

Changes, Highlights and Excerpts from the Round Two BTOP NOFA

(Numbers in parentheses refer to the page numbers of the version of the NOFA made available on the broadbandusa.gov web site, not to the Federal Register version. Footnotes not included.)

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Changes identified by the NOFA itself:

1. BIP and BTOP have separate NOFAs. This eliminates the option of allowing applicants to file a single, joint BIP/BTOP application. Instead, the process will allow separate applications.
2. NTIA will give “additional consideration to projects that propose to contribute a non-federal cost-share/match that equals or exceeds 30 percent of the total eligible costs of the project.” (p.9) [NOTE: This change may only apply to the Infrastructure category, but it is not totally clear. See pages 33, 62, 66, 70.]
3. NTIA is “adopting a “comprehensive communities” approach to award BTOP grants for infrastructure projects that emphasize Middle Mile broadband capabilities and new or substantially upgraded connections to community anchor institutions to maximize the benefits of BTOP funds.” (p.9)
4. NTIA reduced the number of BTOP’s eligibility (gating) factors to just three criteria – eligible entities, fully completed application, and matching. (It removes “budget reasonableness” and “technical feasibility factors from the eligibility requirements - they will be considered during the expert review and due diligence phases).
5. NTIA has reduced the number of expert reviewers from at least three to at least two.
6. NTIA will review Infrastructure applications according to an explicit list of priorities, starting with service to anchor institutions, public private partnerships, and stimulating growth in economically-distressed areas. (more on this later).
7. NTIA has clarified the process for requesting waivers, including the matching fund requirement, Last Mile coverage obligation, and restriction on the sale and lease of projects.
8. NTIA will now collect the information most essential to project review in the application itself, with the option to collect additional data during the due diligence review, as needed. (p.10) [NOTE: Does this mean a MORE difficult initial application process? Let’s see what the Application looks like when it is released.]
9. Streamlined application process: fewer attachments, separate BTOP and BIP applications; separate PCC and SBA applications.
10. Eliminated the “proposed funded service area mapping tool” and modified the serve area delineations from Census blocks to Census tracts and block groups. [?!]
11. Made it easier for applicants filing in multiple application categories to link their applications (to promote comprehensive communities).

Other Notable Changes:

- PCC program explicitly allows funding for one-time costs of adding broadband (but does not clarify ongoing monthly costs).

- Greater scoring weight is given to financial issues (viability and sustainability) with reduced weight given to Purposes and Benefits
- Significantly reduced the emphasis on interconnection with Last Mile providers as a condition of receiving a Middle Mile grant.
- Additional emphasis on community colleges in PCC program.
- While NOFA2 retains the prohibition on selling grant-funded facilities “for the life of the facilities” it loosens the waiver process (by removing the 10-year ban) and loosens the provision requiring proceeds to be re-invested.
- Allows recovery of expenses incurred in due diligence phase.

Notable Items that Remain the Same:

- Most of the PCC and SBA provisions remain as they were, with only slight modifications
- Nondiscrimination and Interconnection (net neutrality provisions)
- Focus of SBA program continues to be on “new” subscribers (though additional emphasis is given on measurement)
- No change in definitions of broadband as 768 kbps, unserved or underserved.

Notable Absences:

- No further clarity on interaction of BTOP and E-rate
- No clarity on monthly broadband expenses
- No additional \$ for the PCC program (only the minimum \$ set forth in the statute)

Summary:

Three Categories of funding:

Comprehensive Community Infrastructure (CCI) – “will focus on Middle Mile broadband infrastructure projects that offer new or substantially upgraded connections to community anchor institutions, especially community colleges.” (\$2.35 billion) (p. 8)

“Priority will be given to projects that include a Middle Mile component. The project should meet the significant needs of the community, which in the first instance should include providing broadband service to community anchor institutions, such as community colleges, schools, libraries, medical and healthcare providers, community support organizations, and public safety entities. CCI projects should be technically feasible, sustainable, and scalable, and address BTOP’s priority needs, including offering substantial economic, educational, healthcare, and public safety benefits relative to the costs of providing service.” (p.49) [NOTE: Big change in focus to community anchor institutions. Last Mile services are limited (discussed later)]

Public Computer Centers (PCC) “will help expand public access to broadband service and enhance broadband capacity at entities that permit the public to use these computing centers, such as community colleges and public libraries.” (at least \$150 Million) (p.8) [NOTE: Identical to first NOFA]

“Applications for PCC projects must **expand** public computer center capacity, including at community colleges and public libraries. They must provide broadband access **or improve broadband access** to the general public or a specific vulnerable population, such as low-income, unemployed, aged, children, minorities, and people with disabilities. Projects must **create or expand** a public computer center meeting a specific public need for broadband service, including, but not limited to, education, employment, economic development, and enhanced service for healthcare delivery, children, and vulnerable populations. As described below, NTIA will consider information related to the demographics, size, and scope of the populations to be served, as well as the capacity of and the training provided by the proposed centers.” (p. 50) [NOTE: Odd that the first sentence is limited to “expand” when other language says “create or expand.” [NOTE: Addition of “improve broadband access” – is this a clue that monthly costs of increasing the bandwidth are now eligible? However, language later on specifically allows “one-time” costs of expanding broadband but is silent on ongoing costs of improved broadband.]

Sustainable Broadband Adoption (SBA) “will fund innovative projects that promote broadband demand, including projects focused on providing broadband education, awareness, training, access, equipment, or support, particularly among vulnerable population groups that traditionally have underutilized broadband technology.” (at least \$100 Million) [NOTE: Identical to first NOFA]

“Applications for SBA projects should demonstrate a sustainable increase in demand for and subscribership to broadband services. Projects should meet a specific public need for broadband service, including, but not limited to, education, employment, economic development, and enhanced service for healthcare delivery, children, and vulnerable populations. Projects should describe the barriers to adoption in a given area, especially among vulnerable populations, and propose an innovative and persuasive solution to **achieve increased** adoption. Applicants might show how variations on one or more proven demand stimulation strategies—such as awareness-building, development of relevant content, and demand aggregation—would promote sustainable adoption. **NTIA expects a high degree of verification that will demonstrate the effectiveness of various approaches to building sustainable broadband adoption, including market research and surveys.**” (pp. 50-51) [NOTE: Last sentence is entirely new. The rest of the paragraph is identical to first NOFA, except that “achieve increased” has replaced “encourage”. (probably to reflect emphasis on achieving measurable results).

CCI Program Priorities: (p.12)

“[P]riority will be given to CCI projects that include a Middle Mile component and satisfy certain additional considerations. This prioritization will be used for the sequencing of applications for the objective merit review performed by expert reviewers. **In particular, the highest priority for merit review will be given to CCI applications that satisfy all of the criteria below.**”

In order of importance, the CCI priority criteria are set forth as follows:

(1) projects that will deploy Middle Mile broadband infrastructure with a commitment to offer new or substantially upgraded service to community anchor institutions. Those projects proposing to serve a significant number of community anchor institutions that have expressed a demand or indicated a need for access or improved access to broadband service will receive higher priority;

(2) projects that will deploy Middle Mile broadband infrastructure and incorporate a public-private partnership among government, non-profit and for-profit entities, and other key partners. The application evaluation process will continue to consider additional factors, including, for example, the degree to which the projects will benefit consumers residing in unserved or underserved areas, the participation of an Indian Tribe or socially and economically disadvantaged small business concern as defined under Section 8(a) of the Small Business Act (as modified by NTIA's adoption of an alternative small business concern size standard for use in BTOP), and the ability of a project to leverage funding from another Recovery Act program or other state or federal development program community stakeholders, particularly those that have expressed a demand or indicated a need for access or improved access to broadband service;

(3) projects that will deploy Middle Mile broadband infrastructure with the intent to bolster growth in economically distressed areas;

(4) projects that will deploy Middle Mile broadband infrastructure with a commitment to serve community colleges that have expressed a demand or indicated a need for access or improved access to broadband service;

(5) projects that will deploy Middle Mile broadband infrastructure with a commitment to serve public safety entities that have expressed a demand or indicated a need for access or improved access to broadband service;

(6) projects that will deploy Middle Mile broadband infrastructure that includes (i) a Last Mile infrastructure component in unserved or underserved areas; or (ii) commitments or non-binding letters of intent from one or more Last Mile broadband service providers.¹⁸ For Last Mile infrastructure components in rural areas, however, the additional costs of the Last Mile component used to offer service to residential consumers and non-community anchor institutions may not exceed more than 20 percent of the total eligible costs of the project; and

(7) projects that will deploy Middle Mile broadband infrastructure and propose to contribute a non-federal cost match that equals or exceeds 30 percent of the total eligible costs of the project.

NTIA will prioritize those applications remaining for merit review in the order that they satisfy the most highly-ranked criteria. (1-7 first, then 1-6, then 1-5, etc.)

Note that the application evaluation process will continue to consider additional factors, including, for example, the degree to which the projects will benefit consumers residing in unserved or underserved areas, the participation of an Indian Tribe or socially and economically disadvantaged small business

concern as defined under Section 8(a) of the Small Business Act (as modified by NTIA's adoption of an alternative small business concern size standard for use in BTOP), and the ability of a project to leverage funding from another Recovery Act program or other state or federal development program.

No BTOP programs will be funded in areas already funded by BIP. (both Last Mile and Middle Mile)

"While a CCI project may exclusively contain a Last Mile component, it will only be considered for merit review and funding after all projects with a Middle Mile component have been considered." (p. 17)

[NOTE: For some reason, they do not change the Middle Mile definition.] [RUS will focus on funding Last Mile applications.]

Scoring Process:

"Reviewers will evaluate applications against the evaluation criteria provided in this NOFA and independently score each application. Reviewer scores will be averaged and NTIA will establish thresholds that will be used to determine which applications are considered —highly qualified.|| Highly qualified applications may be considered further for an award by NTIA Program staff and given a —due diligence|| review. For CCI projects, priority in due diligence processing will be given to applications that best conform to BTOP priorities as expressed in Section II.B.1.b of this NOFA." (p. 19)

State Review:

"After the application deadline, NTIA will invite each state, via its Governor, to provide input on those geographic areas within the state for which NTIA should give priority in selecting projects for funding." (P. 19)

"The input of states and tribes is consultative in nature and, while extremely valuable, constitutes only one among several factors the Selecting Official, the Assistant Secretary, weighs when evaluating applications. States or tribes will not have the ability to veto any particular project. States and tribes will have no less than 20 calendar days from the date of notification to submit their comments to NTIA. NTIA will make the comments of the states and tribes publicly available at <http://www.broadbandusa.gov>. Accordingly, states and tribes should not include in their comments to NTIA any information that is deemed confidential and proprietary."

Selection Process:

"The BTOP Director's recommendations and the OTIA Associate Administrator's review and approval will consider the following selection factors:

- a. The Evaluation Criteria Review score of the objective expert reviewers;
- b. The analysis of NTIA Program staff;
- c. Satisfaction of the statutory purposes and BTOP priorities set forth in Section II.;
- d. The extent to which the non-federal cost match equals or exceeds 30 percent of the total eligible costs of the project;
- e. The geographic distribution of the proposed grant awards (*e.g.*, ensuring that, to the extent practical, NTIA awards not less than one grant in each state as set forth in the Recovery Act);
- f. The range of technologies and uses of the technologies employed by the proposed grant awards;

- g. Avoidance of redundancy, duplication, and conflicts with the initiatives of other federal agencies, including Department of Agriculture loan and grant programs for broadband services, applicable universal service programs authorized by the Federal Communications Commission, and, to the extent practical, avoidance of unjust enrichment;
- h. The availability of funds;
- i. If applicable, the comments of states, including, but not limited to, such comments as described in their application for the Broadband Mapping Program or as subsequently provided to NTIA either on their own or along with the submission of state-level broadband maps;²⁵ and
- j. If applicable, the comments of tribal entities. (Pp. 21-22)

Selected Definitions: (p. 23)

Broadband means providing two-way data transmission with advertised speeds of at least 768 kilobits per second (kbps) downstream and at least 200 kbps upstream to end users, or providing sufficient capacity in a Middle Mile project to support the provision of broadband service to end users. [NOTE: no change from NOFA1]

Build-out means the construction or improvement of facilities and equipment as specified in the application.

Community anchor institutions means schools, libraries, medical and healthcare providers, public safety entities, community colleges and other institutions of higher education, and other community support organizations and agencies that provide outreach, access, equipment, and support services to facilitate greater use of broadband service by vulnerable populations, including low-income, the unemployed, and the aged. [NOTE: Identical to NOFA1]

Comprehensive Community Infrastructure (CCI) project means an infrastructure project that focuses primarily on providing new or substantially upgraded connections to community anchor institutions. [NOTE: new]

Economically distressed area means an area that has: (i) a per capita income of 80 percent or less of the national average; and (ii) an unemployment rate that is, for the most recent 24-month period for which data are available, at least one percent greater than the national average unemployment rate.

Forecast period means the time period used by NTIA to determine if an application is financially feasible. Financial feasibility of an application is based on eight-year projections. [NOTE: change from 5 years in NOFA1]

Last Mile means those components of a CCI project that provide broadband service to end-user devices through an intermediate point of aggregation. That is, in most cases, the Last Mile connection goes from the end-user device through an intermediate point of aggregation (*i.e.*, a remote terminal, fiber node, wireless tower, or other equivalent access point) to a primary IP routing entity in a centralized facility (*i.e.*, in the central office, the cable headend, the wireless switching station, or other equivalent centralized facility). The Last Mile also includes equivalent services that, solely because of close proximity between the customer and centralized facility, are routed directly to the centralized facility. The Last Mile will terminate at, and include, the initial customer-facing router or aggregation switch in the centralized facility (*e.g.*, a DSLAM, CMTS, RNC, or equivalent) that is utilized to deliver Last Mile broadband service.

Last Mile service area means the service area of a Last Mile component of a CCI project, composed of one or more contiguous Census block groups²⁷ or tracts,²⁸ where the applicant is requesting BTOP funds to provide broadband service to end-user devices through an intermediate point of aggregation

and terminating at the initial customer-facing router or aggregation switch in the centralized facility used to deliver the Last Mile broadband service.

Middle Mile means those components of a CCI project that provide broadband service from one or more centralized facilities, (*i.e.*, the central office, the cable headend, the wireless switching station, or other equivalent centralized facility) to an Internet point of presence. The Middle Mile includes, among other things, the centralized facilities and all of the equipment in those facilities, except for any equipment that would qualify as part of a Last Mile component as defined in this NOFA.

Middle Mile service area means the project service area, composed of one or more contiguous Census block groups or tracts, where the applicant is requesting BTOP funds to provide broadband service from one or more centralized facilities, (*i.e.*, the central office, the cable headend, the wireless switching station, or other equivalent centralized facility) to an Internet point of presence.

[NOTE: The previous four definitions are much more detailed than in NOFA1, but I'm not sure they add much clarity. I remain uncertain as to how you define a Middle Mile service area if you are serving individual anchor institutions scattered throughout a geographic area, like a state.]

Pre-application expense means any reasonable expense incurred after the release of this NOFA up to the issuance of the grant award from NTIA to prepare an application. These expenses include engineering costs, accountant or other consultant fees, and costs related to developing the proposal. Lobbying costs and contingency fees are not included as pre-application expenses. [NOTE: This is a good change for applicants; NOFA1 did not allow expenses incurred in the due diligence phase because they ended when the application was filed.]

Proposed funded service area means the total service area of a CCI project where broadband service will be provided.

Public computer center means a place, including but not limited to community colleges, libraries, schools, youth centers, employment service centers, Native American chapter houses, community centers, senior centers, assistive technology centers for people with disabilities, community health centers, and Neighborhood Network Centers in public housing developments, that provide broadband access to the general public or a specific vulnerable population, such as low-income, unemployed, aged, children, minorities, and people with disabilities. [NOTE: Identical to NOFA1]

Underserved area means a Last Mile or Middle Mile service area, where at least one of the following factors is met: (i) no more than 50 percent of the households in the Last Mile or Middle Mile service area have access to facilities-based, terrestrial broadband service at greater than the minimum broadband transmission speed (set forth in the definition of broadband above); (ii) no fixed or mobile terrestrial broadband service provider advertises to residential end users broadband transmission speeds of at least three megabits per second ("mbps") downstream in the Last Mile or Middle Mile service area; or (iii) the rate of terrestrial broadband subscribership for the Last Mile or Middle Mile service area is 40 percent of households or less. An underserved area may include individual Census block groups or tracts that on their own would not be considered underserved. The availability of or subscribership rates for satellite broadband service is not considered for the purpose of determining whether an area is underserved. [NOTE: Almost identical to NOFA1]

Unserviced area means a Last Mile or Middle Mile service area where at least 90 percent of the households lack access to facilities-based, terrestrial broadband service, either fixed or mobile, at the minimum broadband transmission speed (set forth in the definition of broadband above). An unserved area may include individual Census block groups or tracts that on their own would not be considered unserved. A household has access to broadband service if the household readily can subscribe to that service upon request. The availability of or subscribership rates for satellite broadband service is not considered for the purpose of determining whether an area is unserved. [NOTE: Almost identical to NOFA1]

Funding:

“Funds remaining from the initial round of funding due to BTOP funding priorities or any other reason, and unused funds not awarded under the Broadband Mapping Program, may be used to augment the BTOP funding categories established above. NTIA reserves the right to reopen the application window or release subsequent NOFAs to ensure that all funds are awarded by September 30, 2010.” (p. 29) [NOTE: unused funds from one program (e.g. Mapping) can be re-allocated to other programs – as ALA, AACC and others requested]

NTIA expects to make awards within the following funding ranges:

CCI: \$5 million - \$150 million

PCC: \$500,000 - \$15 million

SBA: \$500,000 - \$15 million

“Grant recipients must substantially complete projects supported by this Program no later than two years, and projects must be fully completed no later than three years,” (p. 30)

Matching:

“In general, awardees under BTOP are required by statute to provide matching funds of at least 20 percent toward the total eligible costs of the project unless the Assistant Secretary grants a waiver. For costs to be eligible to meet matching requirements, they first must be allowable under the grant program.” (p. 32) [NOTE: Matching funds must be allowable expenses.]

“Generally, federal funds may not be used as a cost match except as provided by federal statute. In-kind contributions, including third party in-kind contributions, are non-cash donations to a project that may count toward satisfying the non-federal matching requirement of a project’s total budgeted costs. In-kind contributions must be allowable project expenses. Such contributions may be accepted as part of an applicant’s matching costs when such contributions meet certain criteria.”

“Applicants that propose to provide a cost match that is all cash will be given additional favorable consideration in the application review process. Additionally, applicants will be given favorable consideration in the selection process by proposing to contribute a non-federal cost match that equals or exceeds 30 percent of the total eligible costs of the projects. CCI applicants are strongly encouraged to not request more federal funding than they require to make the project financially feasible and sustainable.” [NOTE: Here and on p. 9, the 30% match preference is stated generically as if it applies to all 3 categories. Later, in the discussion of viability of each individual program, the 30% figure only appears for CCI projects and is absent from PCC and SBA. Ambiguous whether or not PCC and SBA programs have the 30% preference.]

Waiver: “In requesting a waiver of the matching requirement, an applicant should fully explain and document its inability to provide the required 20 percent matching share of the eligible costs of the proposed project. In demonstrating financial need, the applicant should submit: (1) documents that include the applicant’s assets, liabilities, operating expenses, and revenues from any existing operations; (2) denial of funding from a public or private lending institution; or (3) any other documents that demonstrate financial need. Mere statements of financial need without supporting documentation will not be viewed favorably. The petition for waiver and documentation must be set forth clearly in the application. The Assistant Secretary will evaluate the information provided in support of the petition and may increase the federal share if financial need is demonstrated.” (p. 33) [NOTE: This language describing the waiver process and requirements is new.]

But For:

“Grant applicants must provide documentation that the project would not have been implemented during the grant period without federal grant assistance. This documentation may consist of, but is not limited to, such items as a denial of funding from a public or private lending institution, a current fiscal year budget that shows the lack of available revenue options for funding the project, or a business case that demonstrates that the project would not be economically feasible without grant financing.” (pp. 34-35) [NOTE: Same as NOFA1]

Non-discrimination and Interconnection Requirements: almost identical to first NOFA

Last Mile Coverage obligations and opportunity to challenge: similar to first NOFA.

Eligible Costs:

Specifically, grant funds must be used only to pay for eligible costs. For CCI projects, eligible costs are generally capital expenses, and not operating expenses. (p. 40) [NOTE: Generally?]

“Eligible costs are consistent with the cost principles identified in the applicable OMB circulars and in the grant program’s authorizing legislation. In addition, costs must be reasonable, allocable, necessary to the project, and conform to GAAP.” [NOTE: Footnote suggests looking to OMB Circulars to determine Cost Principles for different types of entities (universities, non-profits, Indian Tribes, etc.)]

Direct Costs: “Direct costs are those that are directly related and traceable to the cost of the project being supported. Direct costs of a project may be charged to the award if they are allowable costs and are included within approved budget categories.”

Indirect Costs: “NTIA has the discretion to consider indirect costs as eligible expenses under BTOP. For CCI projects, reasonable indirect costs associated with the construction, deployment, or installation of facilities and equipment used to provide broadband service as described in Section V.E.2. will be considered eligible provided that they are included as a line item in the applicant’s budget and the applicant has established, or commits to apply for, an approved indirect cost rate.

“For PCC and SBA projects, reasonable indirect costs associated with eligible project activities as detailed in Sections V.E.3. and V.E.4. will be considered eligible costs provided they are included as a line item in the applicant’s budget and the applicant has established, or commits to apply for, an approved indirect cost rate. The process for establishing an indirect cost rate with the DOC is described in a document entitled —General Indirect Cost Rate Program Guidelines for Grantee Organizations|| and can be found on the Department of Commerce website. Applicants that do not have an approved indirect cost rate will have 90 days from the award start date to apply to have a rate established. (p. 41)

[NOTE: Direct Costs of CCI program: only one change: pre-application expenses can include the expenses during due diligence, up until grant award. (First round only allowed pre-application expenses between NOFA and filing of application.) But still limited to 5% of grant award. (p. 42)

Eligible Costs of CCI program specifically includes Indirect Costs:

“iv. To fund reasonable indirect costs consistent with the principles outlined in Section V.E.1. of this NOFA;” (p. 42)

Ineligible Costs of CCI program:

“Grant funds may not be used for any of the following purposes:

- i. To fund operating expenses of the applicant;” [NOTE: This is a slight change from the first NOFA, which barred “operating expenses of the project, including fixed and recurring costs of a project.”]

Rest of the ineligible costs are almost identical to first NOFA

Eligible Costs of PCC program:

“Projects under this category are aimed at expanding broadband access and capacity at community anchor institutions, organizations serving vulnerable populations, or job-creating strategic facilities located in state- or federally designated economic development areas as well as stimulating broadband demand, economic growth, and job creation.” [NOTE: This is a new paragraph. It is perhaps a broader list of eligible entities than even the broad list in the first NOFA. Note that it includes “organizations serving vulnerable populations” and “stimulating broadband demand”]

Eligible PCC Costs:

- i. Acquiring broadband-related equipment, instrumentation, networking capability, hardware and software, and digital network technology for broadband services, including the purchase of word processing software, computer peripherals, such as mice and printers, and computer maintenance services and virus-protection software;
- ii. Developing and providing training, education, support, and awareness programs or web-based resources, including reasonable compensation for qualified instructors, technicians, managers, and other employees essential for these types of programs;
- iii. Facilitating access to broadband services, including, but not limited to, making public computer centers accessible to the disabled;
- iv. Installing or upgrading broadband facilities on a one-time, capital improvement, basis in order to increase broadband capacity;
- v. Constructing, acquiring, or leasing a new facility, provided that the applicant explains why it is necessary to construct, acquire, or lease a new facility to facilitate public access to broadband services or expand computer center capacity;
- vi. Funding reasonable indirect costs consistent with the principles outlined in Section V.E.1. of this NOFA;”

[NOTE: The first three eligible costs above are the same as in NOFA1, (though with added examples). However, the second NOFA also adds three additional eligible costs (iv, v, and vi). This NOFA also clarifies that pre-application expenses are eligible costs, including costs up to the award of the grant, and up to 5%. (p. 44)

“While some of the costs associated with the activities enumerated above may be properly classified as operating expenses, an applicant should describe in its application how it intends to cover the operating expenses of the project after the grant period expires.”

[NOTE: It does not appear to clarify whether the monthly expenses of broadband connections are eligible.]

Eligible Costs of SBA Program:

“Projects under this category are aimed at providing broadband education, awareness, training, access, equipment, and support in order to stimulate sustainable adoption of broadband services by individuals, households, and community anchor institutions. In this context, sustainable means adoption (*i.e.*, subscription to broadband service) that the consumer or institution can and will continue to pay for after the award period.”

[NOTE: This drops the reference to businesses that was in the first NOFA and changes “institutions” to community anchor institutions.” It also clarifies that “sustainable” is supposed to refer to the “adoption”, not to the “sustainability” of the SBA program.]

SBA Eligible Costs:

“i. Acquiring broadband-related equipment, instrumentation, networking capability, hardware and software, and digital network technology for broadband services; [NOTE: Adds “instrumentation, networking capability” that was not in SBA category before, though it was in PCC category before.]

“ii. Developing and providing training, education, support, and awareness programs, as well as web-based content that is incidental to the program’s purposes, and includes reasonable compensation for qualified instructors for these types of programs; [NOTE: this appears to limit “web-based content” by adding “incidental to the program’s purposes”. Clarifies that compensation for qualified instructors is an eligible expense.]

“iii. Conducting broadband-related public education, outreach, support, and awareness campaigns; [No change]

“iv. Implementing programs to facilitate greater access to broadband service, devices, and equipment; [NOTE: drops the word “innovative” that used to appear before “programs.” Probably inadvertent, as other provisions still contain the word.]

v. Funding reasonable indirect costs consistent with the principles outlined in Section V.E.1. of this NOFA;”

includes same language on pre-application expenses as PCC program. (p. 45)

Ineligible Costs of SBA program:

“BTOP grant funds may not be used for expenses or purchases that are not used predominantly for the provision of broadband education, awareness, training, access, equipment, and support. Additionally, costs associated with constructing or leasing broadband facilities and infrastructure are not eligible.”

[NOTE: the second sentence is new. It’s interesting that this sentence does not appear in the list of PCC ineligible costs. Does that mean these expenses ARE eligible under PCC? Also, it’s still unclear whether monthly broadband expenses are eligible or ineligible. How could they come so close to this question and still not clarify it?]

Program Income:

“Any Program income generated by a project funded by BTOP during the grant period shall be retained by the grant recipient and shall be used in one or more of the following ways: (1) added to the funds committed to the project by NTIA and the recipient to conduct additional activities that will further eligible project objectives, including (a) reinvestment in project facilities, (b) funding BTOP compliance costs, and (c) paying operating expenses of the project; or (2) used to finance the non-federal share of the project. (p. 46)

[NOTE: In the first NOFA, program income had to be used to further eligible project objectives, including reinvestment in project facilities. The new NOFA gives award winners a bit more flexibility, including paying operating expenses or used for the match. But I thought the matching funds had to be available at the time of the award???)]

Choosing BIP or BTOP:

“Applicants that are eligible for both BIP and BTOP have the option to apply to either agency for funding for a project. However, applicants should apply to only one agency for a given project. NTIA strongly recommends that applicants that are current RUS loan or grant recipients, as well as any applicant whose project is for a Last Mile area that is at least 75 percent rural, should apply to BIP for funding.” (p. 48) [NOTE: Applicants for rural areas are encouraged but not required to apply to BIP.]

Last Mile:

“To the extent that a CCI project contains a Last Mile component in rural areas, the additional costs of offering service to residential consumers and non-community anchor institutions may not exceed more than 20 percent of the total eligible costs of the project. Additionally, the applicant must demonstrate the cost reasonableness and effectiveness of the Last Mile component of its project. Specifically, applicants must ensure that this aspect of the proposal yields total eligible project costs that are less than \$10,000 per household or per subscriber, unless the applicant can demonstrate why it should be permitted to exceed this ceiling. NTIA will look more favorably upon applications with lower costs per household or per subscriber.” (p. 49-50) [NOTE: Severely limits Last Mile services under BTOP.]

Application Requirements:

Clearly identifies what will be publicly available:

- a. The identity of the applicant and general applicant and project information;
- b. An executive summary of the project;
- c. Information regarding the proposed funded service area; and
- d. The federal grant request and cost match.”

Remainder will not be publicly available:

Nondiscrimination practices

Details on local community involvement and partnerships

Advance objectives of Recovery Act

Service offerings

Technical details

Timeline for implementation

Organization’s capacity and readiness

Project budget and funding

Financial analysis demonstrating “sustainability of the project across an eight-year forecast period.”

[NOTE: first NOFA required only 5 years]

Environmental questionnaire

Attachments (historical financial statements, proposed service offerings, competitor data, network diagram, maps, build-out timeline. Management team resumes, list of community anchor institutions, governance and key partnerships subscriber estimates, Compliance certification.)

[NOTE: Most of these are similar to first NOFA requirements, except for 8-year forecasts and list of anchor institutions. The first NOFA required a list of Congressional Districts affected by the project (perhaps NTIA has this information already).]

PCC and SBA Application Requirements: (pp. 53-54) and (p. 54-55) (identical for two programs)

Publicly available:

Identity of applicant, general project information

Executive Summary

Federal grant request and match

Not Publicly Available:

How applicant will advance objectives of Recovery Act

Viability of the project

Proposed budget and sustainability information

Environmental checklist or questionnaire

Governance and partnerships

Historical financial statements

Public center detail (NOTE: inadvertently omitted “computer”?)

Management team resumes

SF-424 budget

Detailed budget

Certifications

[NOTE: This list seems to leave out some information required in the first NOFA and information that would seem to be important, such as number of workstations, broadband speeds, outreach strategy, training and educational programs offered, accessibility by disabled, project timeline, number of new subscribers, cost per subscriber, etc. Perhaps these will be requested in the Application itself.]

Filing Instructions:

ALL applicants are required to submit their applications electronically (but applicants may seek a waiver). [NOTE: First NOFA allowed applicants requesting under \$1 million to file paper applications – not this round.]

BTOP applications must be submitted between **February 16, 2010**, at 8:00 a.m. Eastern Standard Time (EST) and **March 15, 2010**, at 5:00 p.m. Eastern Daylight Time (EDT).

[NOTE: For your planning: March 15, 2010 is a MONDAY. Daylight savings time will begin the day before, meaning that applicants will have one fewer hour to finalize and file the application. Better to get started now!]

Scoring:

The four scoring categories remain the same, but the number of “points” available has changed to give more weight to budget/financial issues. The following points apply to the four categories for all three applications (CCI/PCC/SBA):

NOFA2:

Project Purpose:	20 points	(30 points in first NOFA)
Project Benefits:	20 points	(25 points in first NOFA)
Project Viability:	30 points	(25 points in first NOFA)
Project Sustainability	30 points	(20 points in first NOFA)

Some of the key points in each category:

CCI:

Purpose: (pp. 57-58)

Meets purposes of Recovery Act, including health care, education, and children
Special emphasis on job creation, but includes a balance of cost efficiency and jobs.
Ability to work with Indian tribes and socially disadvantaged small businesses.

Benefits:

Level of Need, whether there are service providers already present in the area.

Percentage of projected end users in unserved or underserved areas.

“Reviewers will consider the extent to which the proposed project will comprehensively meet, whether directly or indirectly, the key broadband needs of the communities within the proposed funded service area, particularly the need for Middle Mile capacity. This should include consideration of services for the community anchor institutions in the area(s), and access, transport, and wholesale services for other broadband service providers. Reviewers should give particular weight to services provided to community anchor institutions, especially those in unserved and underserved areas, as well as any community colleges within the proposed funded service area, whether or not they are located in unserved and underserved areas.” (p. 59)

“Reviewers also should consider the extent to which the project will provide, directly or indirectly, residential and business broadband services within the proposed funded service area(s).” (p. 60)

[NOTE: First NOFA evaluated “Impact” by considering the number of end-points and points of interconnection to last mile networks” as well as new end users. The first NOFA was problematic; NOFA2 seems more appropriate for anchor institution/Middle Mile networks. As indicated in its summary, this section drops the requirement to have at least one point of interconnection in an unserved/underserved area and instead gives a preference for such areas and also encourages but does not require service to residential and business consumers. There is also a bit more emphasis on scalability and offering more than the minimum broadband speeds in NOFA2.]

Viability:

Same as first NOFA, except that NOFA2 drops the discussion of “ability to start promptly.”

Budget and Sustainability:

Similar to Round 1 NOFA, except that “Additional consideration will be given to applicants that provide a cost match of 30 percent or greater of the total eligible costs of a project.” [NOTE: NOFA1 said only that additional consideration would be given to those who exceed the minimum match, so the only real change is the 30% figure.]

PCC Program Scoring:

Purpose:

Same as for CCI

Benefits:

Availability to the public, capacity, hours of availability, public outreach, access by disabled, etc.

[Identical to the first NOFA]

Except for new provision:

“iv. Projects in Community Colleges. Reviewers will grant consideration to applicants that will create computer centers in community colleges, especially where the applicant can demonstrate that such computer centers will deliver substantive benefits to the college’s core mission.” (p. 65)

[NOTE: This provision is entirely new. Note just “create”, not “expand or enhance”?]

Sustainability:

[NOTE: The PCC program does NOT suggest additional consideration for having 30% match (as in CCI program). There is not even encouragement for “exceeding” the minimum match as in the first NOFA. The second NOFA does, however, continue to recognize “additional consideration” for cash matches.]
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SBA Program Scoring:

Purpose:

Same as CCI and PCC

Benefits:

“i. Number of New Subscribers. Applications will be scored on the number of new broadband subscribers and other regular users the project will generate. Reviewers will take into consideration both the overall number of new subscribers and users and the proportion that these new subscribers and users represent of the number of non-subscribers and non-users in the relevant area. Reviewers also will consider the applicant’s plan to effectively track and measure the benefits generated by the project.” [NOTE: The heading uses the term “Subscribers”, whereas NOFA1 used the term “users.” The text of both NOFAs, however, uses “subscribers and users”. NOFA2 also adds the final sentence regarding ‘tracking and measuring.’]

“iv. Support for Vulnerable Populations. Reviewers will evaluate applications on their level of support for vulnerable populations. In this regard, reviewers will assess both the numbers of people in vulnerable populations likely to be affected by the project as well as the steps that the applicant plans to take to engage and address the specific needs of those populations.” [NOTE: This provision is entirely new.]

Viability:

Details of the budget, organizational capability, level of community involvement. [NOTE: same as NOFA 1 and same as PCC program.]

Sustainability:

“Reviewers will consider whether the increases in broadband adoption rates in the project area caused by the project will be sustained beyond the conclusion of the project.” [NOTE: NOFA1 said sustainability would also include whether “the project will be sustained beyond the funding period.” This sentence is dropped in NOFA2. The only sustainability measure in NOFA2 is whether the subscribers continue to subscribe. I wonder how anyone can measure this?]

SBA program has the same language regarding the match as the PCC program. Only 20% match required, and preference for cash match.

Awards will begin on rolling basis in June, 2010.

Sale or Lease of Project Assets:

“The sale or lease of any portion of the award-funded broadband facilities or equipment during the life of the facilities or equipment is prohibited, except as provided herein.” (p. 71)

“NTIA will consider a petition for waiver of the above restriction if: (a) the transaction is for adequate consideration; (b) the purchaser or lessee agrees to fulfill the terms and conditions relating to the

project after such sale or lease; and (c) the transaction would be in the best interests of those served by the project. The petition for waiver may be submitted at any time during the life of the award-funded facilities and equipment, and it must include supporting documentation and justification regarding why the petition should be granted.” [NOTE: This is more relaxed than the first NOFA, which only allowed waivers after 10 years. The SHLB Coalition also asked for this waiver to be relaxed to encourage private sector companies to seek funding.]