

OVERSIGHT OF THE DEPARTMENT OF COMMERCE'S BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM

HEARING

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

SPECIAL HEARING

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OVERSIGHT OF THE DEPARTMENT OF COMMERCE'S BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM

THURSDAY, JANUARY 28, 2010

U.S. SENATE,
SUBCOMMITTEE ON COMMERCE, JUSTICE, SCIENCE,
AND RELATED AGENCIES,
COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 9:31 a.m., in room SD-192, Dirksen Senate Office Building, Hon. Barbara A. Mikulski (chairwoman) presiding.

Present: Senators Mikulski, Reed, Pryor, Shelby, and Murkowski.

OPENING STATEMENT OF SENATOR BARBARA A. MIKULSKI

Senator MIKULSKI. The Subcommittee on Commerce, Justice, and Science will come together and will come to order. This is our first hearing of the year 2010 of the subcommittee. Later on in the year, we will be taking testimony from our cabinet officers and also from inspector generals, who will advise us on how to make sure we're getting value for our dollar.

Today we're here—and that is the focus of today's testimony, getting value for the dollar in terms of the Commerce broadband program run by the National Telecommunications and Information Administration.

We want to thank Secretary Locke and Mr. Strickling for being here and starting early. We have votes at 10:30. I'm going to dramatically condense my opening remarks. But know this; the No. 1 issue is creating jobs for the country. They really want job creation. We on this subcommittee, just as the Nation, we believe that jobs must come from the private sector, but government often creates an infrastructure that enables the private sector to go forth. The example would be the highway system that opened up rural communities and new entrepreneurship.

What we love about broadband is as that super information highway goes out, particularly to our rural communities, everyone from the homemaker who might be an eBay entrepreneur to a seafood industry in Maryland trying to go on a global market—broadband is their tool to expanding private sector jobs.

In the Recovery Act, the wisdom of the President said that as we move ahead we will not only do infrastructure in roads, but in information superhighway. The Recovery Act included over \$7 billion

to create rural broadband infrastructure projects, \$4.7 billion of that came to the Commerce Department. Now, we want to set the stage. Seven billion dollars is a lot of money. About \$3 billion went to Agriculture, but \$7 billion is exactly what we give the FBI to run their whole operation worldwide. So \$7 billion is a lot of money.

We know what it was used for and it was to focus on un-served areas and underserved areas. What we are concerned about, because we are hearing from our constituents that since the \$4.7 billion was given to the Commerce Department in February 2009 the Department has only awarded \$200 million for the entire program, including infrastructure and mapping grants.

Now, we know that there is an inherent problem between getting the money out fast and doing the due diligence which this subcommittee is insisting on. And Mr. Secretary, I know you. We don't want to have the boondoggles like what happened at Census, what is going on over at NPOESS, what I had at Justice, at the FBI. No boondoggles on your watch and no boondoggles on this subcommittee's watch.

So we know you need to do due diligence, but at the same time we're getting calls from our constituents saying, when are we going to know what happened to our grant? We've got to get started and we've got to plan.

So I want to better understand why these recovery funds are taking so long to reach communities, and do we need to help you with either resources, changing the statutory deadline—again, due diligence as well as promptness. Second, we hope to hear what you've learned from the actual applications. Are these ideas really a tool for economic development?

I know in our hearing when you come before the subcommittee in its regular order for the 2011 budget we will talk about ongoing monitoring. But right now what we want to know is why can't we get the money out faster? What are you doing to get the money out faster, at the same time meeting almost our schoolmarmish insistence on due diligence?

We're also very aware that the Inspector General, who we rely upon, has issued several reports, which I will talk about later on during the hearing.

This hearing is not to scold or to finger-point. It is really to pinpoint how we serve the Nation.

So I'm going to turn to my colleague Senator Shelby and then we're going to move right into your testimony. Senator Reed, perhaps for your opening statement you could incorporate it in your questions.

Senator REED. I'm fine.

Senator MIKULSKI. Senator Shelby.

OPENING STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. Thank you. Thank you, Chairwoman Mikulski.

First of all, I would like to thank the chairwoman for calling this hearing. Secretary Locke, Assistant Secretary Strickling, thank you for taking the time and thank you for serving.

The National Telecommunications and Information Administration, NTIA, is supposed to be the smallest agency within the Department of Commerce, with approximately 270 employees and an

annual budget of \$20 million. It has now increased its number of employees to over 310 and it has one of the largest pots of money in not only the Department of Commerce, as Senator Mikulski alluded to, but in all of the Federal Government.

Interestingly, NTIA alone has more funding than three of the Federal law enforcement agencies under this subcommittee's jurisdiction combined, the Drug Enforcement Administration, the U.S. Marshals Service, and the Bureau of Alcohol, Tobacco, and Firearms Agency. Apparently, the administration cares more about our Nation's ability to update their facebook status than fighting crime. We'll see.

Last year the administration hastily requested and received \$7.2 billion of taxpayers' money for rural broadband funding in the economic stimulus bill, \$4.7 billion was appropriated to NTIA and \$2.5 billion to the Department of Agriculture. Today, Mr. Secretary, \$4.3 billion it's my understanding idly sits in your bank over there, NTIA, and \$2.2 billion remains unspent by the Department of Agriculture.

The administration that so desperately needed \$7.2 billion in the President's stimulus bill for rural broadband funding is now negligently, I believe, and wastefully sitting on a grand total of \$6.5 billion of taxpayers' money, \$6.5 billion. This is almost half of the total savings that the President claimed would be saved in the upcoming fiscal year 2011 budget request.

NTIA, with billions of dollars, has been besieged with great proposals, grand proposals. The smallest agency in the Department of Commerce is now tasked with funding \$4.7 billion in grants. And yet the administration, Mr. Secretary, overestimated NTIA's capacity to deliver this funding and tasked an agency that does not even have a grant administrating office with disbursing \$4.7 billion. Something's got to give.

After scrambling to find a way to oversee this program, the Department has tasked grant officers in NOAA and NIST to disburse the funding. Further, panels of outside contractors have been hired to review applications. Many of these contractors have never been interviewed in person by anyone at the Department of Commerce and yet are responsible for ensuring that all applicants are qualified.

Mr. Secretary, what is being done to ensure that a competitive process is in place, we would like to know; that this process is fair, we'd like to know that; and that none of these contractors have a conflict of interest in awarding these funds?

This program I believe is not stimulating the economy. It's simply more Government spending that is forcing our Nation further and further into debt.

The stimulus broadband funding has taken what was once a small agency and turned it into, some people believe, a bureaucratic nightmare. What was supposed to be a program to provide broadband access across the Nation has become the poster child for why the stimulus was and continues to be in my opinion a disaster for the American taxpayer and the Federal budget.

There are now hundreds of private consultants taking over what should have been newly created jobs, and the NTIA still has dis-

tributed only a pittance of the funds given to this program, while a September 10, 2010, deadline looms.

I believe we should save the taxpayer from suffering from any further problems at the Department of Commerce and rescind this money. I opposed the stimulus bills that created this program and these results or lack thereof only confirm my previous concerns about the entire bill. This program has not been the promised downpayment on economic prosperity and I think it can hardly be described as getting off the ground yet.

Mr. Secretary, I'm confident that, since this hearing has publicly exposed this problem, the administration and the Department of Commerce will blindly and frantically attempt to hastily distribute the remaining funds. That could be a problem. We're talking about billions of dollars that would be rushed out the door to, for all practical purposes, unknown recipients, with no accountability, whether it would truly provide any broadband coverage or not.

Mr. Secretary, I hope it won't be the case. I would have preferred this hearing to be about the success the NTIA is having with implementing the program, but there's no way around the fact that NTIA has fallen well short of the results we were promised from the start.

If only NTIA's broadband program was the only failure at the Department. Unfortunately, there are many more that are costing the taxpayers billions of dollars. One in particular is the National Polar Orbiting Environmental Satellite program that we call NPOESS. It's another Government program that's been deemed too big to fail. I believe, Mr. Secretary, the program is failing. The question is what are you going to do about it.

The June 2009 GAO report indicates that, while things with the program may be better, the program is still a disaster. Going from worse to bad is not an improvement the American taxpayer should have to endure. While I understand your Department has a big announcement today about the future of this program, anything less than a complete termination probably is unacceptable. NPOESS has and will continue to drain billions out of other critical science, weather, and research programs at NOAA.

This administration is no better manager of this program than the last administration, and now are at a point where there is real danger that there will be no satellite continuity of coverage for weather forecasts.

Mr. Secretary, I believe this program is poorly managed, is billions of dollars over budget, is behind schedule, and its functionality decreases by the hour. It's a failure and should be put out of its misery.

I know this is a your about NTIA's broadband stimulus program, so I will leave further comments about the Department's programmatic, budgetary, and managerial woes for when we meet again. However, Mr. Secretary, you've got your hands full. I know that. You're new on the job. The symptoms of what could be a greater systemic problem in the Department are hard to ignore. I look forward to working with you and I know you're challenged. Thank you.

Senator MIKULSKI. Secretary Locke.

STATEMENT OF HON. GARY LOCKE, SECRETARY, DEPARTMENT OF COMMERCE

ACCOMPANIED BY HON. LAWRENCE E. STRICKLING, ASSISTANT SECRETARY FOR COMMUNICATIONS AND INFORMATION, AND ADMINISTRATOR, NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION (NTIA), DEPARTMENT OF COMMERCE

Secretary LOCKE. Thank you very much, Chairwoman Mikulski and Ranking Member Shelby and Senator Reed. It's a pleasure for me and Assistant Secretary Strickling to be before you to talk about the \$4.7 billion allocated by Congress to the Commerce Department for two initiatives to increase the state of broadband access in underserved communities across America, the Broadband Technology Opportunities Program, BTOP, and the State Broadband Data and Development Program, or the mapping program.

This program is moving ahead on an aggressive timetable and I am absolutely confident that you will see that we are delivering and that all funds will be disbursed in a timely and in a safe and prudent fashion. These grants are historic and appropriately ambitious, and they're designed to create jobs in the near term, but more importantly to create a physical infrastructure that enables sustainable long-term economic growth, working in concert and leveraging the resources of the private sector.

This program will bring America closer to President Obama's vision of a nationwide 21st century communications infrastructure that allows all of our citizens to fully participate in the global economy. To meet this goal, NTIA is adopting a comprehensive communities approach, where we emphasize investments in what we call "middle mile" broadband capabilities that will help localities connect anchor institutions like schools, libraries, medical facilities, and government facilities to high-speed Internet access.

Let me just briefly define what we mean by "middle mile," which is the core of the programs and the dollars that the Department of Commerce, NTIA, is distributing, unlike the programs at the Department of Agriculture. Just as the Federal Government has provided funding to build a major highway or a beltway like the 495 beltway here in the D.C. area and then private or local interests fund the construction of streets that branch off of that highway, most of NTIA's funding is to help build a broadband backbone or highway. Once built, the highway companies or local communities will construct the last mile of fiber optic lines that will then bring high-speed Internet access directly to businesses and to individual homes.

So the ultimate goal is to have the \$4.7 billion in NTIA funding serve as a catalyst for billions of dollars more in private sector and local investment. This is absolutely essential for America's long-term prosperity.

Among other things, expanding broadband access helps provide job training to the unemployed at our community colleges, school kids with material that they need to learn from resources all around the world, connecting rural doctors with more advanced medical centers, and, importantly, allowing businesses, whether located remotely or out of the home or on Main Street, to offer their services to national and international markets.

We believe, based on the report by the National Economic Council, that our investments in the short term will directly help create thousands of jobs doing everything from the manufacturing of fiber optic cable and other high-tech components, to digging the trenches, to installing telephone poles, to stringing of that fiber from pole to pole, and to the installation of the broadband networking hubs and equipment.

Thus far, the Department of Commerce has announced 66 broadband grants totaling some \$300 million. We have awarded 51 broadband mapping grants totaling almost \$100 million and 15 BTOP grants worth approximately \$200 million. But the true impact of the program can be found by looking at the measurable impact it's going to have on local communities. Take the \$28 million local infrastructure grant we awarded to North Carolina just last week. In the months and years ahead, the award winner will be laying almost 500 miles of new fiber rings in the western and eastern part of North Carolina. The project has the potential to connect almost one-half of the population of North Carolina to the high-speed 21st century Internet backbone.

The grant winner will provide new and robust broadband access for schools that need it, including 58 community colleges and 181 libraries, as well as public health facilities, including health clinics and almost 180 county health agencies and hospitals.

Meanwhile, seven other private sector broadband service providers have expressed interest in connecting to this backbone or middle mile project to provide high-speed Internet service to over 300,000 families or households, service that these private sector businesses could not have provided without this middle mile highway first being paid for and constructed by the Federal Government.

We've already provided grants for infrastructure, computer centers, and sustainable adoption in Georgia, Maine, Michigan, New York, South Dakota, Arizona, Massachusetts, Minnesota, Washington, California, and New Mexico, and we're not done. We will continue to fund meritorious proposals received during the first round on a rolling basis, and then we're turning our attention to round two applications, armed with more targeted objectives, streamlined processes, and valuable experience based on the lessons we've learned.

We know that a lot of people would like these grants to flow out more quickly and we share that sense of urgency. We understand the urgency of getting funds out to the communities as fast as possible, but we're also balancing that imperative with the need to ensure, No. 1, that we're funding the most sustainable worthy projects that will have the broadest impact on the communities they serve; and No. 2, that we minimize the risk of waste, fraud, and ensure that the taxpayers are getting solid returns on their investment. Indeed, the Government Accountability Office has urged that we perhaps slow down.

I would add that in the first round of funding we had over 1,800 applications requesting \$19 billion in Federal funds, from a pot of just over \$1 billion that was available. Given the large number of complex applications NTIA received, the review period was extended to ensure each application received full and fair consider-

ation. But despite that extended review period, the first wave of announcements was only delayed by 1 month.

In less than a year, NTIA has created a sophisticated, entirely new grants program and we've only hired 43 additional employees. We have new rules and regulations, new oversight and organizational framework that we've had to create from the ground up. Going forward, we're building on what we've learned.

We've also developed an exceptionally rigorous review process not unlike the review process for scientific grants or medical research, where we have independent reviewers from established communities or the scientific community helping assess and review these grants. Every grant was looked at by three independent reviewers, virtually volunteers, totaling over 1,000 individuals.

The most highly qualified applications based on reviewer scores were then moved into a due diligence review to assess a project's long-term sustainability and impact, and where our agency reviewers then examined the veracity of all submitted data, projected revenues and expenses to ensure viability. FBI background checks were conducted on the key personnel of the granting—the requesting organization, to minimize any potential for fraud. Then we had to ensure compliance with State and Federal regulations.

Those were just some of the criteria. In fact, some projects were very appealing until due diligence revealed that the projects had not yet looked into securing the necessary local construction or environmental permits, which could have taken even years or could have even rendered the project impossible.

We are now completing our multi-step review process for all first round applications. We've already sent out 1,400 letters to applicants who will not receive funding in the first round, so they have been notified, and we will continue to inform grant applicants of our funding decisions. In the next few weeks, we expect that every applicant will have heard from us, either as part of a due diligence query that they're still being considered or a letter informing that they will not be receiving funding.

Of course, those applicants denied in round one will be allowed to apply in round two. We've already announced the funding rules for the second round of funding and we're conducting informational workshops throughout the country. Grant applications for the second round of funding are due March 15.

In order to enable full and fair review of all applications and meet our September 2010 deadline, NTIA is consolidating the final two rounds of funding into one and we're making a number of changes to sharpen the focus, to truly inform people what our priorities are and how they can be more competitive.

PREPARED STATEMENT

We have full confidence in the direction of this grant program, and I thank you, Madam Chairman, for your leadership in establishing this program as well as for the opportunity to testify, and Assistant Secretary Strickling and I are happy to answer any questions you may have.

[The statement follows:]

PREPARED STATEMENT OF HON. GARY LOCKE

INTRODUCTION

Chairwoman Mikulski, Ranking Member Shelby, and distinguished members of the subcommittee, I am pleased to join you to discuss the broadband grant programs funded by the American Recovery and Reinvestment Act (Recovery Act). I am also very pleased to be here alongside Assistant Secretary Larry Strickling, head of the National Telecommunications and Information Administration (NTIA), which administers these programs for the Department.

Thanks in great part to your leadership, Madam Chair, Congress, through the Recovery Act, allocated NTIA \$4.7 billion to implement two initiatives to increase sustainable broadband access—the Broadband Technology Opportunities Program (BTOP) and the State Broadband Data and Development Program (Broadband Mapping program).

President Obama has articulated a vision of a nationwide, 21st century communications infrastructure. These Recovery Act broadband grants are appropriately ambitious—they are designed to increase broadband access in unserved and underserved communities across America as well as to create jobs and jumpstart economic growth. These grants will help lay the groundwork for sustainable economic growth for years to come. That goal, more than any other, is the No. 1 priority of the Obama administration.

The over-arching objective we want BTOP to fulfill is facilitating “comprehensive communities”—that is, communities with broadband capabilities connecting anchor institutions like schools, libraries, and government users with networks that also provide the foundation for greater household and business access. This can be accomplished by communities that: combine the forces of public and private entities to propose multi-faceted and collaborative broadband projects to meet local needs; leverage funded BTOP projects to provide even more access to broadband for residential users and businesses; and leverage the power of broadband to increase education, training, innovation, and jobs, to benefit the economy, enhance public safety, and improve healthcare. This is certainly ambitious, but possible.

LONG AND SHORT-TERM BENEFITS

In the long-term, the Department of Commerce’s investments will help bridge the digital divide, improve education and healthcare, and boost economic development for communities held back by limited or no access to broadband—communities that would otherwise be left behind. In particular, the investments we are making in infrastructure, sustainability and adoption will provide job training to the unemployed, help school children get the materials they need to learn, allow rural doctors to connect to more advanced medical centers, and—importantly—allow remotely located businesses to offer their services to national and international markets.

These investments will help preserve America’s economic competitiveness in the world and will accrue benefits especially to unserved and underserved Americans. By enabling our people to communicate with each other at broadband speeds, to create new products and to invent new ways of doing business, we will help sustain economic capacity in communities across America. As Vice President Biden has said, “This is what the Recovery Act is all about—sparking new growth, tapping into the ingenuity of the American people and giving folks the tools they need to help build a new economy in the 21st century.”

Consistent with the Recovery Act, we are implementing a myriad of broadband grant programs. We are in the final stages of awarding broadband mapping grants to every State, territory, and the District of Columbia. In addition, the Commerce Department expects to fund at least \$250 million to encourage adoption of broadband services. In some parts of the country, broadband is available but is used by less than half of local residents. We want to close this gap. In addition, we will award at least \$200 million to enhance public computer center capacity at colleges, public libraries and community centers to make it easier for those without computers to receive training and apply for jobs. The bulk of funds available, approximately \$3.7 billion, will be used to fund shovels in the ground for infrastructure projects that will provide broadband capabilities for decades.

According to a report by the National Economic Council, the Department of Commerce’s investments in the short-term will directly help create thousands of jobs building infrastructure. These jobs range from the manufacture of fiber optic cable and other high-tech components, to the stringing of that fiber from pole-to-pole, to trenching, and to the installation of broadband networking hubs. Computers will be added to public computing centers in the short-term as well, providing users access to the resources they need to thrive in today’s world. Broadband training will also

occur in the near term, providing information and tools to help people get back on their feet sooner.

Many of the infrastructure projects we fund will be large undertakings in remote parts of the country. For example, Vice President Joe Biden announced last month that our first BTOP infrastructure grant would be centered in rural Appalachian Georgia. The proposal was initially developed by the economic development departments of five different counties, along with the North Georgia College and State University. It will be supplemented by \$192,000 in State grant funding. The \$33.5 million Federal grant will fund deployment of a 260 mile, regional fiber-optic ring throughout the North Georgia foothills. It will make broadband more readily available to 42,000 households and 9,200 businesses, as well as to 367 hospitals, libraries, universities, and other community anchor institutions.

In implementing the Act, NTIA has had to keep in mind both these long and short-term economic objectives. Even those who emphasize the near-term job benefits of infrastructure investment, such as the Communications Workers of America (CWA), recognize the significant multiplying effect that broadband can have on job creation. For instance, even as it advocated for near-term job stimulus, CWA highlighted projections that suggest the wise expenditure of amounts such as those involved in BTOP could ultimately yield significant spillover jobs. *This is an indication of the long-term growth potential of greater broadband access, and it undergirds our ongoing emphasis on only funding projects that are economically viable for the long-term.*

PROGRESS TO DATE

The Commerce Department has announced 66 Recovery Act broadband grants totaling almost \$300 million. These awards have funded historic broadband projects in nearly every State across the country and include 51 broadband mapping grants totaling \$97 million, and 15 BTOP grants worth approximately \$200 million.

We know that participants in the application process want the BTOP grants to flow more quickly, and we share that sense of urgency. In the next several weeks, we will be announcing additional hundreds of millions of dollars in grants. NTIA is focused on ensuring the broadband initiative is successful and is fully committed to responsibly deploying the funds Congress appropriated by the end-of-September deadline. NTIA is choosing the most sustainable projects that will have the broadest impact on the communities they will serve. We are working diligently to ensure taxpayers get solid returns on their investment, and are committed to minimizing the risk of waste and fraud.

The Mapping Program

The Recovery Act directs that up to \$350 million of BTOP funding be used for the development and maintenance of a national broadband inventory map. NTIA has made rapid progress awarding these grants. We made the first 51 awards over the course of approximately 4 months since the closing of the application window. NTIA plans to award the remaining five grants in the coming weeks. Our effort here will culminate in the creation of the National Broadband Map by February 2011, which will further 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 policymakers to make more data-driven decisions on behalf of their rural constituents.

Reviewing BTOP Applications

Reviewing 1,800 applications for BTOP funding—while staying true to the multiple goals Congress has established—requires a great deal of sophistication, which is why NTIA implemented a multi-step review process to find the most beneficial and sustainable projects.

The multi-step process employed in Round One included a pre-screening of applications to determine eligibility. Then, applications received a thorough evaluation by a cadre of independent expert reviewers. The most highly qualified applications based on reviewer scores then moved into a “due diligence” review. This due diligence process involves an exceedingly thorough, top-to-bottom evaluation of each application. The goal of this phase is to rigorously validate a project’s long-term sustainability and impact, including:

- Data verification to validate the required initial and supplemental information;
- Technical and financial analysis by NTIA staff, with the support of experts;
- Environmental and historic preservation review;
- Analysis of State and tribal comments;
- Analysis of information supplied by existing service providers and other information to verify the unserved or underserved status of applications;

- Examining financial information for projected revenues and expenses to ensure viability;
- Cost analysis: in particular, during due diligence, we ensure applicants are not “gold plating” by comparing their proposed costs to industry standards, market prices, and other benchmarks;
- Background checks on key personnel to minimize potential for fraud;
- Ensuring project complies with other Federal and State regulations; and
- Adjudication of any waiver requests submitted by an applicant, including waivers of matching (requirement of 20 percent match from private funds), “Buy American” (generally preferring that products such as fiber be bought from American sources), and others.

As stewards of the Federal funds, we are determined to invest every dollar of taxpayer money wisely. We need to guard against the very real risk—if we were to move along too hastily—of funding projects that cannot sustain themselves or that do not warrant generous taxpayer support. In its oversight activities, the Government Accountability Office (GAO) in fact has cited concerns that NTIA not rush its job. We know we need to guard against investments that are not cost-effective or that largely duplicate coverage in areas that are well served. This requires not only that NTIA personnel move apace, but also deliberately.

Overcoming Challenges

BTOP has attracted extraordinary interest from a wide range of applicants across the country. In Round One, demand for Federal grant money wildly outstripped supply, nearly seven to one. Given the large number of complex applications and the voluminous amount of information NTIA has had to review, the review period had to be extended to ensure each application full and fair consideration.

By the end of February 2010, the Recovery Act will be just 1 year old. In less than a year, NTIA has created a sophisticated, entirely new grants program—including the governing rules and regulations, and oversight and organizational framework—from the ground up. NTIA had to rapidly increase staffing levels for the creation and proper administration of BTOP. To address staffing needs, NTIA recruited and trained 43 new employees and utilized staff detailed from other bureaus and agencies, brought on board hundreds of contractors, and recruited more than 1,000 volunteer independent experts to assist in the first stages of the application review process. The NTIA team has established sophisticated back-office systems to handle the flow of application processing, and issued rules governing the application process and grantees. It has run numerous public awareness programs and forums around the country. Next month, the anniversary of the act’s passage, we will be nearing the conclusion of our first round of funding, and the second funding round will be well underway.

Status of Applications

NTIA is completing its multi-step review process for all first round applications submitted to BTOP. NTIA has already sent out approximately 1,400 letters to applicants who will not receive funding in the first round. In the next few weeks, we expect that every applicant will have heard from us—either as part of a due diligence query or a letter declining funding. Those whose applications were denied in Round One, of course, may apply again in Round Two. So far, NTIA has made BTOP awards for infrastructure, computer centers, and sustainable adoption in Maine, New York, South Dakota, Arizona, Massachusetts, Minnesota, Washington, California and New Mexico, and we are far from done.

The best guidance for those who wish to apply in the second round is to examine the Notice of Funds Availability (NOFA) for that round and study the projects we selected for funding. For example, many of our awarded projects successfully partnered with anchor institutions and other key stakeholders in extending broadband to unserved and underserved areas. To illustrate, NTIA has announced millions of dollars in BTOP grants to the following high quality infrastructure projects, public computing centers, and sustainable adoption awards:

- An infrastructure grant totaling \$33.3 million to build a 955 mile fiber optic network through 32 counties in Michigan’s Lower Peninsula. It will directly connect with 44 schools, libraries, hospitals and other community anchor institutions and will have the ability to serve an area covering as many as 866,000 households, 45,800 businesses, and an additional 378 anchor institutions.
- A public computer center award of \$7.5 million to double the number of workstations in 73 public library locations, 43 workforce centers and 72 recreation centers, senior centers and child care centers in low-income and non-English speaking communities throughout the city of Los Angeles. The majority of the 188 proposed centers would be located in or within 3 miles of Federal-

and State-designated “Enterprise Zones” and 35 of the youth and senior centers will be connected to broadband Internet service for the first time.

—A sustainable adoption grant of \$1.5 million to increase broadband adoption and promote computer literacy and Internet use among vulnerable populations, Hispanic and Native American users, small businesses, and entrepreneurs in New Mexico.

We will continue to fund meritorious proposals received during the first funding round on a rolling basis. We will then be turning to the Round Two applications armed with more targeted objectives, streamlined processes, and valuable experience based on the lessons we have learned. These awards create jobs, expand economic opportunities, and enhance community Internet availability.

LOOKING AHEAD

At mid-course, building from lessons-learned, we are making adjustments to the program. In order to enable full and fair review of all applications and meet our September 2010 deadline, we consolidated the final two rounds of funding into one. This approach, recommended by the Government Accountability Office (GAO), was announced on January 15, 2010, in the second BTOP Notice of Funds Availability. Consolidation of funding rounds, coupled with refining the priorities of BTOP and improving the application process, will help expedite the grant-making process to the fullest extent possible and ensure that the highest-impact projects are funded by the deadline of September 30, 2010.

For the second and final round of funding, NTIA is also making a number of changes to sharpen the program’s funding focus. In particular, NTIA is adopting a “comprehensive communities” approach to award BTOP grants for infrastructure projects that emphasize Middle Mile broadband capabilities offering new or substantially upgraded connections to community anchor institutions to maximize the benefits of BTOP funds. The Department of Commerce will ensure that BTOP is committed to extending the power of broadband farther than ever before: helping community anchor institutions obtain the broadband connections necessary to provide essential and forward-looking services, including remote medical care, distance learning, job training, access to e-government benefits, and more; enabling more people to utilize broadband regardless of their ability to afford personal computers and broadband service; and helping introduce people to the benefits of broadband of which they may not have been aware. The public’s response to our focus has been very positive.

NTIA has also received support from prospective applicants on our Round Two changes to make the application process more user-friendly. NTIA’s adjustments to the online application will streamline the intake of information and reduce applicant burden. These steps include eliminating NTIA’s and the Rural Utilities Service’s joint application, which many applicants found burdensome; increasing the amount of time available to applicants to submit due diligence materials; and eliminating or altering a number of previously required attachments.

Looking forward, I am confident that the team will continue to meet the challenges it will face between now and September. People often criticize the Government for not being nimble. In my view, the NTIA team has been as nimble as any private sector enterprise. By the end of the fiscal year, as the Recovery Act requires, the grants will have reached every State. The NTIA team will have wisely allocated taxpayer dollars to high-impact broadband projects around the Nation.

CONCLUSION

I must underscore the importance of NTIA’s and the Commerce Department’s oversight objectives for BTOP. We are committed to ensuring that taxpayers’ money is spent wisely and efficiently. Since the inception of BTOP, NTIA and the Commerce Department have been working with our Inspector General to design this program in a manner that minimizes the risk of waste, fraud, and abuse. With project construction beginning, NTIA will enhance its auditing and monitoring responsibilities, including site visits to grantees.

The Recovery Act does not provide authority or funding for administration and oversight of BTOP-funded projects beyond the end of fiscal year 2010; however, the Commerce Department and NTIA intend to work with Congress this year to ensure sufficient authority and funding to administer and monitor the execution of BTOP grant projects and carry the program to a successful conclusion.

I assure you that these Recovery Act funds will be spent wisely on projects that provide high-value broadband services to the neediest areas. In doing so, we will make broadband more widely available, especially to anchor institutions, such as hospitals, schools, and libraries. We will continue to ensure that implementation of

the Recovery Act broadband initiatives is a collaborative and coordinated effort with the Agriculture Department and others in the administration. We are also committed to making this process as transparent and as efficient as possible.

Thank you again Madam Chair for the opportunity to testify and for your leadership in making this program possible. Assistant Secretary Strickling and I are happy to answer your questions.

BROADBAND FUNDING ISSUES

Senator MIKULSKI. Thank you, Mr. Chairman. I'll get right to my questions, and we will go by the 5-minute rule to ensure that every Senator can ask the questions before the vote begins. Then if we have time we'll go to a second round.

As I go into this, I just want to make clear that, No. 1, we inherited boondoggles. We want to prevent this from being one. The two mentioned were NPOESS, which we inherited; there was the FBI boondoggle, \$171 million. That's been straightened out. Then both this subcommittee and you inherited the Census boondoggle.

The lax oversight of previous cabinet secretaries will not be tolerated now, and the lax oversight of this subcommittee is a legacy of the past. We will be tough, we will be fair, and we will be firm. But the days of go-go spending of yesterday and the previous administration are over.

I think it's a false choice to say don't do broadband and compare it to law enforcement. I was just comparing the magnitude. You can't have law enforcement without high-tech tools, and I believe that effective protection of our Nation, both for our military, our first responders, and our law enforcement, depends on access to high-speed Internet, whether it's to identify a sexual predator crossing State lines or whether it's an infection of swine flu sweeping the Nation and public health places can go on alert.

So laxity of the past and oversight is over.

Now let's get right to this. There seems to be an inherent contradiction between doing due diligence and moving the money out with the speed to meet a statutory deadline of September 10. My question is a very—is a very straightforward one. Given the inspector general—the inspector general himself says this, “BTOP”—Mr. Strickling, that's your shop—“was given less than 18 months, a level of grant activity no Commerce operating unit has ever undertaken, to do this job.” Then it goes on to list operational challenges.

My question to you is why are these funds taking so long to reach communities to create jobs and economic growth? Do you need to extend the deadline? Do you need to streamline the process? Do you need to hire more people? Give us your views?

Secretary LOCKE. We don't need to extend the deadlines, Madam Chair. Within the next few weeks we will be able to announce, we will be announcing, the last grants of round one, so that round one grants will have exceeded over \$1 billion, and we hope to have that all wrapped up by around the end of February.

Again, despite the extension of the review process and the application process, we only delayed the first wave announcements of round one BTOP grants by only a month. But we have learned from our experience and we're making consolidations, we're streamlining the process for round two. We're sharpening the focus, the criteria, so that people understand what we're looking for. And we've separated the application process between Agriculture and

Department of Commerce so that there's no confusion, there's no perhaps redundancy in deciding who's going to look at which type of grants and avoiding redundancy in review process.

So those two programs are more clearly defined and that will also ensure a more speedy process.

STREAMLINE THE BROADBAND PROCESS

Senator MIKULSKI. Well, I was stunned by the detail of the process. This is not a complaint; it's a comment, and I want to get your views on this. I was really frustrated, and also hearing from other colleagues, when in the hell is the money coming out? I'm getting calls from my Chamber of Commerce. We've got this co-op, just bursting with the desire to create jobs in the installation of rural broadband and then the entrepreneurship either in traditional or new jobs.

Then I looked at data verification, environmental and historic review, background checks, and I thought, my gosh, this is as comprehensive as a Federal highway system. We would never ask Department of Transportation to do it this fast, et cetera.

So my question is this. Then I found out as we dug into it that in some instances it took 200 hours to look at one, 200 hours. If I had spent 200 hours—it's just a stunning amount of time.

So my question to you, because you've done everything, that it's pretty detailed, should this process be streamlined or do you feel as part of the due diligence function this is the criteria that must be used and we've got to get real about our expectations?

Secretary LOCKE. I will let Assistant Secretary Strickling join in, but I do think that it's important that, given the concerns raised by the Inspector General, that we have thorough review of applications. When you have such incredible interest around the country for a limited pot of money—we had 19,000 applications—excuse me—1,800 applications, totaling, asking for \$19 billion out of a pot of only about \$1.6 billion.

So we need to make sure that the most worthy, the most dynamic projects, are funded. That's why you just can't rely on one reviewer, because you want to make sure that there aren't any biases or preferences of one reviewer, so you have multi-reviews. Just like scientific grants or medical research grants given out by various organizations that we have around the country, you have that peer review to make sure that there's consistency and that one strength or weakness by one reviewer is balanced out by the thoughts of someone else.

Then once we think we have a worthy project, then we have to make sure that the project has complied with State regulations, local regulations.

Senator MIKULSKI. So are you saying we've got to stick to this process to do it, to do due diligence?

Secretary LOCKE. Well, we're looking—and Larry will talk about, Mr. Strickling will talk about some of the streamlining that we are incorporating. But if we want to ensure that, for instance, we're not giving a grant to a company that's going to go bankrupt or does not have financial capability, doesn't have the wherewithal to really carry out the project—we don't want to announce grants and then disappoint people.

Senator MIKULSKI. Well, or add to the cynicism that government can't get it right. We do not want to add to the cynicism of dysfunction. We do not want a techno-Katrina here.

Mr. STRICKLING. If I could put the 200 hours into context—
Senator MIKULSKI. I'm not complaining about it.

BROADBAND INFRASTRUCTURE PROJECTS

Mr. STRICKLING. Understood. I think on average what we are spending to do our due diligence on infrastructure projects—these projects, based on what we've funded so far, are \$30, \$40, \$50 million projects, and we'll be funding projects even larger than that. I think our role is not unlike that of a private equity firm or a venture capital firm trying to do due diligence to determine, is this the investment in infrastructure that we want to make.

As I've said from the beginning, my absolute mandate here is to make sure we don't fund a bad project, because if these projects aren't running 5 years from now after the Federal dollars are long gone then we haven't done our job. So I do believe that when we get to the due diligence phase, the amount of time we're spending on these is quite reasonable. A venture capital firm would send a due diligence team in for 4 weeks, 5 weeks, 6 weeks, a 4-man team working full-time, at far more than the 200 hours we're spending on average on a project, before they make an investment that's not unlike the kind of investment we're making in these projects.

So I think we are absolutely doing the right thing when we get to the due diligence phase. What we need to be doing is perhaps spending less time on the projects that aren't going to be funded, and that's a lesson we learned from round one, and we've taken steps in terms of streamlining the independent reviewer process, because those folks are really just screening these applications to help us find the high quality ones.

Senator MIKULSKI. Doesn't that function like a triage system, things that look like a dog from the very beginning?

Mr. STRICKLING. Yes, yes. That's a very good analogy.

Senator MIKULSKI. And see which one moves up—

Mr. STRICKLING. So we are able then to identify the good projects, and then our team, the NTIA employees augmented by our support from Booz Allen, do the deep dive that takes the 200 hours. I don't want to skimp on that, but I do think—and we have taken measures to reduce the number of independent reviewers from three to two so that that process will go quicker, because again those folks are doing the screening to help us identify out of this large pool of applications which are the ones that are really top quality, that we ought to take time on.

But as the Secretary mentioned, even when we get into looking at those, we will find warts at any point in the process that will knock that application out of consideration, for example not having done the environmental work and gotten the permits they need. So we have to do this work to ensure that we're not putting bad projects out there.

Senator MIKULSKI. Senator Shelby.

BENEFITS OF THE BROADBAND PROGRAM

Senator SHELBY. Thank you, Senator Mikulski.

It's my understanding that this program was sold, the broadband program, as a benefit to the whole country. But in reviewing the distribution of barely \$300 million in funds, I think it can't be described as equitable or proportional. To date it's my understanding that two-thirds of the money has gone to only six States: Georgia, Maine, Michigan, North Carolina, New York, and South Dakota.

How is NTIA ensuring that all Americans, the whole country, can at least get some benefit from this program? And does NTIA have a plan that will ensure that grants from all 50 States are distributed according to need, merit, and not just concentrate funding on whichever State was in the grant line first?

Mr. STRICKLING. Yes, Senator. That's a good question. In fact, the legislation urges us to make sure that every State receives at least one grant. I believe that as long as we get good applications from each of the States, we will meet that directive by the end of this program in September.

I think all I can suggest to you in terms of what you've seen so far is it's just the beginning and we will see over the next couple of weeks a much broader geographical distribution of grants, and then that will continue on through round two. We are quite cognizant of the need to be fair to each of the States in the process and we intend to do that as we work our way through both round one and round two.

CRITERIA FOR BROADBAND FUNDING

Senator SHELBY. What determines who gets funding? Is it need? Is it amount of people served? What's the criteria?

Mr. STRICKLING. First and foremost, is it a good project? It means that it had—

Senator SHELBY. What does that mean, "is it a good project?" Could you just explain?

Mr. STRICKLING. Well, a good project—we have a whole set of criteria laid out in the original funding rules: project benefits, project viability, project sustainability. And all these projects are scored against those criteria to determine which ones go into due diligence.

Once we're in due diligence, we look at all of these projects to find which ones are truly sustainable, which ones have qualified management, which ones are going to bring the benefits to the community that they state that they do.

Senator MIKULSKI. Helping Senator Shelby—I'm not using his time—he wants to know, what's the bottom line? Are you looking at will this create jobs? In other words, you're looking at sustainability, viability, and compliance with other Federal regs. But our question is, will in the hell this create jobs and do it over the short run and the long haul?

Isn't that it?

Senator SHELBY. That's a good question.

Mr. STRICKLING. Absolutely, job creation is—

Senator MIKULSKI. I never thought I'd be a mouthpiece for Shelby. But go ahead.

Mr. STRICKLING. Understand, we can't put a lot of stock in the predictions these applicants make, but we definitely look at that.

And they will definitely be reporting out each quarter on the actual jobs that are created. So that's a factor.

The number of anchor institutions that will be served is a factor we're looking at in round one.

Senator SHELBY. What about population density, density of the population? Is that any of the criteria?

Mr. STRICKLING. No, but what it would be is the extent to which the area is unserved or underserved. We definitely are concerned about making sure that these dollars are going into areas that truly need the service.

Senator SHELBY. In other words, if a provider is already there why do you need to go there, right?

Mr. STRICKLING. If the provider's there and providing adequate service, the question would be why do you need to go there.

Senator SHELBY. What does "adequate service" mean?

Mr. STRICKLING. Well, I'll give you a perfect example. One of the first projects we funded was in Georgia, the North Georgia Network. There is an existing provider there who by all accounts from the people in this region is not adequately serving the communities. Fewer than 40 percent of the people who live in the area subscribe to broadband service, which meets our criteria for an underserved community. We had issues where the college in that community wanted to buy service from the incumbent and were told they would have to wait 18 months to get it and it would cost four times as much as what it would cost if they were in Atlanta. Those are all indicators that we have an underserved area and justified making the investment there.

BROADBAND GRANT IN RURAL GEORGIA

Senator SHELBY. Let me share this with you. You noted, Mr. Secretary, you noted in your testimony that Vice President Biden announced the first broadband grant in rural Georgia, stating that the \$33.5 million Federal grant will fund deployment of a 260-mile fiber optic ring to provide broadband to 42,000 households and 9,200 businesses.

It's my understanding that the entire area receiving the grant that you cited as a poster child is already 90 percent served by existing broadband carriers. I don't know this. This is what I've been told.

So if that were true, of the 51,000 households and businesses in the grant area that you mentioned in your testimony, if that were true, only about 4,500 are not already served with broadband. So if you put the numbers to it, broadband would be provided at a cost of no less than \$9,600 per new household or business, assuming that every single home and business subscribes to your new service. That's a lot of money if that were true.

Mr. STRICKLING. Senator, that's the project I just talked about.

Senator SHELBY. I know that.

Mr. STRICKLING. The project is in an underserved area. In fact, the company you referred to was invited to participate in this project and said no, they wanted no part of it.

What we saw, we had five county development offices in that part of the State say they can't get the service they need to attract new businesses into that area, to encourage the economic develop-

ment they need. This is a classic case of an underserved area, where the provider who's there is not meeting the needs of the folks who live there.

Senator SHELBY. Are those numbers about right, what we're talking about, \$9,600 per household? That's a lot of money?

Mr. STRICKLING. I couldn't verify the amount.

Senator SHELBY. Would you check those records? Would you check it out for the record and furnish it?

Mr. STRICKLING. Sure, happy to do so.

[The information follows:]

Our records do not corroborate the data you were provided indicating that 90 percent of households and businesses in the funded area are already served by existing broadband providers.

In this case, and in accordance with our rules, North Georgia Network (NGN) sought to establish its eligibility for BTOP funding based on low levels of subscription in the area, as demonstrated by a market survey conducted a few months prior to the application. Incumbent providers responded to the application with comments describing their presence in the proposed service area, but those comments did not include any substantial subscription figures challenging NGN's assertion. Given the absence of any data contradicting the results of NGN's market survey, NGN established its eligibility for funding.

Please note, however, that a determination of eligibility is only one step in NTIA's analysis of the extent to which a proposed application serves the needs of a community, particularly when other broadband providers are present. NTIA evaluates the broadband needs of the community in the most comprehensive manner possible. This includes considering whether existing broadband service is sufficient to meet the area's economic development, education, and job creation needs and the needs of community anchor institutions.

As noted in my testimony, NTIA heard from a number of community stakeholders in the NGN service territory who indicated that the area's existing broadband capabilities are insufficient. Five county development offices stated that funding of the NGN project was critical to establishing the broadband capabilities necessary to restore economic vitality to the region. In addition, NTIA received comments from the Chief Information Officer of a local university who had approached the incumbent provider, seeking 100 megabit-per-second service so that its students could enjoy the type of broadband service commonly enjoyed by thousands of college students at larger and more urban institutions. The incumbent provider responded that it could not guarantee the provision of such service in anything less than 18 months, and even then the university would be required to lock in to a long-term contract at rates four times the cost of the same service in the Atlanta metro area. These testimonials demonstrated a community in clear need of increased broadband investment, consistent with the goals of the Recovery Act.

Finally, please note that the incumbents themselves can benefit from NGN's project. As I testified, NGN plans to deploy a 260-mile regional fiber-optic ring to deliver high-speed "middle mile" broadband service. As a condition of its grant, NGN will maintain an open network for other "last mile" service providers to build-out their own broadband services to homes and businesses. Thus, this award can bring direct benefits to incumbent providers in the area by way of 2,600 open interconnection points and eight co-location sites that NGN will maintain for their use.

Senator SHELBY. Okay.

Thank you, Madam Chair.

Senator MIKULSKI. Senator Reed.

DISTRIBUTION OF GRANTS

Senator REED. Thank you very much, Madam Chairman.

Senator Shelby mentioned the distribution of these grants. One point he made is that the legislation refers to the expectation that there is one per State. Just to reconfirm that, your expectation is there will be at least one per State; is that correct?

Mr. STRICKLING. That's our expectation, and in fact we invite each of the Governors to comment on all the applications received

from their State to help us prioritize and indicate which they feel are the most worthy projects.

Senator REED. Another aspect of the distribution is that there are some States that have significant unemployment problems and there are some States that don't. Is that a factor that you're considering at all? For example, my sense is that in some of the Northern Plains States the unemployment rate is 7 percent or less. In Rhode Island it's 13 percent. In California it's more than that. Is there any expectation or any factor that that's being considered?

Mr. STRICKLING. I can speak to that, Senator. In round two we have identified seven high priority factors of what we would like to see in projects, and an applicant meeting those seven criteria will get the highest priority for review and ultimately selection. Whether or not they're serving an economically depressed area is one of those seven criteria.

Senator REED. Thank you very much, Mr. Secretary.

I note also that your next round, "comprehensive communities." In my State, for example, there is a proposal that would unite basically the universities, which would be leveraged not only for access to broadband but all the research endeavors. It is I think in this context a significant improvement to our educational infrastructure and our data transmission. So I would appreciate your consideration of that.

But the other issue I think applies across the board is, those projects which have not been favorably reviewed, is there an opportunity for the proponent to sit down and be debriefed about the proposal so that in a second round or in a future round that they have a better idea of what you're looking for?

Secretary LOCKE. With the resources that we have and the time limitations that we have, we don't have the capability to sit down with some 1,400 applicants to give them a debrief. But we have sharpened the focus so that there's clearer criteria or indicators and factors that will be weighted as we look at these second round applications. And we are conducting workshops all across the country now so that those, the 1,400 who have received rejection letters, denial letters, are able to attend that, and they can ask some of those questions in these informational briefings and understand what the more sharpened, focused criteria are for the second round.

Mr. STRICKLING. If I could piggyback on that—

Senator REED. Yes.

Mr. STRICKLING. We are urging all applicants to look at what we are funding in round one. We're hearing already from some of the people who have been awarded grants that they're now being besieged by phone calls from other applicants to try to understand what the secret sauce is that they need to have in their applications. So that is as good a tool as any to understand what makes for a successful application.

In your case, I would certainly urge the folks that you're talking about to take a look at what we've funded, because there are some projects that have a strong educational focus that have been funded that could serve as models for the folks in your State.

Senator REED. But as we move through this process, particularly if there's additional funding available in the future, I presume from

what your comments are that you would consider a better, more consistent feedback mechanism. Is that fair?

Mr. STRICKLING. We'd certainly like to. In this case, since we have very clear funding priorities for round two, frankly, even if we had the resources I don't know how much help it would be to sit down with a round one applicant, because what they really need to understand is what is it that our focus is on for round two.

Senator REED. Thank you very much, gentlemen.

Thank you, Madam Chairman.

Senator MIKULSKI. Senator Murkowski.

Senator MURKOWSKI. Thank you, Madam Chairman.

BROADBAND INFRASTRUCTURE IN UNSERVED AND UNDERSERVED
AREAS

Mr. Secretary, good morning. Mr. Secretary, I'm pleased that you were able to visit my State not too long ago. You have spent some time there. You know that in Alaska we're extremely rural, extremely big, and in the vast majority of the State we have communities that have very limited or certainly in many cases no access whatsoever to the high-speed Internet, service unavailable, oftentimes prohibitively expensive, and unreliable. As we look at how we develop out our economic opportunities, we're really counting on our ability to connect to the rest of the world.

I've listened with interest to the discussion from Senator Shelby about the underserved and unserved areas and then the discussion with Senator Reed about this next round. I'm concerned because we have heard that in this second round the administration may no longer be requiring that the grants specifically go to the underserved or unserved areas, and I would like to know whether or not that's just a rumor, whether I have any reason to be concerned about that.

But if you can speak to—I think you mentioned, Mr. Strickling, that there are seven criteria. Will there be a continued emphasis on ensuring that these areas that are underserved or unserved will be addressed? And I guess I want a little bit of the same assurance that Senator Shelby was seeking, that in areas where we have networks already that we're not going to be—we're not going to be building out networks there when we still have broad areas of the country that are yet unserved.

Secretary LOCKE. Well, let me just say that the emphasis on unserved and underserved is still a top priority. That is our focus.

Senator MURKOWSKI. And that is continuing in the next round?

Mr. STRICKLING. And that will continue in round two.

Senator MURKOWSKI. So when we look at the criteria, I don't know whether you have prioritized within your levels of criteria, but will that remain a high priority or will it be the number of jobs created that is the highest priority? How does that shake out?

Mr. STRICKLING. We are still focused like a laser beam on ensuring that each of these projects are bringing benefits to the area that they will be built in. And as the Secretary said, we will continue to look to see if these areas are unserved or underserved. It's no longer a technical eligibility requirement, but instead—

Senator MURKOWSKI. When you say it's no longer a technical eligibility—

Mr. STRICKLING. Well, under the law—and we heard from many people after the first set of rules was put out—the law does not require as a purpose increasing or expanding broadband access to anchor institutions, whether or not they are in unserved or underserved areas. We received a lot of criticism in round one for having even required grants to anchor institutions to be only those located in unserved or underserved areas.

So we've removed it as an eligibility requirement, but it is still a major focus of ours. In fact, what we think a better analysis is the type of analysis that Senator Shelby and I discussed, which is to look at the total service area and understand the extent to which there's an overbuild of existing providers involved and to ensure that we minimize that as much as possible, because it does us no good and we don't get project benefits if all we're doing is building infrastructure on top of an adequate infrastructure that's already in place.

So it's very much a focus of ours.

FISHERY FAILURE FOR THE YUKON RIVER CHINOOK SALMON

Senator MURKOWSKI. I appreciate that assurance.

Secretary, I'd like to just deviate from broadband here for one second to ask a more parochial question. This is your declaration of the fishery failure for the Yukon River chinook salmon fishery. I wasn't able to be in the State when you made that announcement, but I was pleased that you have moved forward with that.

As you've recognized, we've got some communities along the Yukon River that are really in peril in terms of being economically disadvantaged. In your decision you stated your commitment to expedite the delivery of resources should they become available. I realize that the budget is not expected to be delivered here to us in Congress until next week, but the question to you this morning is what is the administration and the Department, Department of Commerce, doing to mitigate the effects of the fishery failure and whether or not we can expect to see funding to mitigate the effects in this upcoming budget, if you can just very quickly address that.

Secretary LOCKE. We worked with your local officials and your State officials in making that disaster declaration. Of course, just the last season there was a shutdown of the fishery altogether, and the previous year there was a dramatic reduction of that fishery. So it was very obvious from the data and the science that the fishery stock was in trouble and that a disaster declaration was warranted.

Disaster declaration in and of itself does not follow or bring with it Federal dollars. But we then have the resources of other Federal agencies within the Department of Commerce, such as economic development assistance grants, if applied for by the State and the communities, to help in mitigation. Of course, the declaration really enables Members of Congress to push for specific funding to meet the particular needs of the affected communities. Really, that declaration makes it much more possible to line up Congressional support using that declaration as a foundation for additional funds.

Senator MURKOWSKI. Well, we appreciate the recognition of the significance of this, the economic devastation, and we'll look forward to working with you on it. Thank you.

Thank you, Madam Chair.
 Senator MIKULSKI. Senator Pryor.

PEER REVIEW PROCESS

Senator PRYOR. Thank you, Madam Chair.

Secretary Locke, good to see you again. Thank you for your trip to Arkansas a few months ago. It was very well received.

Secretary Strickling, if I may, let me start with you today. I know that so far no Arkansas application has been—I guess application has been granted in this first round. One of the reasons that have been given in the rejection letters is a low peer review score. Can you talk a little bit more about the peer review process and how that works?

Mr. STRICKLING. Yes, Senator. The peer review was the method we used to screen the 1,800 applications that came in to us to identify the crème de la crème that we wanted to then put into the due diligence process that we've also discussed here this morning. What we had was each application was reviewed by three independent experts. These were folks that—

Senator PRYOR. Are they volunteers?

Mr. STRICKLING. In round one these were folks who, yes, donated their time, did their patriotic duty and helped serve the country. But they were people who—in some cases we had a former chair of a State public utility commission. We had corporate executives, retired corporate executives who have built these kinds of networks.

So we had over 1,400 people or approximately 1,400 people volunteer. We vetted those folks to determine if they had credentials that allowed us to put them into the process. We also had all of them sign conflict of interest forms to make sure that they weren't also working for applicants as part of the process. That knocked out over 300 of the people who had expressed interest in participating in the program.

So from the group that was left, we had each application reviewed by three people. They were to score it according to the criteria laid out in the funding rules in round one. Then we took those scores and averaged them, and those above a certain threshold moved into due diligence, where—that's where the real heavy work happens, where we go back and scrub the application from top to bottom to make funding decisions.

Senator PRYOR. Were you satisfied with the peer review process?

Mr. STRICKLING. Relatively we were. I think in the timeframes that we have—it would have been nice if it could have happened faster. One of the things we encountered, with human nature being what it is, is we got two scores in on projects very quickly and it became an effort to get the third score in. As soon as we saw that happening, we took corrective measures of starting to call the third reviewer every day to ask when the score would be in, and if the reviewer didn't respond promptly we actually assigned another reviewer to get the third score in.

So we ran into the kind of issues that just human nature forces you to encounter as part of the process. But overall, in terms of the quality of the work that was done, yes, we were quite satisfied with it.

APPLICATION REQUIREMENTS

Senator PRYOR. Did the applicants know what the criteria would be before they filled out the application?

Mr. STRICKLING. Absolutely. It was laid out in the NOFA from last July.

Senator PRYOR. As I understand it—and I think Senator Murkowski, if I'm not mistaken, touched on this—in the second round are you moving away from the unserved and underserved requirement?

Mr. STRICKLING. Only as an eligibility requirement. It will be just as important a piece of our analysis as it has been in round one.

Senator PRYOR. So in other words, you'll still consider unserved and underserved?

Mr. STRICKLING. Oh, absolutely, absolutely.

POST-GRANT AUDITING

Senator PRYOR. Secretary Locke, I was going to ask you if—I'm sorry. Secretary Strickling again, I had another question for you. I'm sorry. We talked before—maybe it was you, Secretary Locke.

We talked before about post-grant auditing. Did we talk about that, about making sure that after all this was done we look at what we did and figured out if we did the right thing and handled it the right way. Is there post-grant auditing here? Maybe this is better for Mr. Strickling. I'm not quite sure.

Secretary LOCKE. Well, there is post-grant auditing, and one of the issues that we face is that the Department has been provided very little funding, and we are hoping that the budget announcement for 2011 will provide us some funding to conduct these audits and to ensure that the applicants are doing as they said and that everything is being done properly. So we need to focus on that auditing function.

BROADBAND GRANT AWARDS

But our immediate task right now is making sure that we have thorough diligence, due diligence in the review, and that we get the first round out. I want to assure you that the first round for the broadband grants of about \$1 billion will be completed by the end of February and we will have the full amount of BTOP grants awarded before the end of September 2010. That is our assurance to you.

We're streamlining the process. We're learning from the lessons from the first round, including not using three reviewers, going down to two. But we've had—we've only added 43 people to the Department to handle this massive undertaking. And while the Government Accountability Office recommended we should slow down, we're moving aggressively forward, and we're going to do this within the timetables that you have given us and I'm confident that NTIA will succeed.

DIGITAL TELEVISION CONVERSION

I want to mention one thing. The Congress gave us some \$650 million last year to focus on the digital television conversion and

that was a boondoggle that we inherited. But within a few weeks with folks on board, we were able to remove and eliminate the backlog for all converter box coupons and in fact by the end of the project we had some 99 percent of all households in America either capable of receiving, accepting the switch, accommodating the switch, either because they got cable, they got satellite, or they used a converter box that we provided.

I want to say, NTIA did it in a very cost effective manner. In fact, NTIA has already returned \$128 million to the Treasury and are planning to return approximately \$370 million more from unused funds in the coupon program.

These unused funds that are returning to the Treasury are from two programs within NTIA. Funds of nearly \$239 million remain from the DTV coupon related program in the American Recovery and Reinvestment Act of 2009, (ARRA) Public Law 111-5, and funds of \$258 million remain from the Digital Transition and Public Safety Fund's (DTTPSF) coupon program authorized in the Deficit Reduction Act of 2005, Public Law 109-171.

Of the remaining ARRA funds, \$128 million has been rescinded in the Defense Appropriation Act, Public Law 111-118, and \$111 million is proposed for rescission in the Jobs for Main Street Act, 2010.

So I have every confidence that any era of boondoggles throughout the Department of Commerce—and especially given the great management that we have at NTIA, we're going to do this project, we're going to succeed, we're going to meet the timetables, with due diligence, avoiding waste, fraud, and abuse, and we're going to have great projects and we're going to meet all the requirements.

Senator PRYOR. Thank you, Mr. Secretary. Thank you both.

Senator MIKULSKI. We're actually going to be on time with this hearing, which is—Congress needs to take its own admonition for speed sometimes.

First of all, Mr. Secretary, we want to thank you for your forthrightness and, Mr. Strickling, yours as well. Mr. Locke, we know that part of your leadership signature is what I call the M and Ms, management and metrics. You're a management guy and a metrics guy. So we believe now we've gotten a good picture from you and from Mr. Strickling, and I think what we can see as members, it was a tremendous magnitude. There were so many forces that converged on NTIA.

The magnitude of the pent-up demand for rural broadband is stunning. Second, you had no previous infrastructure to do this. It wasn't like shovel-ready projects. These were not shovel-ready. You had a variety of legal compliances, from historical preservation to environment. You had to—so part of your due diligence was to see that.

The very staff that you had to get could not be permanent staff because after this year there is no guarantee that there will ever be money for rural broadband again. So you couldn't build up a talented civil service or whatever. So you needed very sophisticated staff on a temp basis. Am I correct in that?

Mr. STRICKLING. Yes, and they are very talented, I will add.

Senator MIKULSKI. Yes, we want to acknowledge it because of this.

Then we wanted speed. So I think what we need to do is right-size our expectations.

Second, I think this is also an admonition, which is: surge funds, which are what the recovery funds are, are terrific. It got the ball rolling. But if we're going to keep the ball rolling on economic growth and the jobs of the future—and jobs in rural communities—every one of us—I've got a robust corridor in the Baltimore-Washington corridor, but I've got mountain counties and the Eastern Shore, that this is the way to bring the new economy to our community.

So I'm going to thank you for this. I think we've got a good picture. We see that you are listening to the inspector general and also to the GAO. So we want to thank you for what you've done. I think we've got a better idea about the time and the collision course between speed and due diligence. I think the taxpayers prefer us to err on the side of due diligence that if we had to tell the story and we had to go back to those thousands of applicants, the taxpayer right now would say: Get it right. I believe that you're making every effort to do so. And if you need more elasticity in the 2010—we don't want to drag it out.

But I just say, I think rural broadband is really one of the crucial programs the President advocates. I would hope that from the lessons learned from what we're doing now we could see if there is a need for, not big new Government spending, but targeted Government spending that creates private sector jobs.

ADDITIONAL COMMITTEE QUESTIONS

At this time I would like to ask the subcommittee members to please submit any additional questions they have for the record.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED TO HON. GARY LOCKE

QUESTIONS SUBMITTED BY SENATOR PATRICK J. LEAHY

NTIA BTOP PROGRAM

Question. Last winter, as Congress considered the American Recovery and Reinvestment Act, I was a strong proponent of including funding in the package to bridge the digital divide. Too many Americans, especially those living in rural areas, have inadequate access to high-speed Internet, and the landmark \$7.2 billion investment in cyber infrastructure promises to bring more Americans online and create thousands of jobs through construction and thousands more jobs through new broadband-enabled economic opportunities. I believe that this investment could become one of the great long-term benefits of the American Recovery and Reinvestment Act.

In my home State of Vermont, between 10- and 20-percent of Vermont households and businesses have no access to broadband. Of those that do have high-speed access, many pay exorbitantly higher access fees than those living in urban areas.

Vermont is currently undertaking an e-state initiative—a 3-year-old program that aims to ensure every Vermonter has access to high-speed-Internet and cell-phone coverage. Limited funding from both the State and Federal Governments has slowed the success of this initiative—something I hoped may be resolved through the Rural Utilities Services' Broadband Improvement Program and the Department of Commerce's Broadband Technology Opportunities Program.

During round one, several Vermont organizations—including JM Solutions, the Southern Vermont Health and Recreation Center, the Northern Community Development Corporation, the Vermont Department of Libraries, TelJet Longhaul, East

Central Vermont Fiber, the Health Care and Rehab Services of Southeastern Vermont, the Vermont Telephone Company and the Vermont Council on Rural Development—submitted applications to RUS and NTIA for funding. To date, no Vermont applications have been funded and little if any feedback has been given to the applicants. This is especially frustrating given NTIA's goal of closing round two in less than 2 months.

While I understand the tremendous time burden placed upon RUS and NTIA, I am concerned that both programs have taken too long to deploy funds into the economy—leaving a tremendous void in our economic-recovery efforts. I am also concerned that the second round Notice of Funds Availability published by the NTIA may leave millions of Americans unconnected at the expense of focusing on middle-mile efforts.

The American Recovery and Reinvestment Act specifically requires NTIA to grant at least one award to each State. Does the NTIA plan to meet that requirement in round one?

Answer. The Recovery Act directs NTIA, to the extent practical, to award at least one grant in each State by September 30, 2010. As of March 15, 2010, NTIA has announced 59 BTOP awards for middle mile infrastructure, public computer centers, and sustainable broadband adoption projects impacting 34 States and territories. In addition, NTIA has awarded 54 Broadband Mapping grants to every State as well as nearly all territories. While more BTOP grants will be forthcoming in round one, not all 56 States and territories will receive a BTOP Infrastructure, Public Computer Center, or Sustainable Broadband Adoption grant in this round. The adherence to this provision of the Recovery Act will continue to be one of the considerations I take into account as I make funding decisions in round two.

Question. I have heard from several constituents concerned that they have heard little feedback on their round one applications. Will NTIA provide unsuccessful round-one applicants with constructive feedback in time to incorporate useful application edits before closing the round-two NOFA?

Answer. Due to our legal obligation to treat all applicants fairly, the high level of interest in BTOP, and the statutory deadline to make all BTOP awards by September 30, 2010, NTIA was unable to provide detailed individualized feedback to those first-round applicants who were not selected for an award. But given the more specific focus of round two priorities, providing feedback on round one applications would have not been particularly helpful. Instead, we urged applicants for round two to:

- Consult the January 22, 2010 Notice of Funds Availability (NOFAs);
- Read the round two Grant Guidance;
- Examine answers to frequently asked questions;
- Watch recorded public workshops;
- Study maps depicting service areas already funded with Recovery Act broadband funds; and
- Study round one award summaries.

All of these materials are available at www.broadbandusa.gov. Focusing on this material and incorporating it into round two applications was the best advice for applicants to enable them to put together a strong round two proposal.

Question. The American Recovery and Reinvestment Act allocates a majority of the \$7.2 billion broadband investment to the NTIA. The NTIA's decision to focus on mid-mile infrastructure in round two means that a majority of the Recovery Act funding will not, in the immediate future, connect more end-users to the system. What will the NTIA do to ensure more last-mile build outs from the middle-mile focus?

Answer. For the second funding round, NTIA has adopted a “comprehensive communities” approach as its top priority in awarding infrastructure grants, focusing on middle mile broadband projects that connect key community anchor institutions such as libraries, hospitals, community colleges, universities, and public safety institutions. Comprehensive Community Infrastructure (CCI) projects maximize the benefits of BTOP by leveraging resources, promoting sustainable community growth, and ultimately laying the foundation for the expansion of last mile broadband service to households and businesses. In fact, NTIA seeks CCI projects that include a last mile component in unserved or underserved areas, or commitments from one or more last mile providers to serve the community. Middle mile applications that incorporate a last mile component receive priority over those that do not. The non-discrimination and interconnection requirements of BTOP grants will facilitate the provision of enhanced broadband service to households and businesses by these other last mile broadband providers. Once middle mile facilities are built and made available to providers serving homes and businesses, the costs of providing last mile services to users will be reduced. For these reasons, NTIA believes that its invest-

ments in BTOP will result in significant and substantial benefits for end-users throughout the United States.

Question. In my home State of Vermont, thousands of people remain unserved by broadband carriers. I understand several successful round one proposals have significant overlap with existing carriers—dedicating valuable resources to overbuilds. What percentage of the NTIA's funding has gone to overbuild proposals?

Answer. BTOP infrastructure projects must interconnect with existing facilities in order to provide broadband to the service area, and thus some level of overlap is expected in almost every case. Therefore, our goal is to fund projects that provide broadband services in areas with demonstrated need. The Recovery Act directed NTIA to address the broadband needs of both unserved and underserved areas of the Nation, among other objectives. NTIA defined underserved to include areas where broadband service may exist, but which exhibit low levels of adoption, speed, or availability. Thus, the mere presence of an existing service provider in an area does not mean that there is adequate service available and does not preclude NTIA's consideration of a project that will bring substantial benefits to the area. NTIA undertakes extensive review of information presented by the applicant, community anchor institutions, States and tribal entities, existing service providers, and other sources to ensure that its projects will have a substantial impact on improving broadband access and adoption. This includes considering whether existing broadband service is sufficient to meet the area's economic development, education, and job creation needs. NTIA takes into consideration, among other factors, whether anchor institutions in a proposed funded service area have access to broadband services at the speeds, prices, and quality they need to fulfill their missions for the community, or whether such institutions have been unsuccessful in obtaining the services they need within a reasonable timeframe. It is also important to reiterate that the middle mile projects supported by NTIA will operate on an open and non-discriminatory basis that allow all third-party broadband providers to benefit, including last mile providers that can use our projects to build-out their own broadband services to homes and businesses.

Question. Of the NTIA round one grants awarded to date, how many unserved customers (households, businesses, anchor institutions) do you estimate will receive service as a result? Similarly, how many customers will receive redundant services (similar access speeds)?

Answer. As explained above, NTIA does not fund projects in areas that are adequately served by existing providers. The open and nondiscriminatory middle mile projects funded by NTIA will directly connect key community anchor institutions, such as schools, hospitals, and public safety entities, in underserved areas of the United States, and will enable other broadband providers to expand and enhance their services to homes, businesses, and anchor institutions. In this way, NTIA supports projects that provide benefits to the entire community in the most comprehensive manner possible. Round one BTOP grant recipients have estimated that their projects will install or upgrade approximately 20,000 miles of wired and wireless broadband networks to directly connect 5,000 community anchor institutions, and enable last mile providers to make broadband more readily accessible to a combined area with more than 10 million households and 1 million businesses. NTIA will continue to monitor the progress of recipients in achieving the outcomes they have estimated, and we expect round two recipients to greatly increase the number of homes, businesses, and community anchor institutions that benefit from BTOP awards.

QUESTION SUBMITTED TO HON. LAWRENCE E. STRICKLING

QUESTION SUBMITTED BY SENATOR FRANK R. LAUTENBERG

BROADBAND ADOPTION

Question. While broadband has been deployed widely for Americans, the adoption rate still remains relatively low. In the second round of broadband stimulus grants, you have announced that you may only allocate \$150 million of approximately \$2.6 billion in second-round funding for the purpose of increasing broadband adoption by end-user customers. If we want to increase the rate of broadband adoption, shouldn't more of the stimulus funds be allocated toward ensuring that those who have access to broadband actually have the tools to use it?

Answer. I wholeheartedly agree with you that increasing broadband adoption should remain a top national priority. The Broadband Technology Opportunities Program (BTOP) provides grants to support the deployment of broadband infrastructure, enhance and expand public computer centers, encourage sustainable

adoption of broadband service, and develop and maintain a nationwide public map of broadband service capability and availability. The Recovery Act instructed that NTIA shall award not less than \$250 million in grants for innovative projects to encourage sustainable adoption of broadband service. The act also instructed NTIA to award grants for projects that, among other priorities, provide broadband service to consumers in unserved and underserved areas of the United States; provide broadband education, awareness, training, access, equipment, and support to community anchor institutions and vulnerable populations; and improve access to, and use of, broadband service by public safety agencies. NTIA takes each of these priorities very seriously and seeks to fulfill all of the objectives established by Congress in the Recovery Act as efficiently and effectively as possible.

As you correctly note, the \$250 million for Sustainable Broadband Adoption projects is a floor rather than a ceiling, and as such, NTIA will continue to evaluate the quality of applications it receives to consider whether to award more than the Recovery Act's allotted minimum amount in this category.

However, as indicated in the January 15, 2010 Notice of Funds Availability, NTIA is adopting a "comprehensive communities" approach as its top priority, focusing on middle mile broadband projects that connect key community anchor institutions—such as libraries, hospitals, community colleges, universities, and public safety institutions. Comprehensive Community Infrastructure projects maximize the benefits of BTOP by leveraging resources, promoting sustainable community growth, and ultimately laying the foundation for reasonably priced broadband service to consumers and businesses.

CONCLUSION OF HEARING

Senator MIKULSKI. So thank you. Thank you for the management, thank you for the metrics, and thank you for the efforts that are being made.

This hearing is recessed and we will reconvene subject to the call of the Chair.

[Whereupon, at 10:31 a.m., Thursday, January 28, the hearing was concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]

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