

notice to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) or fax to (202) 395-5806.

Dated: April 24, 2015.

**Sarah Brabson,**

*OAA PRA Clearance Officer.*

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## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

## DEPARTMENT OF COMMERCE

### National Telecommunications and Information Administration

[Docket No. 1540414365-5365-01]

RIN 0660-XC019

### Broadband Opportunity Council Notice and Request for Comment

**AGENCY:** Rural Utilities Service, U.S. Department of Agriculture, and National Telecommunications and Information Administration, U.S. Department of Commerce.

**ACTION:** Notice and request for comments.

**SUMMARY:** In furtherance of the Presidential Memorandum entitled *Expanding Broadband Deployment and Adoption by Addressing Regulatory Barriers and Encouraging Investment and Training*, which established the Broadband Opportunity Council (Council), the Rural Utilities Service (RUS) and the National Telecommunications and Information Administration (NTIA) are requesting public comment to inform the deliberations of the Council.<sup>1</sup> The Council's objectives are to: (i) Engage with industry and other stakeholders to understand ways the government can better support the needs of communities seeking to expand broadband access and adoption; (ii) identify regulatory barriers unduly impeding broadband deployment, adoption, or competition; (iii) survey and report back on existing programs that currently support or could be modified to support broadband competition, deployment, or adoption; and (iv) take all necessary actions to remove these barriers and realign existing programs to increase broadband competition, deployment, and

<sup>1</sup> Memorandum for the Heads of Executive Departments and Agencies, *Expanding Broadband Deployment and Adoption by Addressing Regulatory Barriers and Encouraging Investment and Training*, March 23, 2015, available at <https://www.whitehouse.gov/the-press-office/2015/03/23/presidential-memorandum-expanding-broadband-deployment-and-adoption-addr>.

adoption.<sup>2</sup> We welcome input from all interested parties, including the stakeholder groups identified in the Presidential Memorandum.

**DATES:** Submit written comments on or before 5 p.m. Eastern time on June 10, 2015.

**ADDRESSES:** Written comments may be submitted by email to: [BOCrfc2015@ntia.doc.gov](mailto:BOCrfc2015@ntia.doc.gov). Include Broadband Opportunity Council in the subject line of the message. Comments submitted by email should be machine-readable and should not be copy-protected. Written comments may also be submitted by mail to the National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Room 4626, Attn: Broadband Opportunity Council, Washington, DC 20230. Responders should include the name of the person or organization filing the comment, as well as a page number on each page of their submissions. Paper submissions should also include a CD or DVD with an electronic version of the document, which should be labeled with the name and organization of the filer. Please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. All comments received are a part of the public record and will generally be posted to <http://www.ntia.doc.gov/federal-register-notice/2015/broadband-opportunity-council-comments> without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Information obtained as a result of this notice may be used by the federal government for program planning on a non-attribution basis.

**FOR FURTHER INFORMATION CONTACT:**

Karen Hanson, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Room 4626, Washington, DC 20230; telephone: (202) 482-0213; email: [khanson@ntia.doc.gov](mailto:khanson@ntia.doc.gov); or Denise Scott, Rural Development, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250; telephone: (202) 720-1910; email: [Denise.Scott1@wdc.usda.gov](mailto:Denise.Scott1@wdc.usda.gov). Please direct media inquiries to NTIA's Office of Public Affairs, (202) 482-7002.

<sup>2</sup> Fact Sheet: Next Steps in Delivering Fast, Affordable Broadband, March 23, 2015, available at <https://www.whitehouse.gov/the-press-office/2015/03/23/fact-sheet-next-steps-delivering-fast-affordable-broadband>.

**SUPPLEMENTARY INFORMATION:**

### I. Background

On January 13, 2015, President Obama announced new Administration efforts to help more people, in more communities around the country, gain access to fast and affordable broadband.<sup>3</sup> Communities across the country, including state, local, and tribal governments, are leveraging public and private investments to form new partnerships to bring world-class Internet to their businesses, institutions, and homes. To assist these communities and partnerships, support economic growth, and promote a level playing field for all competitors, President Obama called on the Executive Branch agencies to remove all unnecessary regulatory and policy barriers to broadband build-out, adoption, and competition.

On March 23, 2015, the White House released a Presidential Memorandum establishing a new Broadband Opportunity Council (Council), co-chaired by the U.S. Departments of Commerce and Agriculture. The Council comprises 25 federal agencies (Member Agencies) that can play a role in accelerating broadband deployment and promoting the technology's adoption across the country. To respond to this Presidential Memorandum, Member Agencies will provide a list of actions that they can take to identify and mitigate regulatory barriers, incentivize investment, promote best practices, align funding policies and decisions, and support broadband deployment and adoption. The Presidential Memorandum also directs the Council to consult with state, local, tribal, and territorial governments, as well as telecommunications companies, utilities, trade associations, philanthropic entities, policy experts, and other interested parties to identify and assess regulatory barriers and determine possible actions. This Notice seeks public comment to bolster the Council's work and to improve the number and quality of ideas under consideration.

### II. Objectives of This Notice

This Notice offers an opportunity for all interested parties to share their perspectives and recommend actions the federal government can take to promote broadband deployment,

<sup>3</sup> See FACT SHEET: Broadband That Works: Promoting Competition & Local Choice In Next-Generation Connectivity, White House, January 13, 2015, available at <http://www.whitehouse.gov/the-press-office/2015/01/13/fact-sheet-broadband-works-promoting-competition-local-choice-next-gener>.

adoption, and competition, including by identifying and removing regulatory barriers unduly impeding investments in broadband technology.<sup>4</sup>

This Notice seeks comment in several different areas: (i) Ways the federal government can promote best practices, modernize outdated regulations, promote coordination, and offer more services online; (ii) identification of regulatory barriers to broadband deployment, competition, and adoption; (iii) ways to promote public and private investment in broadband; (iv) ways to promote broadband adoption; (v) issues related to state, local, and tribal governments; (vi) issues related to vulnerable communities and communities with limited or no broadband; (vii) issues specific to rural areas; and (viii) ways to measure broadband availability, adoption, and speed.

### III. Questions

Commenters are encouraged to address any or all of the following questions. Please note in the response the number corresponding to the question(s). For any response, commenters may wish to consider describing specific goals, actions the Administration might take to achieve those goals, the benefits and costs associated with the action, whether the proposal is inter-agency or agency-specific, the rationale and evidence to support it, and the roles of other stakeholders. Specific, actionable proposals for policy mechanisms directed to the Executive Branch agencies included in the Council are most useful. Please note that the Federal Communications Commission (FCC) and the Federal Trade Commission (FTC) are independent regulatory agencies and not included in the Executive Branch. Independent agencies are not members of the Council, although the Presidential Memorandum strongly encourages them to comply with its requirements. As a result, commenters should focus on matters most within the control of the Executive Branch agencies serving on the Council.

RUS and NTIA seek public comment on the following questions:

<sup>4</sup> NTIA defines "broadband deployment" as installing, building, provisioning, funding, or otherwise making available broadband infrastructure, even in cases of laying an empty duct when a trench is open, regardless of technology. This does not preclude satellite or inside wiring. Promoting "broadband adoption" includes providing public access, training, information, affordable devices, and/or affordable broadband service to underserved individuals or groups.

#### A. Overarching Questions

1. How can the federal government promote best practices in broadband deployment and adoption? What resources are most useful to communities? What actions would be most helpful to communities seeking to improve broadband availability and use?
2. How can the federal government best promote the coordination and use of federally-funded broadband assets?
3. What federal regulations and/or statutes could be modernized or adapted to promote broadband deployment and adoption?
4. As the federal government transitions to delivering more services online, what should government do to provide information and training to those who have not adopted broadband? What should the federal government do to make reasonable accommodations to those without access to broadband?
5. How can the federal government best collaborate with stakeholders (state, local, and tribal governments, philanthropic entities, industry, trade associations, consumer organizations, etc.) to promote broadband adoption and deployment?

#### B. Addressing Regulatory Barriers to Broadband Deployment, Competition, and Adoption

6. What regulatory barriers exist within the agencies of the Executive Branch to the deployment of broadband infrastructure?
7. What federal programs should allow the use of funding for the deployment of broadband infrastructure or promotion of broadband adoption but do not do so now?
8. What inconsistencies exist in federal interpretation and application of procedures, requirements, and policies by Executive Branch agencies related to broadband deployment and/or adoption, and how could these be reconciled? One example is the variance in broadband speed definitions.<sup>5</sup>
9. Are there specific regulations within the agencies of the Executive Branch that impede or restrict competition for broadband service,

<sup>5</sup> The definition of what constitutes high-speed internet, *i.e.*, "broadband," has evolved over time. The FCC currently defines broadband as 25 Mbps for download speeds and 3 Mbps for upload speeds. See FCC Finds US Broadband Deployment Not Keeping Pace, Updated Broadband Speed Benchmark to 25Mbps/3 Mbps to Reflect Consumer Demand, Advances in Technology, Public Notice, Federal Communications Commission, January 29, 2015, available at <http://www.fcc.gov/document/fcc-finds-us-broadband-deployment-not-keeping-pace>. USDA uses the 2014 Farm Bill's definition of broadband for rural service areas as 4 Mbps for download speeds and 1 Mbps for upload speeds.

where residents have either no option or just one option? If so, what modifications could agencies make to promote competition in the broadband marketplace?

10. Are there federal policies or regulations within the Executive Branch that create barriers for communities or entities to share federally-funded broadband assets or networks with other non-federally funded networks?

11. Should the federal government promote the implementation of federally-funded broadband projects to coincide with other federally-funded infrastructure projects? For example, coordinating a broadband construction project funded by USDA with a road excavation funded by DOT?

#### C. Promoting Public and Private Investment in Broadband

12. How can communities/regions incentivize service providers to offer broadband services, either wired or wireless, in rural and remote areas? What can the federal government do to help encourage providers to serve rural areas?

13. What changes in Executive Branch agency regulations or program requirements could incentivize last mile investments in rural areas and sparsely populated, remote parts of the country?

14. What changes in Executive Branch agency regulations or program requirements would improve coordination of federal programs that help communities leverage the economic benefits offered by broadband?

15. How can Executive Branch agencies incentivize new entrants into the market by lowering regulatory or policy barriers?

#### D. Promoting Broadband Adoption

16. What federal programs within the Executive Branch should allow the use of funding for broadband adoption, but do not do so now?

17. Typical barriers to broadband adoption include cost, relevance, and training. How can these be addressed by regulatory changes by Executive Branch agencies?

#### E. Issues Related to State, Local, and Tribal Governments

18. What barriers exist at the state, local, and/or tribal level to broadband deployment and adoption? How can the federal government work with and incentivize state, local, and tribal governments to remove these barriers?

19. What federal barriers do state, local, and tribal governments confront as they seek to promote broadband

deployment and adoption in their communities?

20. What can the federal government do to make it easier for state, local, and tribal governments or organizations to access funding for broadband?

21. How can the federal government support state, local, and tribal efforts to promote and/or invest in broadband networks and promote broadband adoption? For example, what type of capacity-building or technical assistance is needed?

#### *F. Issues Related to Vulnerable Communities and Communities With Limited or No Broadband*

22. How can specific regulatory policies within the Executive Branch agencies be altered to remove or reduce barriers that prevent vulnerable populations from accessing and using broadband technologies? Vulnerable populations might include, but are not limited to, veterans, seniors, minorities, people with disabilities, at-risk youth, low-income individuals and families, and the unemployed.

23. How can the federal government make broadband technologies more available and relevant for vulnerable populations?

#### *G. Issues Specific to Rural Areas*

24. What federal regulatory barriers can Executive Branch agencies alter to improve broadband access and adoption in rural areas?

25. Would spurring competition to offer broadband service in rural areas expand availability and, if so, what specific actions could Executive Branch agencies take in furtherance of this goal?

26. Because the predominant areas with limited or no broadband service tend to be rural, what specific provisions should Executive Branch agencies consider to facilitate broadband deployment and adoption in such rural areas?

#### *H. Measuring Broadband Availability, Adoption, and Speeds*

27. What information about existing broadband services should the Executive Branch collect to inform decisions about broadband investment, deployment, and adoption? How often should this information be updated?

28. Are there gaps in the level or reliability of broadband-related information gathered by other entities that need to be filled by Executive Branch data collection efforts?

29. What additional research should the government conduct to promote broadband deployment, adoption, and competition?

30. How might the federal government encourage innovation in broadband deployment, adoption, and competition?

Dated: April 24, 2105.

**Lawrence E. Strickling**,  
*Assistant Secretary for Communications and Information.*

**Lisa Mensah**,  
*Under Secretary for Rural Development.*

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**BILLING CODE 3510-60-P**

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

[Docket No.: PTO-P-2015-0008]

#### **Change to Internet Usage Policy To Permit Oral Authorization for Video Conferencing Tools by Patent Examiners**

**AGENCY:** United States Patent and Trademark Office, Commerce.

**ACTION:** Notice.

**SUMMARY:** The United States Patent and Trademark Office (USPTO) established an Internet usage policy in 1999, and this Internet usage policy permits patent examiners to communicate via the Internet only with individuals who have a written authorization in the application. This Internet usage policy also applies to USPTO video conferencing tools such as WebEx for use by patent examiners. The USPTO is updating its Internet usage policy by modifying the authorization requirements to now permit oral authorization for video conferencing tools, such as WebEx, to be provided by the patent applicant/practitioner to patent examiners before an interview is conducted.

**DATES:** *Effective:* The change to the Internet usage policy set forth in this notice is effective on April 29, 2015.

**FOR FURTHER INFORMATION CONTACT:** Mark Polutta, Senior Legal Advisor, Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy at (571) 272-7709.

**SUPPLEMENTARY INFORMATION:** The USPTO adopted an Internet usage policy in 1999. See Internet Usage Policy, 64 FR 33056 (June 21, 1999). The Patents portion of the Internet usage policy has been incorporated into section 502.03 of the Manual of Patent Examining Procedure (MPEP). The Trademarks portion of the Internet usage policy has been superseded by the Trademark Manual of Examining Procedure, which contains the relevant

guidance on this subject matter for trademark examining attorneys, trademark applicants, and registration owners.

In accordance with the Internet usage policy as adopted in 1999, patent examiners may communicate via the Internet only with individuals who have a written authorization in the application. See MPEP 502.03 (9th ed. 2014). This Internet usage policy also applies to USPTO video conferencing tools, such as WebEx, used by patent examiners.

The USPTO is updating its Internet usage policy by modifying the authorization requirements for patent examination to now include oral authorization for video conferencing tools such as WebEx in view of the more prevalent and accepted use of electronic communications and improvements in internet security. The USPTO will now accept oral authorization by the patent applicant/practitioner (practitioner) to participate in a video conference. Practitioners may request a video conference just as they would request a telephone or in-person interview with the examiner. For applicants that are juristic entities, see MPEP 401, which explains that a juristic entity must be represented by a registered practitioner.

Under the updated Internet usage policy, patent examiners may now use USPTO video conferencing tools, e.g., WebEx, to conduct examiner interviews in both published and unpublished applications without written authorization in the application. Authorization by the practitioner (which may be oral) to conduct a video conference is still required and must be obtained prior to sending a meeting invitation using email, calendar/scheduler applications, or USPTO video conferencing tools. Authorization is required to confirm that the practitioner is able to conduct a video conference and to confirm the email address to which the invitation will be sent. The patent examiner should note on the record the details of the authorization either in the interview summary or a separate communication. This authorization is limited to the video conference interview being arranged (including the meeting invitation) and does not extend to other communications regarding the application.

Although this change in Internet usage policy provides applicant's representative with an alternative to providing a written authorization to conduct an interview using USPTO video conferencing tools, the best practice is to have such written authorization of record in the file.