

Stimulus Law Has At Least \$250 Million Available For Technology Companies Developing Innovative, Sustainable Adoption of Broadband Services

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April 21, 2009

The American Recovery and Reinvestment Act of 2009 has allocated approximately three quarters of a trillion dollars across a variety of industries and for a variety of purposes, some of which are well publicized and well known. Included in this stimulus package is \$4.7 billion for the Broadband Technology Opportunities Program (“BTOP”), which is to be managed and distributed by the National Telecommunications and Information Administration (“NTIA”) of the US Department of Commerce. These funds will be dispersed in three application tranches, with the first phase scheduled to be launched in May 2009. All monies must be disbursed no later than September 30, 2010, and projects must be capable of being implemented within two years after BTOP funding is awarded.

Included in BTOP is:

- \$4.35 billion for grants to, among other things, build out broadband access in unserved or underserved areas. This allocation is likely to involve funding for large-scale broadband infrastructure deployment through both wired and wireless technologies.
- At least \$250 million to support innovative, sustainable broadband adoption. This allocation is likely to be of interest to companies developing technology and software using broadband capability in healthcare, education and public safety.
- At least \$200 million to upgrade technology and capacity at public computing centers, including community colleges and public libraries. This allocation will cover transmission, hardware and software applications.

This client alert focuses on the dedicated fund of at least \$250 million that will be allocated to support innovative, sustainable adoption of broadband services (the “Innovation Fund”).

The monies deployed from the Innovation Fund may be in the form of outright grants or loans. Awards made under BTOP may not exceed 80% of the anticipated cost of a project.

BTOP grantees may include state and local governments, nonprofit entities and private companies. We believe that the Innovation Fund will be open to technology companies that provide broadband access and applications to residential and/or institutional customers in ways that foster innovative uses and sustainable adoption.

The NTIA is charged with sponsoring BTOP projects in all 50 states. We expect that there will be a number of smaller Innovation Fund awards (i.e., \$5 million or less) in order to create a robust national platform to assess how to increase sustainable broadband adoption. The NTIA currently is in the process of finalizing the procedures for grant applications. We expect the NTIA to release this information in the next few weeks. For the Innovation Fund, we anticipate that the application procedure will be a flexible process responding to criteria that NTIA provides, with emphasis on the nature of the project (e.g., size, scope, implementation and outcome metrics), the credibility of the company proposing the project and the potential impact of the project on sustainable broadband adoption.

Grants under this program can leverage equity on a four to one basis without ownership dilution. Companies who may be eligible should move rapidly to participate in BTOP, ideally with the opening of the first application window in order to maximize NTIA reviews of a funding request.

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