Testimony of
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Before the
Committee on Energy and Commerce
Subcommittee on Communications and Technology
United States House of Representatives

H.R. _____, a Bill to Clarify NTIA and RUS Authority to Return Reclaimed Stimulus
Funds to the U.S. Treasury

April 1, 2011

I.   Introduction

Chairman Walden, Ranking Member Eshoo, Vice Chairman Terry, and Members of the

Subcommittee, thank you for your invitation to testify on behalf of the National

Telecommunications and Information Administration (NTIA) regarding the implementation of

the Broadband Technology Opportunities Program (BTOP) and State Broadband Data and

Development (SBDD) Program. I am very pleased to highlight NTIA's progress in achieving

President Obama's vision of a nationwide, 21st century communications infrastructure, our

efforts to expand broadband access and adoption in the United States, and our success in

launching the National Broadband Map. I would like to commend Secretary Locke for his strong

leadership and support in advancing this important program, and also recognize our colleagues at

the U.S. Department of Agriculture, particularly Administrator Jonathan Adelstein, for their

collaboration as we have worked to fulfill the President's broadband vision.

As the President made clear in his State of the Union address, broadband is a key

component of the Administration's plan for winning the future, and NTIA plays an important

role in that mission. Broadband serves as a key engine of economic growth and opportunity. In

the near-term, investments in broadband infrastructure will create jobs by supporting the installation and upgrade of fiber-optic networks and other high-tech components. Public computer centers will offer critical job and educational training as well as Internet access for those who lack access or cannot afford this technology at home. Sustainable broadband adoption efforts will help low-income and other vulnerable populations learn about the benefits of broadband technologies and become proficient in computer-related skills. In the long-term, expanding broadband access and adoption will facilitate small business growth and innovation, enhance health care delivery, promote energy independence, improve public safety, and lay a foundation for long-term economic development in communities throughout the United States.

In awarding grants, NTIA sought to fulfill all of the purposes of the Recovery Act by addressing unmet broadband needs in unserved and underserved areas of the nation as well as improving access for critical anchor institutions – schools, libraries, hospitals – and public safety agencies. NTIA found that the strongest, most sustainable proposals were those where communities took a comprehensive approach in defining their critical broadband needs. These projects proposed to invest primarily in "middle mile" broadband infrastructure – the vital link between the national Internet backbone and the local broadband connections to homes and small businesses – as well as to provide community anchor institutions with new or improved Internet connections at significantly higher speeds. Community anchor institutions—such as schools, libraries, hospitals, and public safety facilities—generally demand much faster speeds than typical household consumers. In many communities, however, such capabilities were previously unattainable.

Adequate middle mile infrastructure is not only essential for anchor institutions to fulfill their missions, but is also a critical enabler of "last mile" broadband service to homes and local

businesses. Investments in middle mile facilities have the potential to catalyze millions of dollars in additional private sector investment, as local broadband providers utilize the new BTOP-funded infrastructure to expand or enhance their own Internet service for households and businesses throughout America. The potential of the infrastructure projects we funded to expand the nation's broadband capabilities significantly is on its way to becoming a reality.

After a rigorous and highly-competitive application process, NTIA selected over 230 significant investments from the 2,800 BTOP applications we received that requested over $36 billion in funding. Under the SBDD program, NTIA also funded 56 states and territories to collect broadband map information through 2015 and to build their own broadband capabilities such as state and local task forces to address specific challenges to broadband deployment and availability, technical assistance to help anchor institutions and small businesses use broadband more effectively, and research to identify barriers to adoption. I am extremely pleased with our strong portfolio of projects. They will bring critical benefits to the American people, including fostering economic growth and job creation, and increasing broadband access and adoption.[1]

II.   Progress in Achieving Program Objectives

Since completing the grant awards last September, NTIA has been focused on providing vigorous oversight and high-quality technical assistance to grantees to ensure they complete their projects on schedule, within budget, and deliver the promised benefits to the communities they serve. I am pleased to report that BTOP projects have already made significant progress in achieving these goals. For example:

- In Michigan, Merit Network has broken ground on its project that will deploy 2,287 miles of open-access, advanced fiber-optic network through rural and underserved communities

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[1] More detailed information regarding BTOP-funded projects can be found in the BTOP Grant Overview Report available at http://www.ntia.doc.gov/reports/2010/NTIA_Report_on_BTOP_12142010.pdf and at http://www2.ntia.doc.gov/.

in Michigan's Lower and Upper Peninsulas. The $130 million REACH-3MC project intends to provide access for 105 community anchor institutions and spur deployment of affordable broadband to households and businesses that lack adequate service options in 52 counties. Currently, the grantee is able to provide 1 gigabit per second (Gbps) service in only 30 counties in Michigan (36 percent). With its BTOP grants, Merit predicts it will be able to offer 1 Gbps or greater service to 77 of 83 counties, or 93 percent of the state.

- The OneCommunity "Connect Your Community" project has provided computer training to more than 3,000 citizens across Cleveland and Akron, Ohio; Detroit, Michigan; Lexington, Kentucky; and Bradenton, Florida. Aimed at expanding broadband adoption in low-income communities, the program teaches participants computer basics, Internet fundamentals, online safety and privacy tips, and software use. BTOP funds have also allowed OneCommunity and its partners in eight communities to hire 105 full-time employees to administer the project and provide training to users.

- In Nevada, the Las Vegas-Clark County Urban League's Public Computer Center project serves 2,500 to 3,000 users per week at its 15 new and 14 refurbished computer centers. Instructors provide computer and Internet training, and help low-income and vulnerable residents such as seniors and those in public housing find employment.   With the help of BTOP funds, the project has hired 24 full-time and six part-time personnel as instructors and supervisors, and for information technology support.

- In North Carolina, MCNC broke ground on a project that it anticipates will create more than 1,000 temporary engineering and construction jobs as well as 10 permanent jobs to manage the expansion of almost 1,800 miles of fiber-optic infrastructure to connect approximately 100 community anchor institutions in the state. Currently, MCNC is able

to provide 1 Gbps service to 12 counties (12 percent of the state). With its BTOP grant investments, MCNC predicts it will be able to serve 83 of 100 counties. This nearly 600 percent increase represents a substantial improvement in statewide broadband capabilities.

- The Maine Fiber Company has begun construction of a 1,100-mile rural high-speed Internet network in the state of Maine. The project has already improved access for the Maine Medical Center in Portland with high-capacity broadband services, facilitating the use of telemedicine and improving healthcare delivery for Maine residents.

Numerous other projects are well underway and delivering on their promised benefits for the American public. Last quarter, grant recipients reported funding approximately 1,000 jobs, and, to date, grantees have installed more than 4,000 computers for public use, with many of our grantees reporting higher than expected use at computer centers. Over 150,000 hours of broadband training has been provided to over 65,000 people. Additionally, even though most of their projects are in the early stages of construction, BTOP infrastructure awardees have entered into approximately 90 interconnection agreements with third-party providers to leverage or interconnect with their networks and are currently in negotiations with 200 more.

In all, BTOP and SBDD awardees have drawn down approximately $300 million in federal funds, or over seven percent of obligated funds. I am confident that our projects are making significant progress in achieving the goals established by Congress in the Recovery Act, and that we are taking all appropriate steps to ensure that projects are on track to deliver timely and important benefits to the American people.

III.   Monitoring, Oversight, and Technical Assistance

Protecting the federal funds we are spending and the investments we are making is of paramount importance to NTIA. As the members of the Subcommittee are well aware, achieving these objectives is challenging and requires NTIA to perform diligent oversight and provide technical assistance to our awardees. We are very appreciative of the bipartisan support shown by this Subcommittee's leadership for NTIA's ongoing broadband grant administration and management funding needs. As a large and complex program that chose innovative projects to meet real needs in America, BTOP continues to raise novel issues, some of which have the potential to impact the progress of BTOP projects. For example:

- NTIA funded projects ranging from approximately $175,000 to more than $150 million to a wide variety of recipient types, many of which are first-time Federal grant recipients. Projects of such varying size, scope, and structure must follow numerous Federal grant rules, which require our staff to work closely with each recipient to ensure oversight and assistance are appropriately tailored to awardees' unique circumstances and needs, and that recipients follow all proper procedures.

- Before they can begin construction, the majority of BTOP infrastructure awardees must complete and submit environmental and historic preservation documentation in compliance with the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA), and the Endangered Species Act (ESA). These processes can take significant time and resources, and we have worked hard to find win-win solutions to enable much-needed projects to move forward in full compliance with these important laws. NTIA has cleared 47 of 118 projects to proceed to construction and 46 others are in the final stages of review.

- To fulfill the broadband needs of their communities in the most comprehensive manner possible, grant recipients often incorporate multiple partners in the implementation of their projects. Federal grant rules impose a uniform framework on the classification of these partnerships, the obligations of various project collaborators, and the federal security interests required for property acquired or improved with federal funds. NTIA works closely with recipients to help ensure their compliance.

- To meet the matching funds requirements of BTOP grants, recipients employed a variety of resources, including cash and third-party in-kind contributions, which NTIA must ensure are properly valued. In some cases, this activity requires substantial time and resources on the part of recipients and the government.

To solve each issue that arises, yet maintain the rigorous implementation schedule demanded of BTOP projects, NTIA has put into action a program-wide oversight strategy to mitigate waste, fraud, and abuse, to ensure compliance with award conditions, and to monitor each project's progress toward its timely completion. This rigorous framework includes a set of integrated activities, including individual grant monitoring, portfolio management, and program support.

NTIA is directly and frequently engaged with award recipients via regularly scheduled conference calls, email exchanges, drop-in calls on specific administrative or programmatic topics, and in-person conferences. These contacts serve as both a monitoring tool and a means to reinforce the terms and conditions associated with each award, and helps ensure that NTIA quickly addresses challenges that arise during implementation. As part of this monitoring approach, NTIA has instituted a robust process for identifying and escalating issues that require intervention in order to keep projects on track. We assign monitoring levels to recipients based

7

on a risk analysis incorporating multiple factors, such as grantee past performance, experience, and project scope, and adjust oversight levels accordingly.

The technical assistance, oversight, and outreach activities that we have conducted to date include the following:

- holding two multi-day grantee conferences on key project implementation topics;[2]

- creating more than 15 relevant fact sheets;[3]

- hosting over 40 webinars and drop-in conference calls to provide guidance on key compliance topics;[4]

- conducting at least bi-weekly conference calls with each grant recipient;

- publishing Recipient Handbooks;[5]

- providing an online workspace and collaboration tool for grantees;

- delivering monthly recipient newsletters and as-needed emails regarding training, lessons learned, and answers to frequently asked questions;

- publishing a comprehensive monitoring plan and site visit checklist online;[6] and

- visiting 72 projects totaling $2.2 billion in federal awards by the end of June to safeguard taxpayer investments.

A goal of NTIA's rigorous outreach, oversight, and monitoring is to identify issues early in the process and resolve them promptly. In two cases, our oversight has led to grantee's deciding to terminate their awards. In both of these cases, NTIA worked with the awardees proactively to identify and address issues that could have jeopardized the ultimate success of the

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[2] Presentations from these conferences can be found at http://www2.ntia.doc.gov/Workshops.
[3] Fact Sheets can be found at http://www2.ntia.doc.gov/ManagementResources.
[4] Some of the webinars are available online at http://www2.ntia.doc.gov/management.
[5] The Recipient Handbook can be found at http://www2.ntia.doc.gov/ManagementResources.
[6] BTOP's Monitoring Plan and Site Visit Checklist are available at http://www2.ntia.doc.gov/reporting.

projects and wasted taxpayer dollars. While I am disappointed that these particular projects in Indiana and Wisconsin will not realize their intended benefits, I do believe that these experiences underscore the importance, and essential value, of NTIA's strong federal oversight and monitoring of its BTOP projects, and highlight its commitment to working closely and proactively with all awardees to ensure the success of the program as a whole.

The Fiscal Year 2012 President's Budget includes $32.3 million to support the administration of broadband programs. This level of funding, and the staffing it supports, is critical to ensure that NTIA can continue its oversight and administration of grants, to ensure continued adequate levels of performance by awardees, and to prevent waste, fraud, or abuse of federal funds.

IV.   State Broadband Data and Development (SBDD) Program

In addition to Recovery Act grants for broadband infrastructure, public computer centers, and sustainable broadband adoption, NTIA awarded $293 million in grants to every state, territory, and the District of Columbia or their designees for broadband data collection, planning, and capacity building initiatives. As a result of these grants, on February 17, 2011 NTIA, in collaboration with Federal Communications Commission (FCC), unveiled the National Broadband Map – the first public, searchable nationwide map of consumer broadband Internet availability in the United States. The National Broadband Map, available at www.broadbandmap.gov, is an unprecedented searchable database of information on high-speed Internet access using data collected from 1,650 unique broadband providers and other data sources. To make the website as accessible and transparent as possible, users can view the data in a variety of ways, from address searches to national and state rankings to maps that display broadband speeds and number of providers.

The website resulting from this Federal-state partnership includes more than 25 million searchable records showing where broadband Internet service is available, the technology used to provide the service, the maximum advertised speeds, and the names of the service providers. The website also contains information about the broadband speeds utilized by community anchor institutions across the county. It is the most granular and transparent dataset of broadband availability that has ever been published. Among the results of this tool, the map shows that between 5 - 10 percent of Americans lack access to broadband at speeds that support a basic set of today's broadband-rich applications and services while retaining sufficient capacity for web browsing and e-mail. It also demonstrates that community anchor institutions appear to be largely underserved. For example, based on studies by state education technology directors, most schools need a connection of 50 to 100 Mbps per 1,000 students. The National Broadband Map data show, however, that two-thirds of surveyed schools subscribe to speeds lower than 25 Mbps. In addition, 96 percent of libraries reported subscribing to speeds lower than 25 Mbps. The map also shows that approximately 36 percent of Americans have access to wireless Internet service at maximum advertised download speeds of 6 Mbps or greater, which some consider the minimum speed associated with "4G" wireless broadband service.

Already, nearly a half a million unique users have utilized the site, which can serve a range of interests. For example, Federal, state, and local policymakers can compare broadband availability among geographic areas and across demographic groups, which can inform policies to support private sector investments in deploying broadband. The data can assist broadband providers in assessing new business opportunities and economic developers as they work to attract businesses to, or address barriers to investment in, their communities. The map will also help consumers and small businesses learn about the broadband service options in their

neighborhoods or where they may relocate. Private sector companies can integrate the data into their own online offerings or applications – for example, a website that lists homes on the market could include a description of broadband availability by using our broadband data. And various stakeholders have downloaded all of the public data more than 500 times already, allowing additional and more granular analysis than what is already on the website. We look forward to the public – including researchers and industry – using this data in a variety of innovative ways and helping us refine and improve it by, among other things, using the map's crowdsourcing tools to provide feedback about this granular data.

In addition to the development and ongoing maintenance of the National Broadband Map, which we will update every six months, the SBDD grants are playing a critical role by providing support to states and territories as they identify and address obstacles to broadband deployment and adoption. Our State Broadband Initiative has empowered states to fashion solutions tailored to their unique broadband needs, has supported state and local task forces and planning teams to expand broadband awareness and adoption, and has enabled new efforts to make government more responsive to citizens in this new digital economy. By providing coordination to this new network of state broadband activity, the State Broadband Initiative is facilitating collaboration among the states, enabling the exchange of best practices and lessons learned. This is yet another way that we intend to leverage our grants to help share best practices and win the future.

V. Collaboration with the Office of Inspector General

I am grateful for the ongoing efforts of the Department of Commerce's Office of Inspector General (OIG) in helping to oversee NTIA's broadband programs and to prevent waste, fraud, and abuse of taxpayer dollars. NTIA and the OIG have worked closely and

collaboratively to implement BTOP in the most responsible and efficient manner possible. Last

November, the OIG issued a report finding that NTIA had made significant progress in

establishing systems to administer and manage grants, but suggested additional steps to

strengthen post-award oversight, such as clarifying roles and responsibilities among Department

of Commerce agencies, enhancing information technology systems, documenting policies and

procedures, bolstering internal controls over professional development, and improving the

timeliness and efficiency of some monitoring activities.[7] In response, NTIA has taken all

appropriate actions to satisfy the OIG's recommendations and continues to identify ways to

further strengthen the program.

The OIG's most recent report also warned that the uncertainty of future funding for

BTOP administration raised significant concerns about the adequacy of future BTOP grant

oversight and risked weakening NTIA's ability to combat waste, fraud, and abuse.[8] I greatly

appreciate the Subcommittee's recognizing, as our Department's OIG and the U.S. Government

Accountability Office (GAO) have urged, that effective oversight requires resources. I look

forward to working with you to ensure sufficient funding for oversight of our broadband program

and will continue working closely and cooperatively with the OIG toward our shared

commitment to protecting the public funds and taxpayer investments that are at stake in these

projects.

VI.   A Bill to Clarify NTIA and RUS Authority to Return Reclaimed Stimulus Funds to the U.S. Treasury

Toward that goal, I welcome the opportunity to comment on the draft legislation that is

the topic of this hearing. NTIA supports the ultimate goals of the bill, which are to protect

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[7] *See Broadband Program Faces Uncertain Funding, and NTIA Needs to Strengthen its Post-Award Operations*,
(Nov. 4, 2010) *available at* http://www.oig.doc.gov/oig/reports/2010/001609.html.
[8] *Id.*

against waste, fraud, and abuse and to ensure that unused or reclaimed BTOP funds are promptly returned to the Treasury. As described earlier, NTIA greatly values the work of our Inspector General and, in concert with the OIG, we have implemented a rigorous oversight program for our broadband projects. Accordingly, while we do not believe that additional steps are needed to ensure the adequate protection of taxpayer funds, NTIA has no objection if Congress believes that the reporting requirements contained in the bill – in addition to the other mechanisms already in place – would further its mission of combating waste, fraud, and abuse of federal funds. NTIA does have some concerns, however, about the specific wording of the requirement to deobligate and return funds to the Treasury and looks forward to working with the Subcommittee to clarify its intent.

I also want to take this opportunity to clear up any lingering confusion that there may be regarding whether NTIA has any ability to award additional grants. The answer is no. NTIA's authority to make new BTOP grant awards expired on September 30, 2010 and, to the extent there were any unobligated BTOP funds as of September 30, those funds expired and became unavailable at that time.[9] Moreover, should any funds be deobligated in the future, the Pay It Back Act, enacted in July 2010, requires NTIA to return withdrawn or recaptured BTOP or SBDD grant funds to the Treasury promptly and to return any remaining unobligated balances to the Treasury as of January 1, 2013.[10]

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[9] American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Div. B, Title VI, at § 6001(d)(2), 123 Stat. 115, 513 (Feb. 17, 2009) (The Assistant Secretary shall . . . ensure that all awards are made before the end of fiscal year 2010 . . . .").
[10] Pay It Back Act, Title XIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, § 1306 (Repayment of Unobligated ARRA Funds), 124 Stat. 1376, 2135-2136 (July 21, 2010). To date, NTIA has returned almost $16 million to the Treasury pursuant to this Act.

VII.   Conclusion

As demonstrated by the National Broadband Map, the overwhelming demand for BTOP funding, the level of unmet broadband needs identified by BTOP recipients, and the findings of NTIA's recent collaborations with the Census Department to identify broadband adoption trends,[11] there are still too many people and communities lacking the level of broadband service and skills needed to participate fully in the Internet economy. Addressing this challenge will be essential if we are to harness the power of broadband for economic development, innovation, and education, and lay a foundation for long-term economic opportunity in the United States. Through BTOP, the SBDD, and other initiatives, NTIA is working to address these challenges.

I want to thank and commend the bipartisan Subcommittee leadership for working to ensure that sufficient oversight funds are available to NTIA in Fiscal Year 2011 through completion of these projects. I look forward to continuing to work with the Subcommittee throughout our oversight of the broadband programs as we ensure that taxpayer dollars are spent wisely and deliver the promised benefits to the nation.

I am happy to answer your questions.

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[11] On February 17, 2011 NTIA released a report previewing data collected through the Internet Usage Survey of 54,000 households, commissioned by NTIA and conducted by the U.S. Census Bureau in October 2010. The data shows that approximately one-third of Americans remain cut off from the digital economy. The report is available at http://www.ntia.doc.gov/reports/2011/NTIA_Internet_Use_Report_February_2011.pdf.