

Congress of the United States

U.S. House of Representatives

Committee on Small Business

2361 Rayburn House Office Building

Washington, DC 20515-6315

November 17, 2009

The Honorable Lawrence E. Strickling
Assistant Secretary for Communications and Information
National Telecommunications and Information Administration (NTIA)
U.S. Department of Commerce
1401 Constitution Ave., N.W.
Washington, DC 20230

The Honorable Jonathan Adelstein
Administrator
Rural Utilities Service (RUS)
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Room 5135-S
Washington, DC 20250

Dear Assistant Secretary Strickling and Administrator Adelstein:

The Small Business Committee appreciated the testimony provided during the October 28, 2009 hearing on "*The Recovery Act and Broadband: Evaluation of Broadband Investments on Small Businesses and Job Creation.*" Your remarks offered critical insight into the importance of broadband for small businesses. The testimony also allowed the Committee to more clearly understand the role of broadband in stimulating the economy and creating jobs.

The strong applicant interest in both the Broadband Initiatives Program (BIP) and the Broadband Technology Opportunities Program (BTOP) suggests that these American Recovery and Reinvestment Act programs offer significant opportunities for expanding broadband throughout the country. However, despite the interest expressed in these programs, many concerns have been raised by small businesses with respect to their implementation. As NTIA and RUS complete the first round of funding and seek comment on the second round rules, we ask that the following recommendations be considered.

Advancing the Recovery Act Objectives and Goals

To ensure that new infrastructure projects reach communities with the greatest need, prioritization should be given to areas without access to broadband. It is the Committee's

Lawrence E. Stickling, Assistant Secretary
Jonathan Adelstein, Administrator
November 17, 2009

recommendation that funds should be targeted to areas which are first “unserved” and only then to “underserved” areas, if funding remains.

Second, the Committee urges improvements to the website used to display applications and receive comments from the public, including existing service providers. It is our understanding that the procedures for using this website are confusing and time/resource consuming, particularly for small businesses. Without such changes, the Committee is concerned that awards will be issued with an inaccurate or incomplete picture of existing service.

Additionally, as was raised during the Committee’s hearing, Members are concerned by the process that existing service providers must undergo to demonstrate where broadband service is already provided. A formal process should be implemented to reconcile conflicting data received from an applicant and from existing service providers. This will ensure fairness and accuracy for all parties involved.

Challenges Associated with Program Requirements

The nature of the BTOP/BIP application process has created many barriers to small business participation. Among the greatest challenges include the following: the complex application process, a 10-year limitation on the sale of award funded facilities, a matching contribution requirement, and a first lien rule. Before a second round Notice of Funds Availability or NOFA is issued, the Committee suggests that revisions be made to maximize participation among small firms.

It is the Committee’s recommendation that NTIA and RUS should examine the challenges associated with the current application process. The significant paperwork and data collection requirements have made the application process very expensive for many small firms. As James Gleason, President and CEO of NewWave Communications testified, the up-front costs included \$50,000 to support the data requested in the application and \$30,000 to defend his company’s existing service territory. These investments come without any guarantee of receiving a grant or loan award.

In addition, the 10-year limitation on the sale or lease of award funded facilities creates a significant barrier for small firms. To ensure that firms can continue to grow and innovate, the Committee believes this provision should be modified. Applicants should also have greater flexibility to use revenue generated through a BTOP/BIP award. The rules currently limit an award recipient from using subscriber revenues to cover expenses such as technician installation costs, marketing costs, advertising costs, and other expenses associated with running a business during the initial three years. This serves as a disincentive for many small firms to apply. We hope the agencies will modify this provision to, at the very least, clarify that program income refers to profits and not gross income.

A high matching contribution requirement also seems to serve as a barrier for participation among small firms. Applicants to BTOP are required to provide a matching contribution of at least 20 percent towards the total project cost. The Committee urges NTIA to consider a formal

Lawrence E. Stickling, Assistant Secretary
Jonathan Adelstein, Administrator
November 17, 2009

waiver process for small firms, so that the matching requirements could be lowered or eliminated.

Furthermore, the requirement that RUS hold an exclusive first lien on applicant's assets may present a conflict for some firms. The Committee recommends revising this requirement to ensure that an applicant can participate without violating the terms of already existing loan agreements. During the first round of funding, this requirement prevented many companies from participating.

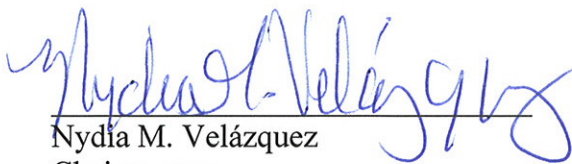
Definition of a Remote Area

The high cost associated with providing service in the most remote parts of the United States is a significant roadblock to many small telecommunications firms. Such costs may be difficult for these companies to justify given the limited return. To address this concern, Congress appropriated funding to support the expansion of telecommunications service into rural America. Under the first round of funding, "remote" is defined as "an unserved, rural area 50 miles from the limits of a non-rural area." Any rural area not meeting the definition of "remote" is eligible for at best, a 50 percent grant and 50 percent loan combination.

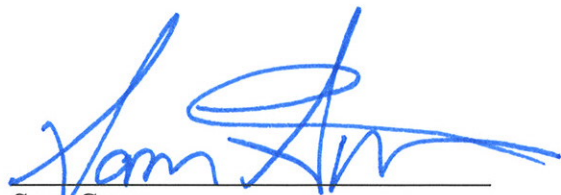
As written, the definition of "remote" and the BIP loan/grant cost structure limits the amount of grant funding available to rural providers. The Committee recommends that the rules established in a subsequent round of funding modify or remove the definition of "remote."

The Committee appreciates the willingness of both agencies to address the concerns of small businesses. As NTIA and RUS move forward with the process, we ask that these recommendations be considered as a way to strengthen the program and support the needs of small businesses. Furthermore, the Committee requests that your agencies provide updated statistics on small business participation and once available, data on how much funding is awarded to small businesses.

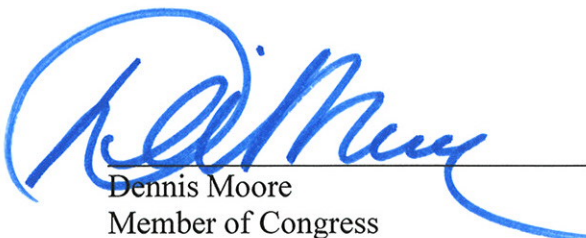
Sincerely,



Nydia M. Velázquez
Chairwoman
Small Business Committee



Sam Graves
Ranking Member
Small Business Committee

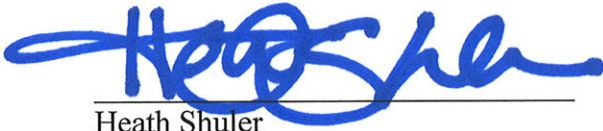


Dennis Moore
Member of Congress



Roscoe G. Bartlett
Member of Congress

Lawrence E. Stickling, Assistant Secretary
Jonathan Adelstein, Administrator
November 17, 2009



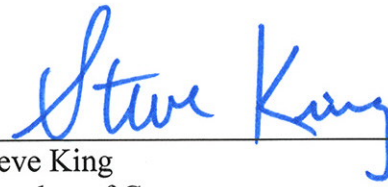
Heath Shuler
Member of Congress



Todd Akin
Member of Congress



Kathy Dahlkemper
Member of Congress



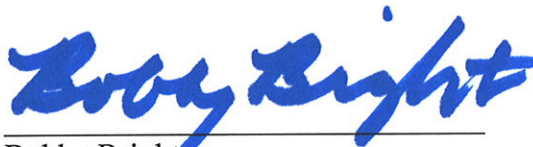
Steve King
Member of Congress



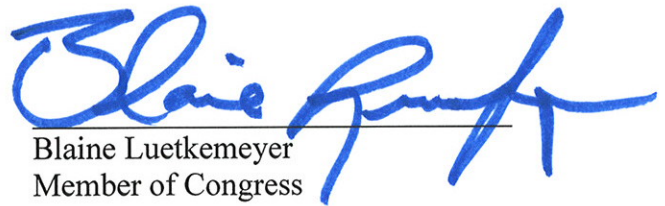
Ann Kirkpatrick
Member of Congress



Mary Fallin
Member of Congress



Bobby Bright
Member of Congress



Blaine Luetkemeyer
Member of Congress



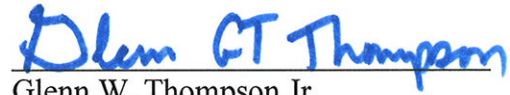
Deborah L. Halvorson
Member of Congress

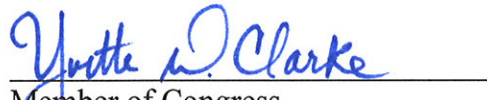


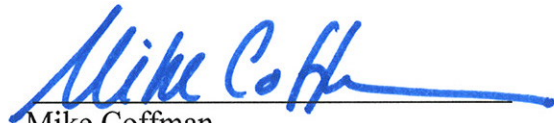
Aaron Shock
Member of Congress

Lawrence E. Stickling, Assistant Secretary
Jonathan Adelstein, Administrator
November 17, 2009


Member of Congress


Glenn W. Thompson Jr.
Member of Congress


Member of Congress


Mike Coffman
Member of Congress


Member of Congress


Member of Congress


Member of Congress