

NATIONAL URBAN LEAGUE

**120 Wall Street, 8th floor
New York, NY 10005**

MINORITY MEDIA AND TELECOMMUNICATIONS COUNCIL

**3636 16th St. N.W., Suite B-366
Washington, D.C. 20010**

January 21, 2009

Hon. Barack Obama
President of the United States
1600 Pennsylvania Ave. N.W.
Washington, D.C. 20500

Dear Mr. President:

RE: A Broadband Stimulus Plan To Benefit All Americans

The economic stimulus presents you with an extraordinary opportunity to put an end to second-class telecommunications citizenship.

For far too long, America's disadvantaged populations, particular people of color, have systematically been deprived of the full benefits of broadband – America's most essential and influential technology. Therefore, in the spirit of transformative inclusiveness with which your campaign captured the world's imagination, we encourage you to act decisively to ensure that the broadband portion of the economic stimulus will close the digital divide that separates rich and poor, minority and non-minority.

Summary

We urge that the broadband stimulus ensure that:

- Broadband is built out TO all Americans – including the urban and rural poor and minority communities.
- Broadband is built out BY all Americans – including minority business enterprises (MBEs) and disadvantaged business enterprises (DBEs) that train, employ and are owned by people of color, and that recirculate and reinvest money in communities of color.
- Broadband is designed to BENEFIT all Americans – offering universal, competitive, affordable and accessible high-speed services.

The Recommendations

In designing the broadband stimulus from a civil rights perspective, your administration will be writing on a nearly empty slate. Programs designed to ensure first class broadband citizenship have been terminated or are grossly under-funded. The broadband grant and loan programs

administered by the U.S. Department of Agriculture and the narrow universal service system directed by the Federal Communications Commission are worthwhile, but are far too limited in scope to produce a ubiquitous, competitive nationwide broadband infrastructure. Funding for the National Telecommunications and Information Administration's Telecommunications Opportunity Program (TOP) program was eliminated completely in 2005.

We have attached a set of legislative recommendations entitled "A Broadband Stimulus To Benefit All Americans." By including the initiatives in our plan as part of the overall stimulus package, your administration will create millions of jobs and restore America's leadership in the information age. Here are the four central elements of our recommendations:

1. Very Substantial MBE and DBE Participation In The Entire Economic Stimulus

- Every element of the entire economic stimulus package should be designed to require parties that receive a federal benefit from the stimulus to comply with all federal rules, regulations, executive orders, including but not limited to Section 8(a) federal procurement selection guidelines, agency directives, Federal Acquisition Regulations (FAR) and Defense Federal Acquisition Regulations (DFAR) regarding MBEs and DBEs.
- Contract requirements and procurement practices should be designed to avoid disqualifying entry barriers such as needlessly short deadlines, very large project experience, bundling, excessive bonding requirements and number of years in business.
- Expedited and favorable (at least tie-breaker) consideration should be afforded to bidders that voluntarily (1) include in their bids substantial first tier MBE participation beyond the minimum federal 8(a) guidelines for MBE utilization and have an established method of tracking and reporting verifiable results; (2) propose substantial initiatives to hire and train skilled and low-skilled unemployed minority labor in broadband technologies, and (3) demonstrate a substantial and verifiable history of MBE and DBE utilization in the specific technical areas of the contract.
- Your administration should design a defensible way to ensure that state procurement laws, rules, regulations and programs related directly and indirectly to MBEs and DBEs do not interfere with federal government MBE and DBE policies or provisions for utilization of socially and economically disadvantaged businesses.
- The Department of Labor should deploy national intermediary nonprofit organizations to monitor the operation of all stimulus initiatives to ensure that their contracting practices are free of entry barriers, that those performing these initiatives do not circumvent MBE and DBE requirements with sham structures or make-work projects, and that MBE and DBE participation targets are achieved with integrity and accountability.

2. Support Broadband Infrastructure Buildout With A Direct Loan Program

- The Broadband Bonds concept would maximize the number of jobs created per federal dollar. Direct loans should be available for fiber, wireless, satellite or other appropriate technologies, and should cover rural, urban and minority community broadband enablement and infrastructure expansion, including the last mile to the consumer.
- The top priority should be delivering first class service to broadband-deprived low income, minority and multilingual urban and rural communities. The FCC should gather and publish meaningful data on the extent of broadband access by census tract, detailing the level of broadcast facilities available to American neighborhoods. Urban, low-income, communities of people of color and rural communities should all be included in broadband updates in a timely fashion. Further, it is vital that already-wired communities receive supplemental infrastructure that will deliver the same high speeds as those designed into new rural infrastructure. To help ensure that minority communities will enjoy first class infrastructure, Troubled Assets Relief Program (TARP) funding should be made available to minority lending institutions and other community banks for direct loans to broadband MBEs and DBEs.

3. Stimulate MBE And DBE Participation In Telecommunications With Tax Incentives

- Broadband stimulus tax credits should allow for transferability by MBEs and DBEs, thereby (1) creating a buildout incentive for earlier stage MBE and DBE companies that have not yet achieved mature, taxable levels of cash flow, and (2) ensuring that large companies are not the sole beneficiaries of these tax credits. All MBEs and DBEs also should be permitted to earn a 25% incremental tax credit. MBEs and DBEs disproportionately serving minority and disadvantaged customer segments should be permitted to earn an additional 25% incremental tax credit.
- Congress should reinstate the FCC's Tax Certificate Policy immediately and extend it to telecommunications. In effect from 1978 until Congress unwisely repealed it in 1995, this policy permitted those selling FCC-regulated media properties to minorities to defer capital gains taxes on the sale. This bipartisan policy quintupled the number of minority owned broadcast stations in 17 years. Industry leaders and the FCC are of one voice in seeking the restoration of the Tax Certificate Policy, which could again be so vital in unlocking the managerial and entrepreneurial potential of entrepreneurs of color.

4. Provide Substantial Support For Broadband Innovation And Training

- The Telecommunications Opportunity Program (TOP) should be reinstated immediately. From its creation as part of the Telecommunications Act of 1996 until 2005, this innovative NTIA program seeded broadband adoption and telecom literacy for low-income, minority and multicultural consumers and fostered creative broadband utilization by schools and community-based institutions. TOP should be reinstated and expanded to provide technical assistance and training for emerging telecom MBEs and DBEs.

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- To ensure that the stimulus creates jobs where they're needed most, the stimulus should provide substantial funding for broadband infrastructure installation and maintenance training of minority unemployed and underemployed workers who live in broadband-deprived urban and rural areas. This program would be ideal for administration by the Department of Labor in conjunction with the Department of Commerce. Those eligible for support should include contractors, subcontractors, community-based institutions, Historically Black Colleges and Universities (HBCUs), Hispanic Serving Institutions (HSIs) and Native American Serving Institutions (NASIs).
- To address the paucity of telecommunications MBEs and DBEs and trained minority technicians, Congress should establish and appropriately fund a National Minority Broadband Training and Technical Council within the Department of Commerce to provide policy guidance, information, technical support and coordination for a strategy to increase the number of minority broadband and wireless infrastructure companies and technicians.

Conclusion

Through these initiatives, your administration can ensure that broadband is built out to all Americans irrespective of race, income or geography, by all Americans, including MBEs and disadvantaged MBEs, and be designed to benefit all Americans by providing them with universal, competitive, affordable, accessible and fast broadband service.

Sincerely,

Marc Morial

Marc H. Morial
President and CEO
National Urban League

David Honig

David Honig
President and Executive Director
Minority Media and Telecommunications Council

A BROADBAND STIMULUS PLAN TO BENEFIT ALL AMERICANS

National Urban League Minority Media and Telecommunications Council

January 21, 2009

Key Objectives:

- Broadband must be built out TO all Americans – including the urban and rural poor and minority communities.
 - Broadband must be built out BY all Americans – including minority business enterprises (MBEs) and disadvantaged business enterprises (DBEs) that train, employ and are owned by people of color, and that recirculate and reinvest money in communities of color.
 - Broadband must be designed to BENEFIT all Americans – offering universal, competitive, affordable and accessible high-speed services.
- I. Ensure Very Substantial Participation Of MBEs And DBEs In The Entire Stimulus Package
- A. Parties (to include, but not be limited to, utilities, prime contractors, state and local governments, regional authorities, non-profits, institutions of higher education, and quasi-government agencies such as Tennessee Valley Authority) that receive a federal benefit from the stimulus must comply with all federal rules, regulations, executive orders, including but not limited to Section 8(a) federal procurement selection guidelines, agency directives, Federal Acquisition Regulations (FAR) and Defense Federal Acquisition Regulations (DFAR) regarding MBEs and DBEs.
- B. Absent a truly compelling business necessity (these exceptions should be defined in the legislation and implementing regulations), all contract requirements and procurement practices that could ensure the underutilization or exclusion of most MBEs and DBEs should be avoided, including:
1. Needlessly short deadlines for commencement and completion of a project
 2. Previous “very large project” experience
 3. Bundling of small and medium sized projects into large packages
 4. Excessive bonding requirements
 5. Number of years in business

- C. Establish expedited and favorable (at least tie-breaker) consideration to prime contractors that:
 - 1. Voluntarily include in their bids genuine and substantial 1st tier MBE participation beyond the minimum federal 8(a) guidelines for MBE utilization, and have an established method to track and report verifiable outcomes on a periodic basis.
 - 2. Propose substantial initiatives to hire and train skilled and low-skilled unemployed minority labor in broadband technologies.
 - 3. Demonstrate a substantial and verifiable history of MBE utilization in the specific technical areas of the contract (e.g. design, construction and testing) rather than the company's overall record of MBE utilization, which may include janitorial and related services dominated by MBE but having nothing to do with broadband and wireless technical services.
 - D. Design a defensible way to ensure that state procurement laws, rules, regulations and programs related directly and indirectly to MBEs do not interfere with federal government MBE policies or provisions for utilization of socially and economically disadvantaged businesses.
 - B. The Department of Labor should deploy national intermediary nonprofit organizations to monitor the operation of all stimulus initiatives to ensure that their contracting practices are free of entry barriers, that those performing these initiatives do not circumvent MBE and DBE requirements with sham structures or make-work projects, and that MBE and DBE participation targets are achieved with integrity and accountability.
- II. Support Broadband Infrastructure Buildout With A Direct Loan Program
- A. Implements the Broadband Bonds concept to ensure maximum cost-benefit impact
 - B. Technology independent – could include fiber, wireless, satellite or other appropriate technologies
 - C. Covers rural, urban, and minority community infrastructure and buildout
 - D. Covers both broadband enablement and the last mile to the consumer
 - E. The top priority is first class service to broadband-deprived low income, minority and multilingual rural or urban communities. The FCC should gather and publish meaningful data on the extent of broadband access by census tract, detailing the level of broadcast facilities available to American neighborhoods. Urban, low-income, communities of people of color and rural communities should all be included in broadband updates in a timely fashion. Further, it is vital that already-

wired communities receive supplemental infrastructure that will deliver the same high speeds as those designed into new rural infrastructure.

- F. Provide Troubled Assets Relief Program (TARP) funding to minority lending institutions and other community banks for direct loans to broadband MBEs and DBEs.

III. Stimulate MBE And DBE Participation In Telecommunications With Tax Incentives

A. Structure the Broadband Stimulus Tax Credits to Permit MBE and DBE Participation

1. The broadband stimulus tax credits currently contemplated should allow for transferability by MBEs and DBEs in order to fairly provide a broadband buildout incentive to MBE and DBE carriers that are not yet taxable (e.g. earlier stage, growth companies that have not achieved mature, taxable cash flows levels). Absent this provision, the tax credit benefit flows 100% to established telecommunications companies with mature businesses, and earlier stage MBE and DBE companies would yield zero benefit for delivering new broadband services – certainly not the intent of tax credit policy.
2. MBEs should be permitted to earn tax credits that exceed those allotted to companies generally:
 - 25% incremental tax credit allowance to MBEs and DBEs generally, and
 - An additional 25% incremental tax credit allowance for MBEs and DBEs that disproportionately serve (e.g., 35% of customers) minority and disadvantaged customer segments with broadband services.
3. Immediate restoration of the Tax Certificate Policy and extension of the policy to telecommunications. In effect from 1978 until Congress unwisely repealed it in 1995, this policy permitted those selling FCC-regulated media properties to minorities to defer capital gains taxes on the sale. This bipartisan policy quintupled the number of minority-owned broadcast stations in 17 years. Industry leaders and the FCC are of one voice in seeking the restoration of the Tax Certificate Policy and its extension to telecommunications as a means of unlocking the managerial and entrepreneurial potential of entrepreneurs of color.

IV. Provide Substantial Support For Broadband Innovation And Training

A. Restoration and substantial funding for the Telecommunications Opportunity Program (TOP), with a mission to develop:

1. Innovative ways to stimulate broadband adoption and telecom literacy for low-income, minority and multicultural consumers

2. Creative broadband utilization by schools and community-based institutions
 3. Provide technical assistance and training for emerging telecom MBEs.
- B. Substantial funding for training of minority un-employed and under-employed workers living in broadband-deficient urban and rural areas in broadband infrastructure installation and maintenance
1. The Department of Labor should fund and administer this initiative in conjunction with the Department of Commerce.
 2. Funds should be awarded to contractors and subcontractors, as well as Historically Black Colleges and Universities (HBCUs), Hispanic Serving Institutions (HSIs) and Native American Serving Institutions (NASIs).
- C. To address the paucity of telecommunications MBEs and trained minority technicians, Congress should establish and appropriately fund a National Minority Broadband Training and Technical Council within the Department of Commerce to provide policy guidance, information, technical support and coordination for a strategy to increase the number of minority broadband and wireless infrastructure companies and technicians.

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