet the unserved or underserved definitions or does not qualify as a “rural” area without sufficient access to broadband service.

Question 2. I am concerned that coordinating grant programs between NTIA and RUS has made the application process unnecessarily complex and delayed the use of stimulus funds. I would like to have a better understanding of how the agencies have worked together to date and plan to proceed with respect to the second notice of funds available (NOFA). When do you anticipate that RUS and NTIA will begin taking comment on the second NOFA?

Answer. NTIA has coordinated closely with the other agencies directed to lead the Federal Government’s broadband efforts, in particular the RUS of the Department of Agriculture, to provide applicants and the public with a unified approach to addressing the Nation’s broadband needs. Our coordinated efforts included the initial public meetings, release of the first Request for Information, development of the first NOFA, applicant workshops, joint application intake, development of the website www.broadbandusa.gov, and the release of the second RFI on November 10, 2009. The comment period closed on November 30, 2009. As we plan for the second round of funding, the agencies will evaluate our success in coordinating our efforts and may make targeted adjustments to improve efficiency as appropriate.

The second RFI sought public comment on certain issues relating to the implementation of BIP and BTOP and is available at http://www.ntia.doc.gov/frnotices/2009/FR_BIP_BTOP_RFI_091109.pdf. The RFI sought information that will help the agencies improve the broadband programs by enhancing the applicant experience and making targeted revisions to the first NOFA, if necessary. The agencies requested comment on topics related to the application and review process, including:

- Streamlining the applications;
- Transparency and confidentiality;
- Outreach and support;
- NTIA expert review process;
- Policy issues including funding priorities and objectives; program definitions; public notice of service areas; interconnection and nondiscrimination requirements; sale of project assets; cost effectiveness; and
- Other substantive changes to encourage participation and enhance the program.

Question 2a. Why should applications be considered for both a BTOP and a BIP award, if the applicant is only interested in one of the programs?

Answer. Pursuant to the first NOFA, broadband infrastructure projects in areas that are at least 75 percent rural were required to be submitted to RUS for consideration under BIP. If an applicant intending to serve such rural areas also chose to have its application considered for BTOP funding, the applicant completed the additional application questions required of BTOP infrastructure applicants. NTIA may determine such applications to be meritorious and make grant awards if RUS reviews the application and determines not to fund it. This approach reflects the statutory requirement that RUS fund broadband projects exclusively in rural areas and that NTIA funding not be applied in an area funded by RUS under the Recovery Act. NTIA and RUS sought comment on this issue as part of the second joint RFI.

Question 2b. How can the second NOFA be streamlined without increasing the risk of fraud or abuse?

Answer. In the second funding round, NTIA will seek to improve the application process as much as possible and will make targeted revisions to the first NOFA, if necessary, to better achieve the goals of the Recovery Act. In the second RFI, we sought public comment on ways to streamline the second NOFA. NTIA is committed to ensuring that taxpayer dollars are spent efficiently and will take every step necessary to prevent fraud or abuse. However, the first application may have requested information that is not necessary to making a full evaluation of the proposal or to preventing fraud or abuse or may have requested it in a format that can be streamlined in the second round. NTIA will continue to request as much detailed information in the application process as necessary but I am confident we can streamline the process in an efficient and effective manner.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN KERRY TO
HON. LAWRENCE E. STRICKLING

Question 1. All of the first round applications are in, and have been for a number of months now. When will you be able to make public the applicants who have advanced onto the “due diligence” phase of this process?

Answer. NTIA has begun notifying some applicants that have advanced to the due diligence phase of application review. This will continue on a rolling basis until all awards are made. Given the competitive nature of the program, NTIA is not making public the status of applications. We have advised all applicants to consider their application to be under consideration in due diligence until they hear otherwise from NTIA.

Question 2. Can you estimate the number of first round applications you anticipate moving on to Phase 2?

Answer. As noted previously, applications are advancing to Phase 2 due diligence—and NTIA will begin announcing awards—on a rolling basis. At this time, NTIA is not able to estimate the total number of applications that will advance to Phase 2.

Question 3. Have you had sufficient staff and resources to work through the vast number of applications for funds you have received?

Answer. At present, NTIA has sufficient staff and resources to administer the BTOP program. NTIA is authorized to spend up to \$141 million for BTOP administrative expenses through September 30, 2010. At this time, NTIA has filled 38 positions with new hires and details from other bureaus for this program. On August 3, 2009, NTIA entered into a contract with Booz Allen Hamilton for program development and administration services. The contractor is assisting NTIA staff in the grants administration process to ensure that we can award Recovery Act funds in the most effective, equitable, and accountable manner possible.

While our current staff is adequate, the Recovery Act does not provide authority or funding for administration and oversight of BTOP-funded projects beyond the end of Fiscal Year 2010. NTIA is examining options to ensure sufficient administration and monitoring of BTOP grant projects and to carry the program to conclusion. NTIA intends to work with Congress on this matter.

Question 4. Mark Goldstein from GAO testified that there may not be enough time to make the necessary changes to the application process before the second round begins. Do you agree with his assessment?

Answer. No. NTIA is working as expeditiously as possible to evaluate and award the first round of grants, apply lessons learned from the first round to the design of the second funding round, and take all steps to ensure that funds are obligated by September 30, 2010, as required by the Recovery Act. NTIA appreciates the GAO’s observation that NTIA faces several challenges in evaluating and awarding BTOP funds in the relatively short period of time required by the Recovery Act.

NTIA has already taken a number of steps to reduce the risks the GAO identified, including adding additional review time for first round grants, shifting from three funding rounds to two, procuring contractor support, and taking other steps to effectively evaluate, award, and monitor BTOP grants. NTIA will continue to take all appropriate additional steps to apply lessons learned and address GAO’s concerns.

Question 5. How much time do you believe is needed to develop the second notice of funds availability?

Answer. On November 10, 2009, RUS and NTIA released the second joint Request for Information (RFI) seeking public comment on certain issues relating to the implementation of BIP and BTOP. The RFI sought information that will help the agencies improve the broadband programs by enhancing the applicant experience and making targeted revisions to the first NOFA, if necessary. NTIA will use the comments received from all interested parties to determine what changes, if any, are appropriate. NTIA currently plans to release a second NOFA in January, 2010.

Question 6. When do you anticipate beginning and completing that process?

Answer. NTIA will use the RFI comments received from all interested parties to determine what changes, if any, are appropriate. NTIA then plans to prepare and release a second NOFA in January, 2010.

Question 7. In order to prevent funds for unserved and underserved areas from being used for projects in areas that are already served by existing service providers, I understand that NTIA and RUS allow for existing service providers to submit data about their broadband service in response to applications for funds. Some existing service providers have expressed concern that the 30 day comment period is not sufficient for them to review every application, while some applicants are con-

cerned that there is no established appeals process in cases where objections are made by existing service providers.

If existing service providers do not object to an application, is there any additional check to ensure the funds are going to areas intended by Congress? Also, given the timing constraints, do you have a procedure in place to deal with concerns raised by existing service providers outside of the 30 day comment period?

Answer. NTIA and RUS provided existing service providers with a 30-day window to voluntarily submit information regarding the proposed funded service areas of BTOP/BIP infrastructure applicants to help us ensure that BTOP funds support projects in areas that meet the definition of unserved or underserved. NTIA and RUS worked diligently to ensure that existing providers had an adequate opportunity to provide information regarding their services. To the extent that existing providers were not able or willing to use the online tool, they were invited to submit supplemental information in writing to NTIA. NTIA may consider this information, along with any other data at its disposal, as part of its due diligence review process.

Comments were permitted after the 30-day window, but the agency informed service providers that it could not guarantee that late-filed comments will be considered. In addition to the availability data submitted by applicants and incumbent providers, the agencies have access to additional information to evaluate whether an area is unserved or underserved, including broadband maps compiled by States and additional comments submitted by State Governors. We are confident that NTIA will have sufficient and accurate information on which to base funding decisions.

Question 8. If existing service providers object to an application, will their objections be made public? And if so, where will those objections be available for public viewing and in what timeframe? Finally, what is the appeals process for the applicants to undertake?

Answer. The name of existing service providers submitting information and a summary of their response is linked to the relevant application and is publicly available on www.broadbandusa.gov. In filing responses to a Public Notice Filing, however, existing service providers were asked to submit specific information about their existing service offerings, including the number of households and businesses that have access to broadband service in the proposed funded service area and the price, speed, and number of subscribers for the broadband services offered. Such information submitted will be treated as proprietary and confidential to the extent permitted under applicable law.

NTIA will review the submissions made by existing service providers and compare them against the applicants' proposed funded service area designations and the methodologies used to evaluate the unserved or underserved status of the area. The NOFA gives RUS and NTIA discretion to reject an application if it is determined that a proposed funded service area identified by an applicant does not meet the unserved or underserved definitions or does not qualify as a "rural" area without sufficient access to broadband service. The agencies will make the required determination before awarding a grant. Although there is no appeals process regarding NTIA's determination of the unserved or underserved status of a proposed funded service area, NTIA may request additional information from applicants and commenters as necessary and appropriate.

Question 9. There are several requirements for applicants to meet in order to be eligible for BTOP funding, including minimum Internet speeds. The minimum speed required is enough for consumers to access simple e-mails and simple websites. Unfortunately, it is not fast enough to run more complex websites and streaming video. Why did you settle on such a low minimum speed requirement?

Answer. There may be rural or remote areas of the country where the only practical technology available delivers speeds of roughly 768 kbps. NTIA did not want to summarily exclude such areas of the country from being eligible for funding without at least considering the range of applications filed. The commitment to provide a minimum downstream speed of 768 kbps is a preliminary eligibility factor, and it does not reflect the speeds we would expect to fund. In fact, greater consideration will be given to applications proposing faster speeds and NTIA is confident that BTOP will fund projects that provide broadband at speeds significantly greater than the minimum requirement.

Question 10. How many of the applications will only meet the minimum speed requirements?

Answer. At this time, NTIA does not know how many awards will be made for infrastructure applications proposing to offer broadband at various speeds. However, considering that the commitment to provide a minimum downstream speed of 768 kbps is only an eligibility factor and that greater consideration will be given to applications proposing faster speeds, NTIA is confident that BTOP will fund projects

that provide broadband at speeds significantly greater than the minimum requirement.

Question 11. How significantly does speed and utility factor into your decisions in awarding funds?

Answer. BTOP applications will be evaluated and selected based on their ability to provide the greatest benefits—including the greatest broadband speeds—to the greatest population of users, consistent with objectives outlined by Congress in the Recovery Act. In order to be eligible for broadband infrastructure grants, applicants must, among other requirements, commit to providing minimum broadband speeds of at least 768 kbps downstream and 200 kbps upstream in an unserved or underserved proposed funded service area. Applications offering higher broadband speeds will receive more favorable consideration than those services with speeds meeting the minimum broadband definition. NTIA is confident that BTOP will fund projects that provide broadband at speeds significantly greater than the minimum requirement.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BARBARA BOXER TO
HON. LAWRENCE E. STRICKLING

Question 1. I was pleased that the implementing rules for the broadband grant program included language requiring non-discriminatory practices by grant awardees, while also allowing awardees to “employ generally accepted technical measures . . . to address spam, denial of service attacks, illegal content, and other harmful activities.” In your response to questions for the record following your confirmation hearing in May, you stated “[i]f confirmed, I will ensure that purveyors of unlawful content find no legal immunity for their conduct under the non-discrimination obligations that the Recovery Act directs NTIA to impose.”

The rules and your statement demonstrate that NTIA intends for the broadband grant program to balance the interests of open Internet access with permitting reasonable management practices to prevent the transmission of illegal content.

Please describe, in detail, specific measures implemented by NTIA and RUS to ensure that proposed broadband programs by applicants contain sufficient measures to protect against the transmission of illegal content.

Answer. The Recovery Act requires NTIA to establish non-discrimination and interconnection obligations as contractual terms of awards under BTOP that, at a minimum, adhere to the principles contained in the FCC’s Internet policy statement. The five non-discrimination and network interconnection requirements in the NOFA ensure that public funds will support the public goal of open networks while also permitting reasonable network management that may be used to prevent the transmission of illegal content. Specifically, the NOFA states that awardees may employ generally accepted technical measures to address illegal content. The focus of these provisions is to avoid imposing requirements that would prevent applicants from taking action they would otherwise take to address illegal content.

Question 2. The American Recovery and Reinvestment Act of 2009 required that grants be provided for several purposes, such as serving unserved and underserved communities, and “to ensure access to broadband service by community anchor institutions.” Indeed, you stated in your testimony that NTIA intends for the broadband grants program to “bring maximum broadband benefits possible to our community broadband anchor institutions, such as schools, libraries, community centers, and medical centers.

Please explain, in detail, why NTIA decided to place the unserved/underserved requirement on anchor institution applicants.

Answer. The NOFA reflects our goal and, we believe, the intent of Congress to fund projects that will provide the greatest benefits to the greatest population of users and to focus on areas that have no broadband or inadequate broadband, rather than supporting projects located in areas with more substantial broadband services. Accordingly, an anchor institution may establish eligibility for funding by proposing an infrastructure project that includes an interconnection point in only a single unserved or underserved census block. This requirement allows any anchor institution, by teaming with an institution in an unserved or underserved area, to apply for funding, without regard to whether every institution in the application is located in an unserved or underserved area. Anchor institutions may also apply for funding under the other two project categories—public computing center and sustainable broadband adoption programs—without regard to the institution’s location.

Question 3. Please explain, in detail, specific measures implemented, or to be implemented, by NTIA to ensure that “maximum benefits” are provided to anchor institutions, as set forth in the Recovery Act.

Answer. Expanding and enhancing broadband capabilities for community anchor institutions such as schools, libraries, and health care facilities is an important priority for NTIA and the BTOP. Such organizations are eligible entities for BTOP funding through the Broadband Infrastructure, Public Computer Center, and Sustainable Broadband Adoption pools of funding. Anchor institutions can qualify for the Public Computer Center or Sustainable Broadband Adoption categories of grants without demonstrating that their proposed service areas are unserved or underserved.

Just as broadband infrastructure applicants must demonstrate that they plan to cover unserved or underserved areas of the United States, they must also demonstrate that anchor institutions such as schools, libraries, and health care facilities will benefit from BTOP grants in order to receive highly-favorable consideration. All applications for BTOP grants will be evaluated, in part, on their ability to enhance broadband capabilities for anchor institutions.

In the recently-released joint Request for Information, NTIA and RUS have asked for public comment on focusing the next round of broadband funding on connecting key anchor institutions as part of a broader “comprehensive communities” approach. NTIA is confident that BTOP funds will be used to enhance broadband services for community anchor institutions consistent with Congressional directives in the Recovery Act.

Question 4. The American Recovery and Reinvestment Act of 2009 provides that several factors shall be considered in awarding broadband grants, including “whether the applicant is a socially and economically disadvantaged small business concern,” which includes minority-owned and women-owned businesses.

Please describe, in detail, specific measures that NTIA has implemented to ensure that small businesses and disadvantaged small businesses receive a fair share of competitive broadband grants.

Answer. NTIA welcomes, encourages, and indeed provides additional consideration to applications including participation by minority and small businesses. Eligible entities were required to indicate in their application for BTOP grants whether they are, or will collaborate with, socially and economically disadvantaged small business concerns (SDBs). Collaboration is defined to include the involvement of SDBs as a sub-awardee, contractor, subcontractor, or vendor. Of the four Project Purposes criteria against which reviewers evaluate applications, one is whether the applicant is a SDB or is collaborating with SDBs. In their evaluation of Project Viability, reviewers score a project’s linkages to unaffiliated organizations as an ongoing and integral part of the project planning and operation. In order to receive the full score for this criterion, at least one partner needs to meet the definition of a SDB. Furthermore, during the final selection of BTOP awardees, NTIA will take into account, among other factors, the extent to which the application satisfies the BTOP program purposes, including whether the applicant is a socially and economically disadvantaged small business concern. NTIA is committed to ensuring that socially and economically disadvantaged small businesses have every opportunity to participate in this important initiative.

Question 5. Please provide the percentage of applicants to NTIA for broadband grants under the Recovery Act that are small businesses, and disadvantaged small businesses.

Answer. In the first funding round, NTIA was pleased to see strong participation from the small business community, especially from socially and economically disadvantaged businesses (SDBs). Of the 1,785 applications to BTOP and joint BTOP and BIP programs, 13.9 percent were from SDBs or from applicants collaborating with SDBs. Specifically, approximately 114 SDBs applied, and another 135 applicants indicated collaboration with SDBs, either as a sub-awardee, contractor, subcontractor, or vendor. In the first round, SDBs requested approximately \$1.86 billion in Federal grants and loans, with a total match commitment of \$640 million. When including applications received from the entire small business community, the participation levels are significantly higher.

Question 6. Please describe, in detail, any and all outreach and program education efforts made by NTIA to small businesses and disadvantaged small businesses.

Answer. To assist potential applicants with the application process, NTIA and RUS embarked on an extensive educational campaign earlier this year, holding 10 workshops across the country. For SDBs, we held three additional meetings focusing exclusively on the challenges faced by minorities and small and economically disadvantaged businesses. The Commerce Department’s Minority Business Develop-

ment Agency (MBDA) and Office of Small and Disadvantaged Business Utilization (OSDBU) supported our efforts to publicize BTOP's opportunities to minority firms and small businesses and recruit application reviewers. NTIA is committed to continue this outreach to encourage SDB participation in the next BTOP funding round.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO
HON. LAWRENCE E. STRICKLING

Question 1. Mr. Strickling, you have said that NTIA is learning from the first BTOP funding round. As a result, the NOFA for the second BTOP funding round may "contain different programmatic information*to better achieve the agencies' goals and to adjust the process based on the applications received." My understanding is that BTOP has a two-step review process.

What level of detail should unsuccessful applicants expect to receive as part of their debriefing if their proposal is eliminated during the first step of the review process? If it is eliminated during the second step of the review process?

Answer. NTIA aims to notify all first round applicants of the decision on their applications prior to the date on which applications will be due for the second BTOP round. At this time, NTIA has not determined the precise level of detail applicants will receive if they are not selected for funding. All applicants will be notified in writing if they are rejected for funding along with information regarding the reason for the rejection. We do not anticipate that time or resources will permit detailed or in-person debriefings with applicants.

We will advise all rejected applicants to refer to the second NOFA, technical assistance materials we will make available, upcoming planned workshops, and to study the projects NTIA does fund as models they can use to prepare applications for the second funding round. Our next NOFA will also provide specific guidance as to the requirements for a successful application. NTIA has received far more applications that it can accommodate in the first funding round. We anticipate that there will be many highly-qualified applications that do not receive funding in this round.

Question 2. Will unsuccessful applicants have the opportunity to appeal their elimination if after their debriefing they believe their elimination was based on factually inaccurate information?

Answer. BTOP is a discretionary grant program and, as such, applicants denied for funding cannot appeal the agency's decision. Applicants denied funding in the first round, however, may file in the second round with updated or additional information.

Question 3. Will all applicants have received debriefings prior to the release of the NOFA for the second BTOP round?

Answer. NTIA aims to notify all first round applicants of a decision on their applications prior to the date on which applications will be due for the second BTOP round. We do not anticipate that our resources will permit detailed or in-person debriefings with applicants.

Question 4. Mr. Strickling, my understanding is that NTIA is posting a public notice of the proposed funded service area for each broadband infrastructure application under BTOP so that any 'existing broadband provider' can comment on whether a proposed area is unserved (or underserved). The information provided by the 'existing broadband provider' is proprietary and confidential.

If an existing broadband provider asserts that an applicant is proposing to build 'last mile' broadband infrastructure for an unserved or underserved area that it considers served, what process is NTIA putting in place to resolve the claim?

Answer. NTIA and RUS provided existing service providers with a 30-day window voluntarily to submit information regarding the proposed funded service area(s) of BTOP/BIP infrastructure applicants to help inform the application review process and ensure that BTOP funds support projects in areas that meet the definition of unserved or underserved. NTIA will review the submissions made by existing service providers and compare them against the applicants' proposed funded service areas and the methodologies the applicants used to evaluate the unserved or underserved status of the areas. NTIA will also utilize any other data at its disposal to help evaluate claims made by both applicants and commenters, such as broadband maps compiled by many States. The NOFA gives RUS and NTIA discretion to reject an application if it is determined that a proposed funded service area identified by an applicant does not meet the unserved or underserved definitions or does not qualify as a "rural" area without sufficient access to broadband service. NTIA may

request additional information from applicants and commenters as necessary and appropriate.

Question 5. How will NTIA approach proposed ‘middle mile’ projects that terminate in several ‘last mile’ end points in unserved and underserved areas, but which traverse served areas? Will middle mile project applicants be subject to the same challenge by existing providers as applicants of last mile broadband projects?

Answer. A proposed funded service area may qualify as unserved or underserved for Middle Mile projects if at least one interconnection point is located in a proposed funded service area that qualifies as unserved or underserved. A proposed funded service area may qualify as underserved if at least one of the following factors is met: (1) no more than 50 percent of the households in the proposed funded service area have access to facilities-based, terrestrial broadband service at greater than 768 kbps downstream and 200 kbps upstream; (2) no fixed or mobile broadband service provider advertises broadband speeds of at least 3 mbps downstream in the proposed funded service area; or (3) the rate of broadband subscribership for the proposed funded service area is 40 percent of households or less. Existing service providers may comment on the proposed funded service area(s) of Middle Mile projects just as they can for Last Mile projects. NTIA will consider the information provided by applicants and commenters regarding Middle Mile projects in the same fashion that it will for Last Mile projects.

Question 6. Mr. Strickling, much of the focus for NTIA awarding its BTOP grants in a timely way focuses on the process culminating in a decision made by the selection official. I want to focus a little on all of the back office work that needs to be completed in order for the grant recipients to receive their award. Does NTIA have its own grants office?

Answer. No.

Question 6a. If not, which part of the Commerce Department handles grants for NTIA?

Answer. NTIA has entered into agreements with the Grants Offices of the National Oceanic and Atmospheric Administration (NOAA) and the National Institute of Standards and Technology (NIST) to provide Grants Office services for the NTIA BTOP grants. The NOAA and NIST Grant Offices will play an important role in helping NTIA award and administer BTOP funds in as quick and accountable manner as possible.

Question 7. Is the current staffing level at that grants office adequate to ensure that it doesn’t become a bottleneck for BTOP awards (or later payments)?

Answer. NTIA has been closely coordinating with the Grants Offices of NOAA and NIST to ensure they are able to assist with the award of BTOP grants. These offices are scaling their operations and leveraging existing resources to ensure that critical milestones are met.

Question 8. How will the BTOP grant funds be made available to grantees? For example, will the BTOP grants be reimbursable on a quarterly basis or will the grantee receive a lump sum (based on its proposed budget) upon completion of the grants agreement?

Answer. NTIA will obligate all grant funds upon award, and recipients can either draw down funds in accordance with the schedule outlined in the grant award documentation or request advance payments for project expenses as long as the recipient is in compliance with relevant conditions of the grant award. Consistent with Department of Commerce and other Federal standard grants management practices, project expenses subject to the advanced payment must be incurred within 30 days of the date the funds are transferred to the recipient’s account.

Question 9. BTOP award winners will have varying levels of sophistication when it comes to meeting the administrative requirements of government grant programs, especially one with the level of detail found in this program. Does NTIA intend to hold workshops, in-person or virtual, to provide technical assistance to BTOP award winners to increase the chances that they will be compliant with all the award requirements?

Answer. Yes. NTIA is in the process of developing training, guidance, and technical assistance for grant recipients. NTIA is committed to ensuring that BTOP awardees fulfill all of the relevant compliance, reporting, and auditing requirements to ensure that taxpayer funds are well spent and that BTOP projects fulfill the goals of the Recovery Act.

Question 10. Does NTIA intend to establish a process for determining non-performing projects? Will NTIA terminate non-performing projects?

Answer. The July 9, 2009 Notice of Funds Availability (NOFA) describes the reporting and compliance requirements for BTOP grant recipients. The Department

of Commerce has the authority, and will exercise it as necessary and appropriate, to suspend, terminate, or deobligate funding to grant recipients that do not comply with their reporting or compliance requirements.

Question 11. Mr. Strickling, in some of the more rural parts of my state where communities cannot afford to keep schools and libraries open late, community technology centers serve as a community anchor institution. Would NTIA consider amending its definition of community anchor institutions in the second BTOP NOFA to include community technology centers?

Answer. Community technology centers currently qualify as anchor institutions. The NOFA defines “community anchor institutions” as “schools, libraries, medical and healthcare providers, public safety entities, community colleges and other institutions of higher education, and other community support organizations and agencies that provide outreach, access, equipment and support services to facilitate greater use of broadband service by vulnerable populations, including low-income, unemployed, and the aged.” Additionally, the NOFA defines “public computer center” as “a place*that provide[s] broadband access to the general public or a specific vulnerable population, such as low-income, unemployed, aged, children, minorities and people with disabilities.” Thus, community technology centers can also qualify to receive BTOP funding through the public computer centers pool of funding, of which more than \$50 million was allocated in the first funding round and at least \$200 million will be made available over the life of the program.

Question 12. Mr. Strickling, based on your meetings with Tribal leaders, do you believe that Native American Tribes have any unique financial and/or structural impediments that make it more difficult for them to assemble competitive BTOP proposals based on the program requirements in first NOFA? Should there be a set aside for Tribes in the second NOFA?

Answer. Expanding and enhancing broadband capabilities for Indian Country and Tribal communities is an important priority for NTIA and BTOP. To inform the public about BTOP grant opportunities, NTIA and RUS jointly conducted ten public outreach workshops in locations throughout the country, including several workshops specifically targeted to Tribal communities. In addition, NTIA and RUS have participated in several key annual Tribal conferences around the country, including Affiliated Tribe Northwest Indians (ATNI), National Congress of American Indians (NCAI), and National Association of Tribal Historic Preservation Officers (NATHPO). Most recently, Secretary of Commerce Gary Locke and NTIA Assistant Secretary Strickling also hosted a conference call with Tribal leaders to solicit Tribal input on the BTOP program.

While there is not currently a set-aside for Tribes in the BTOP program, the NOFA gives added consideration to any BTOP application submitted by, or which provides benefits to, Native Americans and other vulnerable populations. In the recently-released RFI, NTIA and RUS request public input on whether the agencies should revise elements of the programs to ensure that Tribal entities or entities proposing to serve Tribal lands, have sufficient resources to provide these historically unserved and underserved areas with access to broadband service. NTIA will use the comments received from all interested parties to determine what changes, if any, are appropriate for the second round of funding.

Question 13. How much say should Tribes have over non-Tribal applicants claiming to serve Tribal lands?

Answer. As part of our effort to consult with States, territories, and possessions regarding the identification of unserved and underserved areas and their priorities for broadband investment, NTIA has invited Tribal leaders to comment upon applications that propose to serve Tribal communities—including including applications from both Tribal entities and non-Tribal applicants proposing to serve Tribal lands. We highly value the input of Tribes in our review process and will take into consideration the comments they provide before making grant awards. However, NTIA will conduct its own thorough reviews of the applications and retain the final authority to decide which applications to fund.

Question 14. What is the status of consultations between NTIA, the National Congress of American Indians, and other Tribal stakeholders regarding the Nationwide Programmatic Agreement, and in particular, progress in addressing “undertakings” (broadband infrastructure projects) that are subject to review under Section 106 of the National Historic Preservation Act?

Answer. NTIA has collaborated with RUS and the Council of Environmental Quality to create a uniform, efficient, and streamlined NEPA environmental review process for BTOP and BIP applicants. NTIA has also taken a number of steps to ensure that BTOP complies with all relevant environmental and historic preservation requirements, including working with RUS, the FCC, and the Advisory Council

on Historic Preservation (ACHP) to ensure that projects comply with the National Historic Preservation Act (NHPA).

NTIA is also working to streamline the NHPA Section 106 consultation process with State and/or Tribal Historic Preservation Officers as it relates to tower construction. Specifically, NTIA worked in close collaboration with RUS, the FCC, and Indian Tribes to improve Section 106 notification for Indian Tribes regarding BTOP/BIP applications being considered for funding. RUS and NTIA have adopted a modified version of the "Tower Construction Notification System" (TCNS), an innovative FCC tool and database which will enable RUS and NTIA to provide fast, reliable information about BTOP/BIP proposals to Tribes in order to expedite historic preservation compliance. NTIA and RUS also worked in close collaboration with the FCC, ACHP, and other key stakeholders on a Program Comment that was recently approved by the ACHP. The Program Comment will streamline Section 106 historic preservation review for the construction and modification of wireless communication facilities subject to, or exempted by, two FCC Nationwide Programmatic Agreements: (1) the Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the FCC (2004), and (2) the Nationwide Programmatic Agreement for the Collocation of Wireless Antennas (2001). Under this Program Comment, NTIA and RUS will not be required to conduct an independent review under Section 106 of NHPA for the construction and modification of wireless communication facilities already subject to review by the FCC under the two Nationwide Programmatic Agreements.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARK PRYOR TO
HON. LAWRENCE E. STRICKLING

Question 1. I appreciate the tremendous strain that you and your staff are under to evaluate these applications and distribute an enormous amount of funds in a relatively short timeframe. I thank you all for your service and dedication. I firmly believe in the potential of these broadband stimulus programs if implemented correctly. I am particularly concerned that the funding gets into the right hands. In drafting the NOFA, did you consider an appeals process so that if errors were found they could be rectified?

Answer. Yes, we did consider this but decided against instituting an appeals process. While there is no appeals process once an award has been made, there are a number of steps NTIA is taking to ensure that funding goes to projects that will best fulfill the objectives of the Recovery Act. The July 9, 2009 Notice of Funds Availability (NOFA) outlined the multi-step evaluation process and the criteria that is being used to review and score applications. This includes the ability for NTIA to seek additional information or clarification from applicants as part of the review process. NTIA has consulted with States, Tribes, territories, possessions and the District of Columbia to solicit their feedback on the initial pool of BTOP applications. NTIA has provided existing service providers with the opportunity to submit information to RUS and NTIA regarding their existing service offerings to help inform the application review process.

Looking forward, I must underscore the importance of our oversight objectives for the program. NTIA is committed to ensuring that taxpayers' money is spent wisely and efficiently. As we move forward and project construction begins, NTIA will enhance its post-grant auditing and monitoring responsibilities, including site visits to grantees. In addition, the Recovery Act permits NTIA to deobligate awards to grant recipients that demonstrate an insufficient level of performance, or wasteful or fraudulent spending and award these funds to new or existing applicants.

All of these steps will help ensure that NTIA awards funds to projects that fulfill Recovery Act objectives and spend taxpayer dollars wisely.

Question 2. In the GAO's testimony, Mr. Goldstein pointed out that NTIA and RUS lack resources for oversight beyond FY2010. What steps are you taking to secure funding for proper and continued oversight?

Answer. The Recovery Act authorized NTIA to spend not more than 3 percent of BTOP funds for administrative costs. This has been a serious challenge for a new grant program of this size and scope. Consistent with the statutory limitations, however, NTIA is planning and budgeting to perform the needed tasks within the authorized timeframes. However, this funding constraint limits the resources available for important tasks such as application review prior to September 30, 2010.

More significantly, the Recovery Act does not provide NTIA with authority or funding for administration and oversight of BTOP-funded projects beyond the Fiscal Year of 2010. NTIA is examining all appropriate options to ensure continued over-

sight of the program after September 30, 2010. NTIA intends to work with Congress on this matter.

Question 3. In the RUS program under the NOFA, a project must exclusively involve a ‘remote area’ to qualify for a BIP grant that covers 80–100 percent of the project cost. However, the definition of ‘remote area’ as defined in the NOFA would not apply to almost the entire State of Arkansas. I know my state and many parts of Arkansas are indeed remote and hard to reach areas. I would be happy to drive you around and show you these areas. Would you be willing to amend this definition for round 2 to include areas that are by other definitions considered remote?

Answer. The remote and rural definitions apply only to the RUS BIP awards. Therefore, NTIA defers to RUS for a response to this question.

Question 4. I believe it is necessary that you ensure funds targeted for unserved and underserved areas are truly unserved and underserved. I am concerned that smaller and more rural broadband providers are having trouble responding to the applications RUS and NTIA have received in order to show areas that they are currently serving. What happens if broadband providers cannot or do not submit territory maps?

Answer. NTIA and RUS have provided existing service providers with ample opportunity to voluntarily submit information regarding the proposed funded service areas of BTOP/BIP infrastructure applicants to help us ensure that BTOP funds support projects in areas that meet the definition of unserved or underserved. To the extent that existing providers are not able or willing to use the online tool available for their use in providing service information, they were invited to submit supplemental information in writing to NTIA. In addition to the availability data submitted by applicants and incumbent providers, the agencies have access to additional information to evaluate whether an area is unserved or underserved, including broadband maps compiled by States and additional comments submitted by State Governors. NTIA may consider this information, along with any other data at its disposal, as part of the due diligence review process.

Question 5. Are you considering modifications to the mapping tool to ensure that broadband providers have ample opportunity to provide accurate information about the territory they serve?

Answer. Yes. On November 10, 2009, RUS and NTIA announced the release of the second joint Request for Information (RFI) seeking public comment on certain issues relating to the implementation of BIP and BTOP. Among other topics, the RFI asked for comments regarding the Public Notice Filing Comment process and the mapping tool. The comment period closed November 30, 2009. NTIA will use the comments received from all interested parties to determine what changes, if any, are appropriate in the second funding round.

Question 6. What changes are you willing to make to your application process to guarantee that broadband stimulus funds aren’t given to ineligible areas?

Answer. RUS and NTIA have sought public comment on issues relating to the implementation of BIP and BTOP. We hope to gather information that will help us improve the broadband programs by enhancing the applicant experience and making targeted revisions to the first NOFA, if necessary. We sought comment on, among other things, potentially clarifying the eligibility requirements; the application and review process, including streamlining the applications; transparency and confidentiality; and the NTIA expert review process. The RFI also asked for comments regarding the Public Notice Filing Comment process and the mapping tool. Each of these areas is important to ensuring that awards are limited to eligible areas. NTIA will use the comments received from all interested parties to determine what changes, if any, are appropriate in the second funding round.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. FRANK R. LAUTENBERG TO
HON. LAWRENCE E. STRICKLING

Question 1. When broadband grants are announced, will significant resources be devoted to improving broadband access in underserved urban areas in states like New Jersey, and not just rural areas?

Answer. In the Recovery Act, Congress directed NTIA to address the broadband needs of both “unserved” and “underserved” areas—without regard as to whether they are urban, suburban, rural, or frontier parts of the United States—to enhance broadband for institutions that provide important public benefits, and to stimulate demand for broadband services. NTIA developed its first round of BTOP funding with each of these priorities in mind and is taking all appropriate steps to ensure

that BTOP funds will be used to support broadband services in unserved and underserved urban areas as well as rural ones.

Question 2. NTIA invited Governors to provide their comments on broadband grant applications seeking to serve their states. In my home state of New Jersey, the Governor's office set up a formal review process and shared its views with NTIA. In evaluating applications, how will NTIA use the comments and priorities provided by the states?

Answer. We highly value the input of States in our review process and will take into consideration the comments provided before making final awards. Of course, NTIA will conduct its own thorough review of the applications and retains the final authority to decide which applications to fund.

Question 3. As you know, the Recovery Act requires the FCC to develop a national broadband plan by February 2010—after NTIA and RUS will award their first round of grants. In reviewing the broadband applications, what kind of coordination have NTIA and RUS had with the FCC to make the grant awards consistent with the national broadband plan?

Answer. NTIA and RUS consulted with the FCC in the development of the first round Notice of Funds Availability (NOFA). The FCC provided substantive input on many of the policies outlined in the NOFA. The selection process and detailed evaluation criteria described in the NOFA will govern the selection of BTOP grants. The FCC will have no input on the selection of BTOP awards. NTIA intends to collaborate with the FCC in a similar manner in the development of the second round NOFA, and will make every effort to contribute to the FCC's development of the national broadband plan, using experiences from the first round of BTOP grants to inform those efforts.

Question 4. Will you provide applicants who are rejected in the first round with detailed information so they can improve their applications for subsequent rounds of funding?

Answer. NTIA aims to notify applicants in the first funding round of the decision on their applications prior to the date on which applications will be due for the second BTOP round. At this time, NTIA has not determined the precise level of detail that applicants will receive if they are not selected for funding. All applicants will be notified in writing if they are denied funding along with information regarding the reason for the rejection. We will advise all rejected applicants to refer to the second NOFA, technical assistance materials we will make available, upcoming planned workshops, and to study the projects NTIA does fund as models for potential replication in second funding round.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO
HON. LAWRENCE E. STRICKLING

Question 1. "Rural" and "Non-Rural" definitions impede statewide and regional broadband proposals.

Mr. Adelstein's testimony notes that "some applicants encounter challenges with our program's rural definition" and that you are aware of "suggestions that have been raised regarding" this issue.

What New Mexican applicants have told me is that RUS and NTIA programs effectively divide "rural" and "non-rural" areas. In New Mexico, this prevented an integrated approach to deploying broadband statewide and at regional levels.

Since grant proposals had to be separated into "rural" and "non rural" areas, the New Mexico entities could not easily apply for grants that would fund backbone infrastructure to serve both types of areas. For example, the northern New Mexico region had to submit multiple applications for separate areas rather than a single, region-wide application.

Regional and statewide approaches to broadband deployment seem like a more strategic way to solve digital divide problems facing rural states like New Mexico. Will RUS and NTIA allow a more flexible approach in the second round of funding for applicants who want to serve "rural" and "non rural" areas with one grant proposal?

Answer. The round one program rules did not require applicants to divide their applications between rural and non-rural areas in order to be considered by both RUS and NTIA but some applicants may have done so as a strategic decision. The approach developed by RUS and NTIA was intended to give applicants maximum flexibility to be considered by both programs while also fulfilling the intent of Congress that RUS fund broadband projects in rural areas and that NTIA not replicate RUS funding. The Request for Information (RFI) released by NTIA and RUS on No-

vember 10, 2009, sought public input on this issue, and NTIA will use the comments received from all interested parties to determine what changes, if any, are appropriate in the second funding round.

Question 2. Could you elaborate on your planned changes for the second round of funding?

Answer. On November 10, 2009, RUS and NTIA announced the release of the second joint RFI seeking public comment on certain issues relating to the implementation of BIP and BTOP. The comment period closed on November 30, 2009. The RFI sought to gather information that will help the agencies improve the broadband programs by enhancing the applicant experience and making targeted revisions to the first NOFA, if necessary. The agencies sought comment on topics related to the application and review process, including streamlining the applications; transparency and confidentiality; outreach and support; and the NTIA expert review process. The RFI also sought input on policy issues addressed in the NOFA, including program definitions; public notice of service areas; interconnection and nondiscrimination requirements; sale of project assets; cost effectiveness; and other substantive changes to encourage participation and enhance the program. We also sought comment on the possibility of focusing future funding on middle-mile “comprehensive communities” projects, regional economic development projects, or specific target communities. NTIA will use the comments received from all interested parties as to how the program can be improved to determine what changes, if any, are appropriate in the second funding round.

Question 3. Mr. Strickling, I know you have direct experience with digital divide challenges facing Tribal Lands. Indian Country has some of the lowest broadband penetration rates in the entire country, perhaps just 10 percent.

Your testimony states that Tribal governments applied for funding. However, out of over 2,000 total applications, there appears to be only 19 applications for BIP grants submitted by Tribes.

I am concerned that this low participation may be partly due to the requirements of the first round Notice of Funds Availability (NOFA), which did not recognize the unique challenges and legal status of Tribal Nations.

For example, the NOFA deducts points from applications for not being Title II borrowers, and Tribal governments have more difficulty meeting local matching fund requirements. Has NTIA or RUS considered giving extra points—or other favorable consideration—to broadband applications submitted by Tribal communities for which the Federal Government has a trust responsibility?

Answer. Your question references 19 applications received by RUS’ BIP program but Tribal communities submitted more than 125 applications to NTIA’s BTOP program. Expanding and enhancing broadband capabilities for Native Americans and Tribal communities is an important priority for NTIA and BTOP. The July 2009 Notice of Funds Availability (NOFA) encourages and gives added consideration to any BTOP application submitted by, or which provides benefits to, Native Americans and other vulnerable populations. As part of our effort to consult with States, territories, and possessions regarding the identification of unserved and underserved areas and priorities for broadband investment, NTIA has also invited Tribal leaders to comment upon applications that propose to serve Tribal communities so that we may do our best to fund projects that best meet the needs of their areas. NTIA is making every effort to ensure that BTOP funding benefits Tribal lands of the United States. In the recently-released RFI, NTIA and RUS requested public input on whether the agencies should revise elements of the programs to ensure that Tribal entities, or entities proposing to serve Tribal lands, have sufficient resources to provide these historically unserved and underserved areas with access to broadband service. NTIA will use the comments received from all interested parties to determine what changes, if any, are appropriate for the second funding round.

Question 4. In recognition of Tribal sovereignty, could NTIA and RUS change the second round NOFA to exempt applications from Tribal communities from review by state governments?

Answer. As part of our effort to consult with States, territories, and possessions regarding the identification of unserved and underserved areas, and their priorities for broadband investment, NTIA has also invited Tribal leaders to comment upon applications that propose to serve Tribal communities so that we may do our best to fund projects that best meet the needs of their areas. We highly value the input of Tribes in our review process and will take into consideration the comments they provide before making final awards. NTIA informed States that we would be seeking the input of Tribal leaders regarding applications that propose to serve their respective Tribal lands and that States do not need to comment on Tribal land applications. NTIA will prioritize Tribal input on applications solely affecting Tribal

lands. Before making an award, NTIA will conduct its own thorough reviews of the applications and retain the final authority to decide which applications to fund. To the extent that changes are required in the second funding round to more properly accommodate Tribal sovereignty, NTIA will make appropriate changes based upon the comments received from the public and stakeholders in response to the recently issued RFI.

Question 5. What are you doing with the second round NOFA—beyond simple outreach—to provide a meaningful opportunity for Tribal Nations to successfully apply for deployment in their own communities?

Answer. Expanding and enhancing broadband capabilities for Native Americans and Tribal areas is an important priority for NTIA and BTOP. The first round NOFA encourages and gives added consideration to any BTOP application submitted by, or which provides benefits to, Native Americans and other vulnerable populations. We have also collaborated with Tribal entities and Federal regulators to expedite historic preservation compliance to help better position Tribal projects for success. In the recently-released RFI, NTIA and RUS requested public input on whether the agencies should revise elements of the programs to ensure that Tribal entities, or entities proposing to serve Tribal lands, have sufficient resources to provide these historically unserved and underserved areas with access to broadband service. NTIA will use the comments received from all interested parties as to how the program can be improved to determine what changes, if any, are appropriate for the second funding round. NTIA also anticipates participating in training workshops for Indian Tribes.

Question 6. The NOFA and application was very technical in nature and confusing for some small organizations that applied for grants, particularly nonprofits seeking money for “sustainable broadband adoption” projects. One person told me that “it seemed as if small organizations were forced to hire consultants just to write the grant.” This creates the impression that the broadband stimulus program is not a level playing field for small organizations with limited staff. Has NTIA considered ways to address these concerns?

Answer. I appreciate that small organizations and other entities may face challenges in developing a competitive proposals for grant funds. To inform the public, including small organizations, about first round BTOP grant opportunities, NTIA and RUS jointly conducted ten public outreach workshops in locations throughout the country, including several workshops specifically targeted to minorities and small businesses. Since BTOP is a government program with rules and procedures, our efforts also included guidance as to compliance with generally applicable statutes and Congressional rules imposed on applicants to safeguard the expenditure of taxpayer dollars from waste, fraud, and abuse. Further, the first NOFA encourages and gives consideration to any BTOP application submitted by, or which provides benefits to, minorities, small businesses, and other vulnerable populations.

NTIA is making every effort to streamline the application process in the second funding round to facilitate the process of applying for grants, while also ensuring that we collect the information necessary to award grants to projects that will fulfill the objectives of the Recovery Act and utilize taxpayer dollars in the most effective manner possible. In the recently-released RFI, NTIA and RUS requested public input on whether the agencies should revise elements of the programs to better achieve the goals of the Recovery Act, which places a high priority on benefiting small and disadvantaged businesses. We also intend to conduct additional workshops for the second funding round that will target issues such as collaborating on and creating winning applications and training on the mechanics of filing applications electronically.

Question 7. Is there a way to streamline the application process for less technical, “sustainable adoption” grant proposals?

Answer. NTIA is making every effort to streamline the application process in the second funding round to facilitate the process of applying for grants, while also ensuring that we collect the information necessary to award grants to projects that will best fulfill the objectives of the Recovery Act and utilize taxpayer dollars in the most effective manner possible. Notably, the applications for Public Computer Center (PCC) and Sustainable Broadband Adoption (SA) projects released by NTIA in July 2009 differ from the application questions required for BTOP Infrastructure projects and were designed to streamline the process for PCC and SA applicants to the maximum extent possible. In the recently-released RFI, NTIA and RUS requested public input on whether the agencies should revise elements of the programs and the application process to further enhance the applicant experience and better achieve the goals of the Recovery Act.

Question 8. Mr. Strickling, some New Mexicans live in rural areas where satellite broadband may be the most efficient means of providing Internet access. Yet the NOFA rules seem to preclude satellite broadband providers from participating in the broadband stimulus programs. For example, satellite broadband providers, due to the nature of the technology, would potentially provide access to overlapping areas that are rural and remote, underserved and unserved. Yet Broadband Technology Opportunities Program (BTOP) rules effectively mean that NTIA is pursuing a policy of “one project for each area,” which could put satellite broadband providers at a disadvantage. In the next funding round, will the NOFA rules provide meaningful opportunities for satellite broadband providers to compete for broadband grants?

Answer. NTIA has encouraged applications that will best meet the broadband needs of unserved and underserved areas of the United States regardless of technology. The requirement that applicants for Last Mile and Middle Mile infrastructure grants demonstrate that their proposed funded service area is unserved or underserved reflects our goal, and we believe the intent of Congress, to fund projects that will provide the greatest benefits to the greatest population of users, and to focus on areas that have no broadband or inadequate broadband rather than supporting projects located in areas with more substantial broadband services. As part of our effort to stretch taxpayer dollars and fulfill Recovery Act objectives, our intent is not to fund more than one project in a proposed funded service area. The November 10, 2009 RFI, however, sought specific comment regarding the treatment of satellite applications. NTIA will use the comments received from all interested parties to determine what changes, if any, are appropriate in the second funding round.

Question 9. What changes to the first NOFA rules are necessary to allow satellite broadband proposals to be considered fairly on the merits of their applications?

Answer. The November 10, 2009 RFI sought specific comment regarding the treatment of satellite applications. NTIA will use the comments received from all interested parties to determine what changes, if any, are appropriate in the second funding round.

Question 10. Blair Levin was recently quoted in the press that current broadband stimulus efforts and existing FCC programs will not be sufficient to provide universal broadband access. He apparently stated that, “BTOP’s not going to do it, BIP isn’t going to finish the job, [and the FCC’s] universal service isn’t going to do the job right.”

Recognizing that much work will need to follow the BIP and BTOP initiatives in order to ensure that all Americans enjoy broadband access, what lessons learned or policy recommendations from the first round of broadband stimulus funding should inform the FCC’s National Broadband Plan?

Answer. We are in the middle of our first round of funding and are still learning lessons from our initial experience with the program. We also released a Request for Information seeking public comment on the process so far. The \$7.2 billion authorized by the Recovery Act for the BTOP and BIP broadband initiatives will not solve all of America’s broadband challenges. However, NTIA is working to ensure that this funding is utilized in the best possible way to bring the benefits of broadband to more Americans. The Federal Communications Commission is evaluating these questions further as part of their development of a national broadband plan. NTIA will make every effort to contribute to the FCC’s development of the national broadband plan and will use experiences from the first round of BTOP grants to inform those efforts.

Question 11. Will you communicate these recommendations to this committee and directly to the FCC before the publication of the National Broadband Plan?

Answer. At this time, NTIA has not determined whether it will file formal comments in the FCC’s proceeding as part of the development of the national broadband plan. If it chooses to do so, NTIA would be happy to share them with the Committee. In addition, I look forward to a continuing dialogue with the Committee on these matters.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARK WARNER TO
HON. LAWRENCE E. STRICKLING

Question 1. I understand that, under the State Broadband Data and Development Program, the FCC and the NTIA will use the broadband data collected by states in their broadband mapping efforts. What about the reverse, *i.e.*, is there any way the FCC could share its Form 477 data (or equivalent) with states—or at least share with states which providers submitted such forms—to assist states with their

broadband data collection efforts? If not, why not? What could be done to make that possible?

Answer. The Broadband Data Improvement Act (BDIA), one of the two pieces of authorizing legislation underlying NTIA's State Broadband Data and Development Grant Program, provides that the FCC "shall provide eligible entities access, in electronic form, to aggregate data collected by the [FCC] based on the Form 477 submissions of broadband service providers." We understand that the FCC is currently resolving the terms of access to Form 477 data by entities—including state commissions—that are eligible for mapping grants under the BDIA. In addition, the FCC has an established practice of sharing state-specific FCC Form 477 data with state regulatory commissions, subject to certain conditions, through the implementation of data-sharing agreements with such commissions. Information on the process for obtaining state-specific Form 477 data can be found at <http://www.fcc.gov/form477/datashareprocess.html>. As a general matter, NTIA supports efforts to make broadband data publicly-available to the extent allowable and practicable.

Question 2. At this point, your agency has had an opportunity to see exactly how its application process works, its strengths and weaknesses. For example, I've heard from some constituents that there needs to be increased coordination among some of the pre-existing broadband grant programs offered across the Federal Government, and that this would help applicants create the sustainable demand to keep projects successful in the long-term. What advice, if any, would you give the FCC on increasing coordination about Federal broadband grant and loan programs, as it drafts the National Broadband Plan?

Answer. NTIA has coordinated closely with the other agencies directed to lead the Federal Government's broadband efforts, including RUS and the FCC, in an effort to provide applicants and the public with a unified approach to addressing the Nation's broadband needs. Our coordinated efforts included the initial public meetings, release of the first and second Requests for Information, development of the NOFA, applicant workshops, joint application intake, and development of the website www.broadbandusa.gov. NTIA plans to continue to work closely with its Federal partners to fulfill the objectives of the Recovery Act and enhance broadband capabilities in the United States.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARK BEGICH TO
HON. LAWRENCE E. STRICKLING

Question 1. I am concerned about the constant rule and guidance changing that the applicants have experienced. I understand the difficulty your agencies have experienced pushing through the money as quickly as possible, but can you assure us you will not change the rules throughout the final round of funding?

Answer. To clarify, there have been no substantive changes to the rules and guidance of the BTOP Program. NTIA intends to maintain as much of the definitions, rules, and processes from the first funding round as possible while improving the BTOP program, improving the application process, and ensuring that the program fulfills the objectives of the Recovery Act. On November 10, 2009, RUS and NTIA announced the release of the second joint Request for Information (RFI) seeking public comment on topics related to the application and review process, including streamlining the applications; transparency and confidentiality; outreach and support; and the NTIA expert review process. The RFI also sought input on policy issues addressed in the NOFA, including funding priorities and objectives; program definitions; public notice of service areas; interconnection and nondiscrimination requirements; sale of project assets; cost effectiveness; and other substantive changes to encourage participation and enhance the program. NTIA will use the comments received from all interested parties to determine what changes, if any, are appropriate.

Question 2. Many people found the combined application confusing and onerous. Under the second NOFA, what steps will your agencies take to improve the process?

Answer. NTIA is making every effort to streamline the application process in the second funding round to facilitate the process of applying for grants, while also ensuring that we collect the information necessary to award grants to projects that will fulfill the objectives of the Recovery Act and utilize taxpayer dollars in the most effective manner possible. In the recently-released RFI, NTIA and RUS requested public input on steps the agencies can take to improve the application process. NTIA will use the comments received from all interested parties to determine what changes, if any, are appropriate in the second funding round.

Question 3. When will applicants be notified if they have made the first cut? It is essential for project managers to be able to improve their applications for the second and final round of funding?

Answer. NTIA notifies applicants if and when their projects advance to the second phase of application review. This will continue on a rolling basis until all awards are made. NTIA aims to notify all applicants in the first funding round of a decision on their applications prior to the date on which applications will be due for the second BTOP round. All applicants will be notified in writing if they are denied funding along with information regarding the reason for the rejection. At this time, NTIA has not determined the precise level of detail that applicants will receive if they are not selected for funding. We will advise all rejected applicants to refer to the second NOFA, technical assistance materials we will make available, upcoming planned workshops, and to study the projects NTIA does fund as models they can use to prepare applications for the second funding round. Notably, NTIA has received far more applications and requests for funding that it can accommodate in the first funding round. We anticipate that there will be many highly-qualified applications that do not receive funding in this round.

Question 4. Do you believe the tight timelines have damaged the process or may cause problems with the projects as we move forward? I understand and support the need to get the projects funded as quickly as possible but I am very concerned the deadlines are going to damage the process and our ability to have worthy projects funded.

Answer. NTIA is working as expeditiously as possible to evaluate and award the first round of grants and take all steps to ensure that funds are obligated by September 30, 2010, as required by the Recovery Act. NTIA is committed to ensuring that applications receive a thorough review and that no project is funded unless it fulfills the objectives of the Recovery Act. NTIA has already expanded the review period for the initial award of funds by approximately 1 month to ensure that projects receive the appropriate due diligence review.

Question 5. Since the deadlines have been pushed back repeatedly, I am concerned about the actual stimulative effects of the projects. What assurance do we have that the first round of project awards will actually be completed in February? Alaska's construction season is incredibly short especially in our most remote locations. If the projects are pushed back any more then we run the risk of high cost overruns because the materials will have to be flown in to the communities. Is it possible to let the Alaska projects know as soon as possible so they are able to have supplies ready for the first spring barge?

Answer. To clarify, there has been only a single one-month extension of the date on which award announcements will begin, which was necessary to ensure that projects receive the appropriate due diligence review.

I appreciate that the unique climate and construction season in areas like Alaska may impact the timing of BTOP project performance. NTIA will make every effort to consider the needs of Alaska as we complete the review of proposals received during the first round. As we make awards, we will work closely with recipients to ensure that funds are released and projects are completed as expeditiously as possible.

Question 6. If an applicant has not even started the Federal and state permitting processes for their project, especially under NEPA and the Endangered Species Act, how will that be viewed in the due diligence phases by RUS and NTIA given that you are looking for truly shovel ready projects?

Answer. Among other criteria, BTOP applications will be evaluated on whether they will be able to start promptly and be completed in an appropriate time-frame for the size and scope of the project. NTIA will consider the planned start date of the project; the reasonableness of the project timeline and associated milestones; whether the applicant has secured all licenses, franchises, and regulatory approvals required to complete the project; and whether the required contractors and vendors necessary to implement the project are prepared to enter into contracts as soon as the funds are made available. While it is not a requirement that applicants have completed all permitting processes before applying for BTOP funds, those applicants that have totally or substantially completed such requirements will receive more favorable consideration. This approach helps fulfill the Recovery Act's instruction that agencies commence project activities as quickly as possible consistent with prudent management.

Question 7. What is the due diligence process for confirming that an applicant's project can deliver broadband at the promised speeds or even at the minimum speeds required in the NOFA?

Answer. The NOFA and application requires applicants to certify that, at a minimum, they will provide broadband speeds at or greater than 768 kbps. NTIA antici-

pates that the projects it funds will provide broadband speeds far greater than the minimum requirement. During due diligence, NTIA requires applicants to provide a detailed description of the proposed technology that will be used to provide service at the proposed broadband speed. For Last Mile projects, this description must clearly demonstrate that all households and businesses in the proposed funded service area will be offered service at the proposed broadband speed. If after making a grant award, NTIA determines that an entity is not able to deliver the broadband speeds it has certified in its application, the Department of Commerce can exercise its authority to suspend, terminate, or deobligate funding.

Question 8. How are the agencies confirming an applicant's representations, such as whether a technology can deliver service at the speeds that the applicant promises or that the rules require?

Answer. The NOFA and application requires applicants to certify that, at a minimum, they will provide broadband speeds at or greater than 768 kbps. NTIA anticipates that the projects it funds will provide broadband speeds far greater than the minimum requirement. As part of its due diligence, NTIA reviews and evaluates the applicant's description of the proposed technology that will be used to provide service at the proposed broadband speed. For Last Mile projects, this description must clearly demonstrate that all households and businesses in the proposed funded service area will be offered service at the proposed broadband speed. Evaluators consider whether the technology proposed by the applicant is capable of delivering speeds, quality, and capacity necessary to meet the needs of the area. NTIA may request additional information from applicants and review other sources of data to confirm the attestations made by applicants in their applications. If after making a grant award, NTIA determines that an entity is not able to deliver the broadband speeds it has certified in its application, the Department of Commerce can exercise its authority to suspend, terminate, or deobligate funding.

Question 9. When do you expect middle-mile projects in Alaska to learn whether they are progressing to the next stage (Step II)?

Answer. NTIA has begun notifying some applicants that have advanced to the Step 2, due diligence, phase of application review. This will continue on a rolling basis until all awards are made. NTIA aims to notify all applicants in the first funding round of a decision on their applications prior to the date on which applications will be due for the second BTOP round.

Question 10. Have any middle mile projects, anywhere in the country, been notified that they have progressed to Step II?

Answer. Yes.

Question 11. I understand you reached out to each of the states and requested them to rank their priorities and gave them 20 days to evaluate the merits of the projects. However, you did not offer to allow them to view the reports from your technical assistance teams. My state in particular withheld ranking projects because they could not access this information. On the next round of funding, do you anticipate reaching out to the states again?

Answer. Yes. We highly value the input of States in our review process and will take into consideration the comments they have provided before making final awards. To clear up a misconception, NTIA did not require States to "evaluate the merits of the projects." If they wished to do so, and many did, States were free to request additional information from the applicants themselves.

Question 12. Will you allow them to have access to this information in the future?

Answer. NTIA requested public input in the recently-released Request for Information on ways to improve the first round. For example, NTIA asked for comment on what application data should be treated as confidential and proprietary. While NTIA did not require States to review specific applications, NTIA will take all comments received into consideration regarding the State and Tribal consultation process, and determine what changes, if any, are appropriate in the second funding round.

Question 13. Given the public commitment for transparency, why hasn't NTIA published the names of applicants that have moved to Step 2 of the application process? No official information has been released regarding the application review, selection for step 2, the scoring of applications or the general progress of the applications since they were submitted. Shouldn't transparency include periodic status reports?

Answer. NTIA has been working as quickly and thoroughly as possible to evaluate the first round of applications. NTIA and RUS received more than 2,200 applications requesting nearly \$28 billion in funding, more than seven times the amount of available funding in the first round. NTIA has begun notifying some applicants

that have advanced to the Step 2, due diligence, phase of application review. This will continue on a rolling basis until all awards are made. Given the competitive nature of the program, NTIA is not making publicly available the list of applications currently in Step 2 due diligence in part because advancing to Step 2 does not guarantee or ensure that an application will receive funding. NTIA plans to release additional information regarding our progress in evaluating and awarding BTOP funds as soon as possible.

Question 14. There appears to be a bias toward last mile projects in an apparent effort to assure the public and Congress that funds are being spent effectively. In Alaska, middle mile backhaul is a bigger issue than last mile infrastructure. During a recent meeting I had with the Arctic Slope Telephone Association Cooperative at the University of Alaska Fairbanks, there is a wealth of last mile infrastructure in many of the villages but no reliable way to access the backhaul necessary to provide broadband and Internet access.

Why was only a small fraction of the first round of broadband funding set aside specifically to reach remote sites? In Alaska and elsewhere, these are probably the neediest places in America. Will the funding for remote locations be more substantial in subsequent funding rounds?

Answer. First, it is not correct to conclude that there is a bias toward last mile projects in the BTOP Program. Moreover, funding for “remote” and “rural” areas is the responsibility of RUS. In the Recovery Act, Congress directed NTIA to address the broadband needs of both “unserved” and “underserved” areas—without regard as to whether they are urban, suburban, rural, or frontier parts of the United States—to enhance broadband for institutions that provide important public benefits, and to stimulate demand for broadband services. NTIA developed its first round of BTOP funding with each of these priorities in mind and is taking all appropriate steps to ensure that BTOP funds will be used to support broadband services in unserved and underserved urban areas as well as rural ones. To the extent that “remote” areas of Alaska and other States also meet the definition of “unserved” or “underserved,” then such areas may be eligible to apply to both the BIP and BTOP pools of funding. In this way, remote areas have an even larger pool of funding to which they may apply.

Question 15. There is at least one project that proposes to connect to fiber optic cable owned by a private non-telecom and non-regulated company. This interconnect is in the middle of the proposed middle mile transport route on the North Slope of Alaska and critical to the delivery of broadband to the proposed funded service area. How will the NTIA ensure broadband service to the proposed communities is maintained and non-discriminatory access is honored when no Federal agency has authority over the privately held fiber?

Answer. While I cannot comment on a specific application, I do note that the non-discrimination and interconnection obligations required of BTOP recipients do not apply to the portions of the recipient’s network that are not funded by BTOP.

Question 16. Many applications claim to have solved the latency issues inherent with satellite services. How will the NTIA verify that these claims are accurate and shouldn’t this information be available to the general public?

Answer. The NOFA and application requires applicants to describe the performance of the proposed service. Applications will be scored for the extent to which the advertised speed for the network’s highest offered speed tier exceeds the minimum speed requirement for broadband service (768 kbps downstream and 200 kbps upstream). Proposed networks with high latency will be viewed unfavorably. If NTIA determines as part of its due diligence review that an entity is not able to deliver the broadband speeds it has certified in its application, the application may be denied. After award, if a project is not delivering adequate broadband speeds, the Department of Commerce can exercise its authority to suspend, terminate, or deobligate funding.

Question 17. Capital investments cannot ensure universal broadband due to the significant costs of operating and maintaining these systems. What analysis is NTIA and the RUS doing to ensure that money is being invested in sustainable projects? Alternatively, what solutions are the NTIA and RUS prepared to recommend to Congress to solve the sustainability problems to ensure broadband reaches rural America?

Answer. NTIA is committed to funding projects that clearly demonstrate they will be sustainable beyond the end of the grant period. All BTOP projects are being evaluated against four scoring criteria, one of which is Project Budget and Sustainability. For BTOP Broadband Infrastructure and Public Computer Center projects, applicants must convincingly demonstrate the ability of the project to be sustained beyond the funding period. Reviewers will consider business plans, market projec-

tions, third-party funding commitments, and other data as may be appropriate to the nature of the applicant and the proposed project. To be sustainable, an infrastructure project must demonstrate a positive net present value for the 5-year period for which the applicant supplies financial information. For Sustainable Broadband Adoption projects, reviewers will consider whether the increases in broadband adoption rates in the project area caused by the project will be sustained beyond the conclusion of the project.

NTIA anticipates that the lessons learned and experiences from the first and second round of BTOP funds will help inform efforts in Congress and elsewhere to deliver sustainable broadband services for unserved and underserved areas of the United States.

Question 18. For most of rural Alaska, there is no fiber optic cable, and the State of Alaska, our state public utility commission, and many carriers, are on the record at the agencies and the FCC that satellite service, which provides middle-mile connectivity, simply cannot support the existing and coming broadband needs. Word from my state of Alaska is that at least one last-mile project has been moved into phase 2 of your funding process.

Given that no middle-mile solution is yet in place for much of Alaska, what are you doing to deal with getting such middle-mile backbone infrastructure in place soon so the last-mile projects can link up with something other than satellite which everyone knows is burdened with low throughput, frequent interruptions, high-latency, and is extremely expensive?

Answer. The NOFA reflects our goal and, we believe, the intent of Congress to fund projects that will provide the greatest benefits to the greatest population of users and to focus on areas that have no broadband or inadequate broadband, rather than supporting projects located in areas with more substantial broadband service. I believe that middle mile projects have a significant role to play in this regard, as they can provide a more robust link to existing last mile networks, as well as stimulate private investment in new last mile networks. Although each project must be evaluated on its own merits, I appreciate your description of how middle mile projects could prove especially beneficial for Alaskans.

Question 19. What are you doing to insure we are not funding stranded last-mile investments in areas where no middle-mile fiber optic system exists?

Answer. Applications for BTOP Last Mile Infrastructure projects will be evaluated in part on their ability to provide broadband service to end users or end user devices (including households, businesses, community anchor institutions, public safety entities, and critical community facilities). Last Mile applicants unable to demonstrate that they can promptly serve end users with broadband service—such as a Last Mile project where no Middle Mile transport exists—will not receive favorable consideration.

Question 20. Background for this question is that NTIA is under the Department of Commerce and some of your sister agencies in the Department of Commerce are the National Marine Fisheries Service, the National Oceanic and Atmospheric Administration, the National Science Foundation, the Office of Arctic Programs, and others.

Given Alaska's unique roles in the areas of Federal fisheries policy, climate change, ocean studies and new shipping lanes opening in the Arctic, is NTIA taking this funding opportunity to see if broadband applications pending before you can simultaneously meet the separate objectives of your sister agencies in the Department?

Answer. NTIA welcomes and encourages applications that leverage other governmental development programs as well as those that coordinate with other Recovery Act programs. BTOP applicants have the opportunity to describe how they will leverage other programs in order to maximize the benefits of the government's broadband investments. Applicants that demonstrate such benefits can receive favorable consideration in the evaluation process.

Question 21. Have you asked NOAA, NMFS, the Arctic Research Commission, NSF, the U.S. Coast Guard or other Federal agencies what their telecommunications needs are going to be in Alaska in the next 5, 10, 20 years or beyond, and how to make sure projects you fund now take those needs into account?

Answer. NTIA has worked to coordinate with other Federal agencies in the development of the BTOP program and to ensure that BTOP investments are consistent with their goals. For example, NTIA has participated in a number of Federal broadband coordinating meetings convened by the White House with agencies from across the Federal Government. These meetings have been convened in part to ensure that all Federal agencies can communicate their telecommunications and broadband needs. NTIA also sought the input of many Federal agencies during the

development of the first NOFA and will encourage agencies to submit comments in response to the recently released Request for Information so that NTIA may take their input into consideration as we develop the second funding round.

However, NTIA also expects applicants to leverage the needs of other agencies in formulating their applications. Projects that reflect this type of coordination with other Federal programs and agencies receive additional consideration from NTIA.

Question 22. Doesn't it make sense to engage in this kind of coordination, and leveraging of taxpayer dollars?

Answer. Yes. I believe that coordination among Federal agencies can provide substantial public benefits and efficiencies. NTIA has coordinated closely with the other agencies directed to lead the Federal Government's broadband efforts, including RUS and the FCC, in an effort to provide applicants and the public with a unified approach to addressing the Nation's broadband needs. NTIA plans to continue to work closely with its Federal partners to fulfill the objectives of the Recovery Act and enhance broadband capabilities in the United States.

Question 23. Are you able to commit to ensuring that your agency talks with these other agencies now, and any other agency with an Arctic focused mission, so we do make maximum use of this ARRA funding?

Answer. NTIA will continue to seek the input of any and all Federal agencies into the administration of the BTOP program so that we may fulfill the Recovery Act's objectives to the maximum extent possible. NTIA would be happy to communicate with the agencies you listed as well as any Federal agency that would like to provide input into the implementation of BTOP.

However, NTIA expects applicants to leverage the needs of other agencies in formulating their applications. Projects that reflect this type of coordination with other Federal programs and agencies receive additional consideration from NTIA.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN ENSIGN TO
HON. LAWRENCE E. STRICKLING

Question 1. The first NOFA provided very specific definitions of what unserved and underserved areas are for the purposes of the STOP and BIP programs. It is critical for the success of these programs and to avoid waste, fraud, and abuse that funds are only awarded to eligible areas. Given that providers have faced many problems with the comment process established in the NOFA and that such comments are due by October 28, it seems quite possible that we may learn next month or even next year that an application for a supposedly unserved project turns out to be in a fully-served community. Ultimately, whose responsibility is it to ensure that program funds are not awarded to ineligible projects, your agencies or the existing service providers?

Answer. NTIA makes the decision as to whether an area is unserved or underserved. NTIA will make these decisions based on data supplied by the applicant, data supplied by existing service providers who choose to comment, and broadband maps compiled by States, additional comments submitted by State Governors, and other data bases. NTIA generally believes the mapping tool has performed as intended and provided existing service providers ample opportunity to comment on proposed funded service areas. To the extent that existing service providers did experience issues with the mapping tool, NTIA will explore ways to further improve this process for the next round of funding. I am confident that NTIA will have sufficient and accurate information on which to base funding decisions in this funding round.

Question 2. How will NTIA deal with projects that turn out to be ineligible after they have been awarded the funds?

Answer. NTIA determines eligibility during the initial review and approval process based on information supplied by the applicant, the States, other third parties, and other information available to us. If, despite this thorough review, we determine after an award that the project is ineligible, the Recovery Act authorizes NTIA to de-obligate funds in a variety of circumstances. The application of this provision of the Recovery Act to a specific grant will, of course, depend upon the facts and circumstances of the particular case. However, the availability of this remedy at the backend should not and will not reduce the scrutiny NTIA applies during the initial phase of review to determine eligibility. The efficient expenditure of taxpayer dollars demands that we take all available steps to ensure that the initial determination of eligibility is accurate, and based on all of the data available to us.

Question 3. Does your agency have any redress or appeals processes in place in case it is discovered later that an awarded project is inappropriately overbuilding an existing service provider?

Answer. The eligibility standard for BTOP awards is not whether there is some level of existing broadband service or whether a project would be “overbuilding,” but whether the applicant has demonstrated that their proposed funded service area is unserved or underserved. The underserved criteria can be met by showing that the proposed funded service area exhibits low levels of availability, adoption, or broadband speeds. This standard allows for BTOP funds to support areas where some level of broadband service may exist, but robust investment or adoption has not yet taken shape. However, there are a number of steps NTIA is taking to ensure that funding goes to projects that will enhance broadband service in areas with demonstrated need and best fulfill the objectives of the Recovery Act. NTIA has provided existing service providers with the opportunity to submit information to RUS and NTIA regarding their existing service offerings to help inform the application review process, and is also utilizing any other data at its disposal to help evaluate claims made by both applicants and commenters. NTIA is confident that it will have sufficient and accurate information on which to base funding decisions.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JIM DEMINT TO
HON. LAWRENCE E. STRICKLING

Question 1. What restrictions are included in the rules related to the sale or lease of assets by a recipient of a grant or loan?

Answer. BTOP funds are intended for recipients committed to investing in and improving their communities, not those seeking to use taxpayer dollars to turn a quick profit. Thus, NTIA and RUS will generally prohibit the sale or lease of Recovery Act-funded broadband facilities. However, the NOFA also sets out an exception to this prohibition when, among other things, an applicant can demonstrate that a sale or lease of the property would be in the best interest of those that are served by the project. In addition to minimizing instances of unjust enrichment, these restrictions will help ensure that BTOP-funded projects are used for the purposes established by Congress in the Recovery Act and that they provide the maximum benefits to the proposed funded service area.

Question 1a. For how long are the restrictions in effect, and is there a waiver process during the effective period?

Answer. As set forth in the NOFA, the sale or lease of any portion of the award-funded broadband facilities during their life is generally prohibited. The NOFA, however, establishes a three-prong exception to this general prohibition. Specifically, the agencies may approve a sale or lease if it is for adequate consideration, the purchaser agrees to fulfill the terms and conditions relating to the project, and either the applicant includes the proposed sale or lease in its application as part of its original request for grant funds or the agencies waive this provision for any sale or lease occurring after the tenth year from the date the grant, loan, or loan/grant award is issued.

Question 1b. Does this kind of limitation of property rights discourage bona fide applicants with real experience in the business of deploying broadband networks from applying?

Answer. Given that NTIA and RUS received almost 2,200 first round applications requesting nearly \$28 billion in funding for broadband projects—more than seven times the amount of available funding in the first round—it does not appear that applicants were deterred by this restriction. Nevertheless, we are examining all aspects of the first round of grant applications to determine what changes should be made in the next round.

Question 1c. Are you planning to remove this limitation for the next round of funding?

Answer. On November 10, 2009, RUS and NTIA announced the release of the second joint Request for Information (RFI) seeking public comment on certain issues relating to the implementation of BIP and BTOP. Among other topics, the RFI asks for comments regarding whether the section of the NOFA relating to the sale or lease of award-funded broadband facilities should be revised to adopt a more flexible approach toward awardee mergers, consistent with USDA and DOC regulations, while still ensuring that awardees are not unjustly enriched from the sale of award-funded assets for profit. NTIA will use the comments received from all interested parties to determine what changes, if any, are appropriate in the second funding round.

Question 2. Most broadband providers did not apply for stimulus funding in the first round, particularly incumbent telephone and cable providers with experience in serving rural America. Are the interconnection/non-discrimination provisions in the rules contributing to this lack of interest?

Answer. As noted above, NTIA and RUS received almost 2,200 first round applications requesting nearly \$28 billion in funding for broadband projects—more than seven times the amount of available funding in the first round. These applicants were clearly not deterred by the interconnection/non-discrimination provisions that were included in the NOFA pursuant to the requirements of the Recovery Act.

Question 2a. Will you consider modifying them for round two?

Answer. As noted, the Recovery Act requires NTIA to establish non-discrimination and interconnection obligations as contractual terms of awards under BTOP that, at a minimum, adhere to the principles contained in the FCC's Internet policy statement. RUS and NTIA recently announced the release of the second joint Request for Information (RFI) seeking public comment on certain issues relating to the implementation of BIP and BTOP. Among other topics, the RFI asks for comments regarding the interconnection and nondiscrimination requirements. Specifically, the RFI asks whether interconnection and nondiscrimination requirements should continue to be applied to all types of infrastructure projects regardless of the nature of the entity; whether the scope of the reasonable network management and managed services exceptions should be modified, and if so, in what way; and whether it is necessary to clarify the term "interconnection" or the extent of the interconnection obligation. NTIA will use the comments received from all interested parties to determine what changes, if any, are appropriate in the second funding round.

Question 3. Have you established a process for the public or existing service providers to appeal a decision to issue a loan or grant if they feel an area should not have been considered eligible because it is already served?

Answer. While there is no appeals process once an award has been made, there are a number of steps NTIA is taking to ensure that funding goes to projects that will best fulfill the objectives of the Recovery Act and meet the requirements of the statute and the NOFA. The NOFA outlined the multi-step evaluation process and the criteria that are being used to review and score applications, including the ability of NTIA to seek additional information or clarification from applicants as part of the review process. NTIA has consulted with States, Tribes, territories, possessions and the District of Columbia to solicit their feedback on the initial pool of BTOP applications. NTIA provided existing service providers with the opportunity to submit information to RUS and NTIA regarding their existing service offerings to help inform the application review process, and is also utilizing other data at its disposal to help evaluate claims made by both applicants and commenters.

In addition, as already noted, the Recovery Act permits NTIA to deobligate awards to grant recipients in appropriate circumstances. These steps will help ensure that NTIA awards funds to projects that fulfill Recovery Act objectives and spend taxpayer dollars wisely.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DAVID VITTER TO
HON. LAWRENCE E. STRICKLING

Question 1. I understand that for middle mile projects, the rules require applicants to show that there is a termination point in an unserved or underserved area. I also understand that the mapping and response tool does not identify where that termination point is. How can existing service providers comment on whether those areas are unserved or underserved if they are not clearly identified?

Answer. NTIA and RUS provided existing service providers with a 30-day window voluntarily to submit information regarding the proposed funded service area(s) of BTOP/BIP infrastructure applicants to help inform the application review process and ensure that BTOP funds support projects in areas that meet the definition of unserved or underserved. With respect to middle mile projects, existing service providers were able to comment on the unserved or underserved status of each census block within the applicant's proposed service area. The reviewing agencies must then take the commenters' information, along with data supplied by the States and other available data, to determine whether any of the proposed interconnection points identified in the application itself are located in an unserved or underserved area, thus establishing the applicant's eligibility for funding under this prong of the eligibility criteria.

Question 2. How do you intend to verify conflicting data received from the applicant and from those who submit comments, including existing providers and the states?

Answer. NTIA will review submissions made by existing service providers and compare them against proposed funded service area designations, taking into account the methodology used by both, to evaluate the unserved or underserved status of the area. NTIA may also seek additional information or clarification from applicants as part of the review process. NTIA is also utilizing other data at its disposal to help evaluate claims made by both applicants and commenters.

Question 3. Will there be an appeals process in place if your agencies award funding for a project that is found to be duplicative and doesn't address an unserved or underserved area?

Answer. No. The eligibility standard for BTOP awards is not whether there is some level of existing broadband service or whether projects would be "duplicative," but whether the applicant has demonstrated that their proposed funded service area is unserved or underserved. The underserved criteria can be met by showing that the proposed funded service area exhibits low levels of availability, adoption, or broadband speeds. This standard allows for BTOP funds to support areas where some level of broadband service may exist, but robust investment or adoption has not yet taken shape. However, there are a number of steps NTIA is taking to ensure that funding goes to projects that will enhance broadband service in areas with demonstrated need and best fulfill the objectives of the Recovery Act. NTIA has provided existing service providers with the opportunity to submit information to RUS and NTIA regarding their existing service offerings to help inform the application review process, and is also utilizing any other data at its disposal to help evaluate claims made by both applicants and commenters. NTIA is confident that it will have sufficient and accurate information on which to base funding decisions.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV
TO HON. JONATHAN ADELSTEIN

Question 1. Congress intended that Broadband Technology Opportunity Program (BTOP) and Broadband Infrastructure Program (BIP) be targeted to unserved and underserved communities. In order to identify such areas, the applicant must provide broadband availability data to the National Telecommunications and Information Administration (NTIA) and the Rural Utility Service (RUS). In addition, the BTOP and BIP rules allow existing service providers to provide comment on proposed projects, including data regarding broadband service in such areas. The rules suggest that if existing service providers do not provide such data within 30 days, the agencies will presume that there is no existing service provider in those areas.

Incumbent providers have complained that the database used to collect data is cumbersome and inefficient. As a result, they may not be able to provide complete information by the deadline set forth in the rules. What is being done to make sure that RUS and NTIA have sufficient and accurate information on which to base their funding decisions? Are there ways for incumbent providers to supply additional data after the deadline?

Answer. The 30-day response time-frame was a requirement of the Notice of Funding Availability (NOFA) published in the *Federal Register* on July 9, 2009. For the over 1450 applications where the window closed for filing Public Notice Responses as of October 28, 2009, there were over 11,000 individual responses received. At least 1 response was received for over 80 percent of the total number of applications. Both RUS and NTIA feel that incumbent service providers had ample opportunity to supply comments as evidenced by this overwhelming response. Under this competitive loan and grant program, RUS cannot allow applicants or incumbent service providers to submit additional substantive information for consideration not authorized by the NOFA. Both RUS and NTIA will rely upon the information submitted by the applicant, and state broadband maps (where available). In cases where RUS determines necessary, it will rely upon its nationwide network of RUS General Field Representatives (GFRs) or Rural Development field staff to assist with our assessment.

Question 2. Conversely, applicants have voiced concern that incumbent providers may supply inaccurate data that they will not have the opportunity to rebut. Is there an appeals process to the extent that there is a conflict over the data provided to the RUS and NTIA?

Answer. It is incumbent upon the Agencies to prudently assess the information provided by the applicants against any comments received from the public or incumbent service providers. RUS will also use state broadband maps (where available).

In cases where RUS determines necessary, it will rely upon its nationwide network of RUS General Field Representatives (GFRs) or Rural Development field staff to assist with our assessment.

Question 3. Once an application reaches the second due diligence phase, what efforts will be made to assess the accuracy of the broadband service data in the proposed project areas?

Answer. During the two-step application process outlined in the NOFA, there is one due diligence process and one validation process. During the validation process, which is more commonly referred to as "Step 2," RUS will complete its assessment regarding the availability of broadband service in the proposed service area.

Question 4. I am concerned that coordinating grant programs between NTIA and RUS has made the application process unnecessarily complex and delayed the use of stimulus funds. I would like to have a better understanding of how the agencies have worked together to date and play to proceed with respect to the second notice of funds available (NOFA). Has the RUS identified which applications it will not fund so that the NTIA can focus on those applications? Please provide a timeline detailing when applications or groups of applications were identified by RUS as not being funded and therefore eligible for BTOP funding.

Answer. As indicated in the NOFA, and previous testimony, both RUS and NTIA are simultaneously reviewing joint BIP and BTOP applications. This simultaneous process ensures that neither Agency is delayed in processing joint applications. We are closely coordinating the review of applications, and are advancing applications to Step 2 on a rolling basis. Our initial awards were announced on December 17, 2009; subsequent awards will be announced on a rolling basis in early 2010.

Question 5. Approximately how many applications for "remote areas" do you anticipate will receive BIP funding?

Answer. At this time, RUS has not completed the review of all applications for remote rural areas to make such an assessment. Thirty remote rural projects have been advanced to Step 2.

Question 6. When do you anticipate that RUS and NTIA will begin taking comment on the second NOFA?

Answer. Both RUS and NTIA published our joint Request for Information (RFI) on November 16, 2009 in the *Federal Register*. We are currently reviewing comments.

Question 7. Why should applications be considered for both a BTOP and a BIP award, if the applicant is only interested in one of the programs?

Answer. The Recovery Act provided both RUS and NTIA with the tremendous opportunity to bring broadband service to rural, unserved and underserved areas. RUS was given the ability to provide loans and loan/grant combinations which will allow the Agency to stretch its \$2.5 billion in budget authority as far as possible. To ensure that the maximum leverage is received from the taxpayer's investment, all applicants for rural areas needed to apply to the BIP program. Applicants were also given the opportunity to jointly apply for the BTOP program by answering a few additional BTOP-only questions. In this manner, the Agencies could ensure that valuable grant resources were only directed to rural applicants that needed an 80 or 100 percent grant. If RUS determines that an applicant cannot afford a loan component and the applicant jointly filed for BTOP, NTIA can then consider the applicant for a grant. The RUS determination that an applicant could not afford a partial loan also helps the applicant and NTIA meet the statutory requirements that a BTOP project would not be possible "but for" the NTIA grant.

Question 8. How can the second NOFA be streamlined without increasing the risk of fraud or abuse?

Answer. That is an excellent question. Both RUS and NTIA are seeking comments on how the application process can be streamlined without increasing the risk of fraud or abuse through its Request for Information (RFI) published in the *Federal Register* on November 16, 2009. With over 60 years of successful telecommunication financing experience, RUS will continue to strive to ensure that it provides loans and/or grants resources to eligible projects. This is evident in our low default rate of less than 1 percent.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARK PRYOR TO
HON. JONATHAN ADELSTEIN

Question 1. I appreciate the tremendous strain that you and your staff are under to evaluate these applications and distribute an enormous amount of funds in a relatively short timeframe. I thank you all for your service and dedication.

I firmly believe in the potential of these broadband stimulus programs if implemented correctly.

I am particularly concerned that the funding gets into the right hands. In drafting the NOFA, did you consider an appeals process so that if errors were found they could be rectified?

Answer. With over 60 years of successful telecommunication financing experience, RUS will continue to strive to ensure that it provides loans and/or grants resources to eligible projects. This is evident in our low default rate of less than 1 percent. In the unlikely event that a project is awarded funds that would not have been eligible for the program, RUS security documents clearly identify how such loans or grants are handled. Each case is reviewed on its own merits to determine the most appropriate action to protect the integrity of the program and the taxpayer's investment.

Question 2. In the GAO's testimony, Mr. Goldstein pointed out that NTIA and RUS lack resources for oversight beyond FY2010. What steps are you taking to secure funding for proper and continued oversight?

Answer. RUS fully agrees and is committed to ensuring not only those funds are obligated by September 30, 2010, but also that adequate oversight of projects will be available beyond FY 2010. We fully recognize that these additional loans and grants will expand the portfolio beyond the capacity of the existing telecommunication staff. We continue to work all channels, including the use of Rural Development Field staff to ensure that we continue to be good stewards of the taxpayer's resources. We are aware of the out-year needs to fund oversight activities that may exceed our current budget and are working to explore options so that we are able to properly oversee implementation.

In response to GAO's testimony regarding challenges RUS may experience in implementing the BIP program, I would like to take this opportunity to share some of the steps RUS is taking to make the program a success:

1. RUS brings 75 years of history making electric, telecommunication, water and environmental loan, grant and technical assistance to rural America. RUS manages a \$54 billion loan portfolio with a success rate envied by the private sector financial markets. The Department of Commerce's National Telecommunications and Information Administration (NTIA) brings years of experience as the President's chief advisor on telecommunication policy in America. Collectively, both RUS and NTIA have marshaled our resources to develop and publish the BIP and BTOP initiatives. The Agencies, together with guidance and collaboration with the White House and the FCC, are working together as a team to make the programs a success.

2. RUS has 114 existing full-time staff dedicated solely to the telecommunications program that work collectively as a Team. This Team administers RUS' existing telecommunication programs including:

- Farm Bill Broadband Loan Program
- REAct Infrastructure Loan Program
- Distance Learning and Telemedicine Loan and Grant Program
- Community Connect Grant Program

3. RUS will hire approximately 47 additional temporary Recovery Act employees to assist with the BIP program. These challenging economic times have afforded RUS an opportunity to hire extremely well qualified applicants for these positions. This is a 40 percent increase in the Telecommunications Team.

4. RUS is part of the Rural Development mission area. Rural Development, including RUS, has over six thousand employees in Washington, D.C., and throughout rural America. This staff has extensive commercial loan experience and stands ready and able to assist the telecommunications Team with BIP as needed. The Secretary has made the success of all Recovery Act programs and BIP a top priority.

5. Rural Development has successfully obligated funds in all of its other Recovery Act programs. For example, in our homeownership programs, Rural Development has obligated almost \$10 of \$11 billion in funding assisting almost eighty thousand families to become homeowners in rural America. In our Rural Business Enterprise Grant program, almost 80 percent of available funds have been obligated and nearly half of our Community Facility funds have been obligated.

6. Beyond the Rural Development mission area, the RUS Telecommunication Team is supported by the assistance of an experienced contractor—ICF International. ICF has extensive experience in working with economic development programs including other Rural Development programs, USDA's Farm Service Agency and the Department of Housing and Urban Development. ICF has assisted state governments with disaster recovery and has the ability to ramp-up staff resources

to quickly deliver results. ICF was able to ramp-up staff immediately when the results of the first funding round were announced.

Question 3. In the RUS program under the NOFA, a project must exclusively involve a ‘remote area’ to qualify for a BIP grant that covers 80–100 percent of the project cost. However, the definition of ‘remote area’ as defined in the NOFA would not apply to almost the entire State of Arkansas.

I know my state and many parts of Arkansas are indeed remote and hard to reach areas. I would be happy to drive you around and show you these areas. Would you be willing to amend this definition for round 2 to include areas that are by other definitions considered remote?

Answer. RUS recognizes the concerns raised with the definition of “remote” included in the first NOFA and is considering changes to the definition for the second NOFA. The Agency’s intent under the first NOFA was to direct our limited grant resources to the most rural and the most remote areas. Both RUS and NTIA published our joint Request for Information (RFI) on November 16, 2009, in the *Federal Register*. RUS and NTIA invited comments for 14 days and appreciates these, which focused on how it can direct grant funds to the most unserved areas.

Question 4. I believe it is necessary that you ensure funds targeted for un-served and underserved areas are truly un-served and underserved. I am concerned that smaller and more rural broadband providers are having trouble responding to the applications RUS and NTIA have received in order to show areas that they are currently serving. What happens if broadband providers cannot or do not submit territory maps?

Answer. Both the Rural Utilities Service (RUS) and the National Telecommunications Information Agency (NTIA) are responsible to ensure that projects funded by Recovery Act funds meet the requirements of unserved or underserved. To do so, we will rely heavily upon the information submitted by the applicant and the Public Notice Responses (PNRs) received under the comment period which ended for most applications on October 28, 2009. For the over 1450 applications where the window closed for filing PNRs on October 28, there were over 11,000 individual responses received. At least 1 response was received for over 80 percent of the total number of applications. RUS will rely upon these comments, along with state broadband maps (where available), and both RUS and Rural Development Field Staff to validate the information when necessary.

Question 5. Are you considering modifications to the mapping tool to ensure that broadband providers have ample opportunity to provide accurate information about the territory they serve?

Answer. Both RUS and NTIA published our joint Request for Information (RFI) on November 16, 2009, in the *Federal Register*. Comments were invited for 14 days, and the Agencies are currently reviewing comments received on how it can streamline the comment process on proposed service areas.

Question 6. What changes are you willing to make to your application process to guarantee that broadband stimulus funds aren’t given to ineligible areas?

Answer. Both RUS and NTIA published our joint Request for Information (RFI) on November 16, 2009, in the *Federal Register*. Comments were invited for 14 days, and RUS is currently reviewing the comments received on how the Agencies can ensure that broadband stimulus funds are only provided in eligible areas.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. FRANK R. LAUTENBERG TO
HON. JONATHAN ADELSTEIN

Question 1. As you know, the Recovery Act requires the FCC to develop a national broadband plan by February 2010—after NTIA and RUS will award their first round of grants. In reviewing the broadband applications, what kind of coordination have NTIA and RUS had with the FCC to make the grant awards consistent with the national broadband plan?

Answer. The FCC has been an invaluable resource to both RUS and NTIA throughout the development of the broadband stimulus program. We are all working together to ensure the coordination of our efforts to the extent practicable. As you are aware, RUS has over 60 years experience in providing financial resources for telecommunications in rural America. We continue to work with the FCC to provide valuable input into the national broadband plan. RUS also looks forward to publication of the plan along with the national broadband map to more readily deploy appropriate resources to unserved and underserved areas.

Question 2. Will you provide applicants who are rejected in the first round with detailed information so they can improve their applications for subsequent rounds of funding?

Answer. RUS fully intends to provide applicants who are unsuccessful in receiving awards under the first NOFA with detailed information so they may improve their application for consideration in our subsequent NOFA.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO
HON. JONATHAN ADELSTEIN

Question 1. Mr. Adelstein, in your testimony, you note that “some applicants encounter challenges with our program’s rural definition” and that you are aware of “suggestions that have been raised regarding” this issue.

What New Mexican applicants have told me is that RUS and NTIA programs effectively divide “rural” and “non-rural” areas. In New Mexico, this prevented an integrated approach to deploying broadband statewide and at regional levels.

Since grant proposals had to be separated into “rural” and “non rural” areas, the New Mexico entities could not easily apply for grants that would fund backbone infrastructure to serve both types of areas. For example, the northern New Mexico region had to submit multiple applications for separate areas rather than a single, region-wide application.

Regional and statewide approaches to broadband deployment seem like a more strategic way to solve digital divide problems facing rural states like New Mexico. Will RUS and NTIA allow a more flexible approach in the second round of funding for applicants who want to serve “rural” and “non rural” areas with one grant proposal?

Answer. Both RUS and NTIA published our joint Request for Information (RFI) on November 16, 2009, in the *Federal Register*. Comments were invited for 14 days, and we are currently reviewing comments on how the Agencies can be more flexible in deployment of our programs.

It should be noted that RUS has a statutory requirement to serve areas that are at least 75 percent rural. This is intended to allow regional approaches to rural broadband deployment that may encompass a geographic area that is up to 25 percent non-rural.

Question 2. Could you elaborate on your planned changes for the second round of funding?

Answer. While no final decisions have been made, RUS anticipates changes in the definition of “remote,” the potential for targeting resources to unserved applicants such as Native Americans, ways to streamline both the application and comment process, and is considering options that may provide satellite providers with additional opportunities to compete for Recovery Act funds. Both RUS and NTIA published our joint Request for Information (RFI) on November 16, 2009, in the *Federal Register*. Comments were invited for 14 days, and we are currently reviewing comments on how the Agencies can make the second round of funding a success.

Question 3. In the current Notice of Funds Availability (NOFA), broadband projects that qualify for NTIA funding can receive up to 80 percent funding. For more rural areas, however, projects funded by RUS funding are capped at 50 percent funding. In New Mexico, this means that applicants who file their predominantly rural applications are likely to receive less financial support from RUS than those applicants who receive NTIA funding for more densely populated areas. Moreover, grant applicants cannot choose whether their application should be reviewed by RUS or NTIA. Mr. Adelstein, what flexibility do you have within current statutes to increase the grant funding percentage for RUS broadband projects?

Answer. The Recovery Act provided both RUS and NTIA with the tremendous opportunity to bring broadband service to rural, unserved and underserved areas. RUS was given the ability to provide loans and loan/grant combinations which will allow the Agency to stretch its \$2.5 billion in budget authority as far as possible. To ensure that the maximum leverage is received from the taxpayer’s investment, all applicants for rural areas needed to apply to the BIP program. Applicants were also given the opportunity to jointly apply for the BTOP program by answering a few additional BTOP-only questions. In this manner, the Agencies could ensure that valuable grant resources were only directed to rural applicants that needed an 80 or 100 percent grant. If RUS determines that an applicant cannot afford a loan component and the applicant jointly filed for BTOP, NTIA can then consider the applicant for a grant. The RUS determination that an applicant could not afford a partial loan also helps the applicant and NTIA meet the statutory requirements that a BTOP project would not be possible “but for” the NTIA grant.

RUS is currently reviewing comments under its Request for Information (RFI) published in the *Federal Register* on November 16, 2009, as to whether more flexibility should be given into the loan/grant percentages offered by RUS. These percentages are not statutory but are intended to maximum the leverage provided to RUS to makes loans available for viable projects, consistent with other important program goals.

Question 4. Could the NOFA rules for the second round allow all rural applicants to bypass RUS and apply directly for the more generous NTIA grants?

Answer. Both RUS and NTIA worked closely together to ensure that the taxpayer's resources made available under the Recovery Act were leveraged to the maximum extent possible. As mentioned, RUS was given the ability to provide loans and loan/grant combinations which will allow the Agency to stretch its \$2.5 billion in budget authority as far as possible. This increases the effect of the the taxpayer's investment and will help deliver broadband to many more unserved and underserved households. To ensure that the most leverage is received for the taxpayer's resources, all applicants for rural areas under the NOFA needed to apply to the BIP program. Applicants were also given the opportunity to jointly apply for the BTOP program by answering a few additional BTOP-only questions. In this manner, the Agencies could ensure that valuable grant resources were only directed to rural applicants that needed an 80 or 100 percent grant. If RUS determines that an applicant cannot afford a loan component and the applicant jointly filed for BTOP, NTIA can then consider the applicant for a grant. The RUS determination that an applicant could not afford a partial loan also helps the applicant and NTIA meet the statutory requirements that a BTOP project would not be possible "but for" the NTIA grant.

The Agencies are fully committed to streamlining the application and coordination process and sought comments through our joint Request for Information (RFI) published in the *Federal Register* on November 16, 2009.

Question 5. Mr. Adelstein, I know you have direct experience with digital divide challenges facing Tribal Lands. Indian Country has some of the lowest broadband penetration rates in the entire country, perhaps just 10 percent. Mr. Strickling states that Tribal governments applied for funding. However, out of over 2,000 total applications, there appears to be only 19 applications for BIP grants submitted by Tribes.

I am concerned that this low participation may be partly due to the requirements of the first round Notice of Funds Availability (NOFA), which did not recognize the unique challenges and legal status of Tribal Nations.

For example, the NOFA deducts points from applications for not being Title II borrowers, and Tribal governments have more difficulty meeting local matching fund requirements. Has NTIA or RUS considered giving extra points—or other favorable consideration—to broadband applications submitted by tribal communities for which the Federal Government has a trust responsibility?

Answer. First, let me assure you that RUS did not deduct any points for applicants that were not Title II borrowers. As you are aware, the statute provided a direct priority for Title II borrowers. RUS recognized this priority by allowing additional points for Title II borrowers. It is also important to note that many tribally owned telecommunication providers are Title II borrowers and can receive additional priority as required by the statute.

RUS has a long history of providing financial resources in Indian Country. For example, RUS has funded a broadband infrastructure project in northeastern New Mexico, on the Navajo Nation reservation to Sacred Wind Communications. Two infrastructure loans, totaling \$70.2 million, are financing telecommunications services being deployed across the reservation. Most of the homes were previously unserved by broadband, and did not even have access to basic phone service. Additionally, RUS awarded a Community Connect grant to Sacred Wind to bring broadband service to Huerfano, New Mexico. This previously unserved community is now part of an integrated broadband network which connects all critical facilities and the grant also funded a new Community Center, where public broadband access and computer training is available. Residents of the reservation now use the Community Center computers for education and training, for job hunting, for communicating, and for selling Navajo arts and crafts on e-Bay. Recently Sacred Wind was recognized nationally by American Express and NBC Universal by winning the "Shine a Light" contest for the most inspiring small business in America.

The following chart also represents RUS funding in Indian Country for Fiscal Years 2005 through 2008.

Rural Utilities Programs—FY 05 thru FY 08

Investments in Indian Country

Rural Electrification Loans and High Energy Cost Grants	\$121,095,393
Distance Learning and Telemedicine Loans and Grants	\$24,981,971
Community Connect Grants	\$7,775,881
Telecommunication Infrastructure Loans	\$132,724,280
Broadband Loans	\$1,257,300
Weather Radio Grants	\$42,841
Public Television Digital Transition Grants	\$65,354
Water and Environmental Program Loans and Grants (Lower 48)	\$123,196,136
Water and Environmental Program Loans and Grants (Alaska)	\$40,295,736
TOTAL	\$451,434,892

In FY 2009, Rural Development invested over \$87 million in ARRA funds in Indian Country and almost \$500 million in non-ARRA funds benefiting Native Americans.

In response to your specific question, RUS requested comments on how the Agencies can potentially recognize the challenges faced by tribal communities through its Request for Information (RFI) published in the *Federal Register* on November 16, 2009. The Agencies requested comments and suggestions on this very subject.

Question 6. In recognition of tribal sovereignty, could NTIA and RUS change the second round NOFA to exempt applications from Tribal communities from review by state governments?

Answer. Under the NOFA, RUS does not seek comments from state governments on tribal or other BIP applications. The statutory requirement to seek review by state governments only applies to NTIA funds.

Question 7. What are you doing with the second round NOFA—beyond simple outreach—to provide a meaningful opportunity for Tribal Nations to successfully apply for deployment in their own communities?

Answer. As evidenced in our response above, RUS and Rural Development not only has a significant track record in providing outreach to Tribal Nations, but has successfully invested millions of dollars to benefit the Native American community. In response to your specific question, RUS sought public comment on how the Agencies can potentially recognize the challenges faced by tribal communities through its Request for Information (RFI) published in the *Federal Register* on November 16, 2009. The Agencies requested suggestions on this very subject and is currently reviewing same.

Question 8. Given that States will administer broadband mapping grants, what steps will NTIA take to ensure that tribal lands will be properly included and identified in the broadband mapping efforts?

Answer. Not applicable to RUS.

Question 9. Both the wireless industry and Tribal nations have previously expressed their concerns to Congress about the need to balance rules that help build wireless infrastructure and avoid impacts on Native American sacred sites and cultural properties.

Several procedures already exist, such as the National Historic Preservation Act Section 106 process and more recent FCC rules regarding new tower construction. The FCC and the Tribes negotiated a Best Practices Agreement to provide process guidance and assurances to all involved.

NTIA and RUS currently seek to use a similar streamlined process for the purposes of the Recovery Act, including a new Nationwide Programmatic Agreement for fiber deployment. Some Tribes have again expressed concern that this infrastructure building could impact sacred religious places. What steps are you taking, beyond simply outreach, to take into consideration the concerns of Tribal Nations that these new procedures for broadband deployment will avoid potential adverse impacts on Tribal cultural and religious sites?

Answer. Under Section 106 of the National Historic Preservation Act and its implementing regulation (36 CFR Part 800), RUS and NTIA are legally responsible for conducting more than simple outreach to Indian tribes for BIP/BTOP projects. Indian tribes must be consulted whenever a proposal has the potential to affect properties to which tribes might attach religious and cultural significance. Such consultation must be on government-to-government basis and must occur throughout a proposal's review process. In order to involve tribes more effectively in the Section 106 review process for BIP/BTOP infrastructure projects, the agencies have taken several steps.

First, in October 2009 the RUS and NTIA received approval from the Advisory Council on Historic Preservation to accept Section 106 reviews completed by the

Federal Communications Commission (FCC) for the construction and modification of wireless communication facilities subject to, or exempted by, two nationwide programmatic agreements: (1) Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the Federal Communications Commission (2004); and/or (2) Nationwide Programmatic Agreement for the Collocation of Wireless Antennas (2001). In implementing these agreements, FCC has developed a tribal consultation program that relies on an electronic system to notify and involve tribes early and directly, and is well supported and managed by the agency. This program and its electronic notification system, Tower Construction Notification System (TCNS), have been developed and refined over several years by FCC working directly and collaboratively with Indian tribes. Therefore, by relying on FCC's 106 review process under the terms of these agreements and the associated program for their implementation, RUS and NTIA are making maximum use of existing, successful systems for the early and meaningful involvement of Indian tribes in the agency's Section 106 review responsibilities. The earlier tribes are involved in the review process the more likely it is that adverse impacts on properties of importance to them can be avoided.

In addition to this effort, RUS and NTIA have worked closely with FCC to modify TCNS for purposes of BIP/BTOP. Using a modified version of TCNS enables RUS and NTIA to notify tribes about qualified applications before any decision about the project has been made. TCNS, however, is more than a simple notification system. Upon receipt of a notification, a tribe may elect to respond with concerns about the proposal or information about properties important to the tribe that might be located in or near the proposal's defined service territories. At the very least, tribal responses of interest to TCNS notices permit RUS and NTIA to identify those tribes that wish to proceed and consult on each proposal's Section 106 review process.

Use of this electronic system will enable RUS and NTIA to provide fast and reliable initial information about proposals to tribes; this should facilitate their early participation in Section 106 reviews. Following the TCNS notification and for all approved applications, RUS and NTIA will consult with interested tribes in accordance with the regulations implementing Section 106 of NHPA. No other comparable system or database exists within the Federal Government that contains current, accurate and comprehensive information about Indian tribes and their geographic areas of interest. Utilizing TCNS will help ensure RUS and NTIA pursues an appropriate level of and opportunity for tribal consultation for all BIP/BTOP actions.

Finally, RUS and NTIA proposed to develop a nationwide programmatic agreement that would cover all of the proposals reviewed under BIP/BTOP, not just those that included fiber optic or cable deployment. During initial reviews of a conceptual plan and a draft version of the nationwide programmatic agreement, Indian tribes and State Historic Preservation Offices expressed concerns about proposed compressed review timeframes. In the initial agreement RUS and NTIA proposed to limit review of proposals that called for the installation of cable under certain circumstances, such as previously disturbed rows-of-way, because of the limited potential and likelihood of affecting "historic properties." The intent of this approach did not include those properties of religious and cultural significance to Indian tribes. RUS and NTIA agreed that such properties have value to Indian tribes beyond their National Register significance; therefore, typical assumptions about previous impacts were not applicable. In response to these concerns, RUS and NTIA has abandoned its initial intent and redrafted another agreement that is more limited in scope. This agreement is currently under consideration for execution.

RUS and NTIA will apply the regulatory standard in the Section 106 regulations to make a reasonable and good faith effort to identify historic properties affected by BIP/BTOP proposals. For proposals that propose cable installation, including fiber optic, this means consulting with tribes so that adverse effects to properties of religious and cultural significance to them can be avoided or minimized. Achieving this goal will be aided by the direct participation of RUS and NTIA in all aspects of Section 106 review process, as opposed to solely relying on the efforts of applicants which both agencies agree are not consistent with the Section 106 review process.

Question 10. Mr. Adelstein, some New Mexicans live in rural areas where satellite broadband may be the most efficient means of providing Internet access. Yet the NOFA rules seem to preclude satellite broadband providers from participating in the broadband stimulus programs. For example, satellite broadband providers, due to the nature of the technology, would potentially provide access to overlapping areas that are rural and remote, underserved and unserved. In the next funding round, will the NOFA rules provide meaningful opportunities for satellite broadband providers to compete for broadband grants?

Answer. Satellite providers were not excluded from applying for BIP or BTOP funding under the first NOFA; in fact, both Agencies received several applications

from satellite providers. Both RUS and NTIA published our joint Request for Information (RFI) on November 16, 2009, in the *Federal Register*. We are currently reviewing comments on how the Agencies may provide more meaningful opportunities for satellite broadband providers to compete for broadband resources.

Question 11. What changes to the first NOFA rules are necessary to allow satellite broadband proposals to be considered fairly on the merits of their applications?

Answer. We understand that satellite providers were concerned with the requirements that proposed service territories could only include unserved and underserved areas, and by their very nature, satellites can provide service virtually anywhere in the country. Both RUS and NTIA published our joint Request for Information (RFI) on November 16, 2009, in the *Federal Register*. We are currently reviewing those comments and will focus on how the Agencies can be more inclusive of satellite providers.

Question 12. Blair Levin was recently quoted in the press that current broadband stimulus efforts and existing FCC programs will not be sufficient to provide universal broadband access. He apparently stated that, "BTOP's not going to do it, BIP isn't going to finish the job, [and the FCC's] universal service isn't going to do the job right." Recognizing that much work will need to follow the BIP and BTOP initiatives in order to ensure that all Americans enjoy broadband access, what lessons learned or policy recommendations from the first round of broadband stimulus funding should inform the FCC's National Broadband Plan?

Answer. The FCC has been an invaluable resource to both RUS and NTIA throughout the development of the broadband stimulus program. We are all working together to ensure that the coordination of our efforts to the extent practicable. As you are aware, RUS has over 60 years experience in providing financial resources for telecommunications in rural America. We continue to work with the FCC to provide valuable input into the national broadband plan. RUS looks forward to publication of the plan along with the national broadband map to more readily deploy appropriate resources to unserved and underserved areas.

Question 13. Will you communicate these recommendations to this committee and directly to the FCC before the publication of the National Broadband Plan?

Answer. RUS welcomes the opportunity to provide input into the National Broadband Plan and with your Committee on our 60 years of experience with providing financial resources for telecommunications and with the additional opportunities provided under the broadband stimulus programs.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARK BEGICH TO
HON. JONATHAN ADELSTEIN

Question 1. Thank you for the great work your agency has done in Alaska. I have had the honor of touring many of the sites in Alaska and appreciate the investment that RUS has made to our communities. I would also like to thank your Alaska team for their hard work. Wes Lannen recently participated in a round table discussion with me and other groups and I appreciated the time he took out of his very busy schedule. However, I am very concerned that RUS will mainly focus on last mile projects for the BIP. Are you able to assure me there will be a thorough assessment of all the projects and consideration will be made to the very expensive middle mile projects?

Answer. Thank you for your comments about Wes Lannen, one of our General Field Representatives (GFRs) which are located throughout rural America and serve as our "boots on the ground" to help facilitate the deployment of broadband to rural unserved and underserved areas. I can assure you that RUS is committed to both last mile and middle mile projects. Under our first NOFA, funds were set-aside in three funding buckets. Up to \$800 million in RUS loans and grants were devoted solely to middle mile projects.

Question 2. I am concerned about the constant rule and guidance changing that the applicants have experienced. I understand the difficulty your agencies have experienced pushing through the money as quickly as possible, but can you assure us you will not change the rules throughout the final round of funding?

Answer. While we appreciate your interest in minimizing changes to our final NOFA, both RUS and NTIA have learned from our first NOFA and received numerous comments and suggestions on how we can streamline this document. As such, both RUS and NTIA published our joint Request for Information (RFI) on November 16, 2009, in the *Federal Register*. We are currently reviewing comments on how to minimize the burden of changes in the next NOFA.

Question 3. Many people found the combined application confusing and onerous. Under the second NOFA, what steps will your agencies take to improve the process?

Answer. The Agencies employed a two-step application process under the first NOFA in an effort to streamline the application process and minimize the burden on applicants. WE also held 10 Outreach and Training Workshops throughout the country to help applicants understand the NOFA and application process. We regret that many of your constituents may have found the application cumbersome. Both RUS and NTIA published our joint Request for Information (RFI) on November 16, 2009, in the *Federal Register*. Comments were invited for 14 days, and we welcome comments on how to streamline the application process.

Question 4. When will applicants be notified if they have made the first cut? It is essential for project managers to be able to improve their applications for the second and final round of funding.

Answer. The first awards were announced December 17, 2009. Additional first round awards will be announced on a rolling basis in early 2010. Our goal is to notify applicants that did not receive an award under NOFA 1 before NOFA 2 is published in the *Federal Register*.

Question 5. Do you believe the tight timelines have damaged the process or may cause problems with the projects as we move forward? I understand and support the need to get the projects funded as quickly as possible but I am very concerned the deadlines are going to damage the process and our ability to have worthy projects funded.

Answer. No. RUS and NTIA received over 2200 applications totaling in excess of \$28 billion for the first NOFA. Under the first NOFA, our goal was to target shovel-ready projects that could be deployed as quickly as possible and as a result, help facilitate our Nation's economic recovery.

Question 6. Since the deadlines have been pushed back repeatedly, I am concerned about the actual stimulative effects of the projects. What assurance do we have that the first round of project awards will actually be completed in February? Alaska's construction season is incredibly short especially in our most remote locations. If the projects are pushed back any more than we run the risk of high cost overruns because the materials will have to be flown in to the communities. Is it possible to let the Alaska projects know as soon as possible so they are able to have supplies ready for the first spring barge?

Answer. We share your concern and are working hard to meet our deadlines. The first awards were announced December 17, 2009. Additional first round awards will be announced on a rolling basis in early 2010. We need to balance the needs of our customers with those of the American taxpayer who want both RUS and NTIA to ensure that their hard earned tax dollars build viable and sustainable broadband in rural, unserved and underserved areas.

Question 7. If an applicant has not even started the Federal and state permitting processes for their project, especially under NEPA and the Endangered Species Act, how will that be viewed in the due diligence phases by RUS and NTIA given that you are looking for truly shovel ready projects?

Answer. The statute requires a preference for projects that can both commence and be completed as quickly as possible. We would encourage any viable applicant to begin seeking any necessary approvals for their project to ensure that it is competitive through the NOFA process.

Question 8. What is the due diligence process for confirming that an applicant's project can deliver broadband at the promised speeds or even at the minimum speeds required in the NOFA?

Answer. With over 60 years of successful telecommunication financing experience, RUS will continue to strive to ensure that it provides loans and/or grants resources to eligible projects. This is evident in our low default rate of less than 1 percent. RUS has experienced telecommunication engineers on staff that review all applications to ensure that the applicant's project is technically sound and can deliver broadband at the required speeds. Applicants were also required to submit a state from a Professional Engineer to certify to the technical feasibility of their proposal.

Question 9. How are the agencies confirming an applicant's representations, such as whether a technology can deliver service at the speeds that the applicant promises or that the rules require?

Answer. With over 60 years of successful telecommunication financing experience, RUS will continue to strive to ensure that it provides loans and/or grants resources to eligible projects. This is evident in our low default rate of less than 1 percent. RUS has experienced telecommunication engineers on staff and through contract that will review all applications to ensure that the applicant's project is technically

sound and can deliver broadband at the required speeds. As part of the application process, applicants were also required to submit a Statement from a licensed Professional Engineer to certify to the technical feasibility of their proposal.

Question 10. When do you expect middle-mile projects in Alaska to learn whether they are progressing to the next stage (Step II)?

Answer. RUS and NTIA are advancing middle mile projects to Step 2 on a rolling basis. Agency staff is still evaluating applications and comments on proposed service territory maps. In addition, we continue to coordinate our efforts with NTIA. Both RUS and NTIA are committed to advancing middle mile projects as expeditiously as possible and on December 17, announced several middle mile awards.

Question 11. Have any middle mile projects, anywhere in the country, been notified that they have progressed to Step II?

Answer. RUS and NTIA on December 17 announced several middle mile awards.

Question 12. Mr. Adelstein, can we get your commitment to also have your agency seek such interagency coordination?

Answer. RUS has always sought to maximize cooperation with all applicable Federal or state agencies for evaluating the environmental impacts and implications of our actions or proposals under consideration. A recent RUS example is a joint preparation of an Environmental Assessment with the Department of Defense for under-sea cables in the Pacific. We fully intend to continue with these efforts and work with NTIA to leverage assets and best deploy our broadband recovery act resources.

WRITTEN QUESTIONS SUBMITTED BY HON. MARK WARNER TO
MARK GOLDSTEIN

Question 1. You note in your testimony that the NTIA has not yet created quantitative, outcome-based goals for the BTOP program's performance measures. Is it typical to expect that such goals be crafted after a program has commenced? How do most agencies do this? How have other agencies implementing brand-new stimulus programs created such goals?

[The witness did not respond.]

Question 2. How does USDA's and RUS's use of contractors to help monitor and provide technical assistance for BTOP and BIP programs compare to other stimulus programs? To other non-stimulus grant programs? What advice, if any, would you give to agencies when using contractors in this manner?

[The witness did not respond.]

WRITTEN QUESTION SUBMITTED BY HON. MARK BEGICH TO
MARK GOLDSTEIN

Question. The GAO issued a report on the barriers to broadband deployment. In this report they spoke to a number of stakeholders—from academics to consumer advocacy groups and of course broadband providers. Unfortunately, not even one of the providers currently offers broadband or DSL service in Alaska. I understand you interviewed the trade associations with members in Alaska and respect the important role the trade association's play, but they are not the actual people working hard to deploy broadband in areas that national companies turn away from. How did you pick the providers you interviewed? Did you consider that not even one of those providers currently provide broadband or DSL service in Alaska? The providers in Alaska have a unique set of circumstances and could shed light on providing service too hard to reach areas.

[The witness did not respond.]