

shall expand the American Community Survey conducted by the Bureau of the Census to elicit information for residential households, including those located on native lands, to determine whether persons at such households own or use a computer at that address, whether persons at that address subscribe to Internet service and, if so, whether such persons subscribe to dial-up or broadband Internet service at that address.

**(e) Proprietary information**

Nothing in this chapter shall reduce or remove any obligation the Commission has to protect proprietary information, nor shall this chapter be construed to compel the Commission to make publicly available any proprietary information.

(Pub. L. 110-385, title I, § 103, Oct. 10, 2008, 122 Stat. 4096.)

CODIFICATION

Section is comprised of section 103 of Pub. L. 110-385, Subsec. (a) of section 103 of Pub. L. 110-385 amended section 1302 of this title.

**§ 1304. Encouraging State initiatives to improve broadband**

**(a) Purposes**

The purposes of any grant under subsection (b) are—

- (1) to ensure that all citizens and businesses in a State have access to affordable and reliable broadband service;
- (2) to achieve improved technology literacy, increased computer ownership, and broadband use among such citizens and businesses;
- (3) to establish and empower local grassroots technology teams in each State to plan for improved technology use across multiple community sectors; and
- (4) to establish and sustain an environment ripe for broadband services and information technology investment.

**(b) Establishment of State broadband data and development grant program**

**(1) In general**

The Secretary of Commerce shall award grants, taking into account the results of the peer review process under subsection (d), to eligible entities for the development and implementation of statewide initiatives to identify and track the availability and adoption of broadband services within each State.

**(2) Competitive basis**

Any grant under subsection (b) shall be awarded on a competitive basis.

**(c) Eligibility**

To be eligible to receive a grant under subsection (b), an eligible entity shall—

- (1) submit an application to the Secretary of Commerce, at such time, in such manner, and containing such information as the Secretary may require;
- (2) contribute matching non-Federal funds in an amount equal to not less than 20 percent of the total amount of the grant; and
- (3) agree to comply with confidentiality requirements in subsection (h)(2) of this section.

**(d) Peer review; nondisclosure**

**(1) In general**

The Secretary shall by regulation require appropriate technical and scientific peer review of applications made for grants under this section.

**(2) Review procedures**

The regulations required under paragraph (1) shall require that any technical and scientific peer review group—

- (A) be provided a written description of the grant to be reviewed;
- (B) provide the results of any review by such group to the Secretary of Commerce; and
- (C) certify that such group will enter into voluntary nondisclosure agreements as necessary to prevent the unauthorized disclosure of confidential and proprietary information provided by broadband service providers in connection with projects funded by any such grant.

**(e) Use of funds**

A grant awarded to an eligible entity under subsection (b) shall be used—

- (1) to provide a baseline assessment of broadband service deployment in each State;
- (2) to identify and track—
  - (A) areas in each State that have low levels of broadband service deployment;
  - (B) the rate at which residential and business users adopt broadband service and other related information technology services; and
  - (C) possible suppliers of such services;
- (3) to identify barriers to the adoption by individuals and businesses of broadband service and related information technology services, including whether or not—
  - (A) the demand for such services is absent; and
  - (B) the supply for such services is capable of meeting the demand for such services;
- (4) to identify the speeds of broadband connections made available to individuals and businesses within the State, and, at a minimum, to rely on the data rate benchmarks for broadband service utilized by the Commission to reflect different speed tiers, to promote greater consistency of data among the States;
- (5) to create and facilitate in each county or designated region in a State a local technology planning team—
  - (A) with members representing a cross section of the community, including representatives of business, telecommunications labor organizations, K-12 education, health care, libraries, higher education, community-based organizations, local government, tourism, parks and recreation, and agriculture; and
  - (B) which shall—
    - (i) benchmark technology use across relevant community sectors;
    - (ii) set goals for improved technology use within each sector; and
    - (iii) develop a tactical business plan for achieving its goals, with specific recommendations for online application development and demand creation;

(6) to work collaboratively with broadband service providers and information technology companies to encourage deployment and use, especially in unserved areas and areas in which broadband penetration is significantly below the national average, through the use of local demand aggregation, mapping analysis, and the creation of market intelligence to improve the business case for providers to deploy;

(7) to establish programs to improve computer ownership and Internet access for unserved areas and areas in which broadband penetration is significantly below the national average;

(8) to collect and analyze detailed market data concerning the use and demand for broadband service and related information technology services;

(9) to facilitate information exchange regarding the use and demand for broadband services between public and private sectors; and

(10) to create within each State a geographic inventory map of broadband service, including the data rate benchmarks for broadband service utilized by the Commission to reflect different speed tiers, which shall—

(A) identify gaps in such service through a method of geographic information system mapping of service availability based on the geographic boundaries of where service is available or unavailable among residential or business customers; and

(B) provide a baseline assessment of statewide broadband deployment in terms of households with high-speed availability.

**(f) Participation limit**

For each State, an eligible entity may not receive a new grant under this section to fund the activities described in subsection (d) within such State if such organization obtained prior grant awards under this section to fund the same activities in that State in each of the previous 4 consecutive years.

**(g) Reporting; broadband inventory map**

The Secretary of Commerce shall—

(1) require each recipient of a grant under subsection (b) to submit a report on the use of the funds provided by the grant; and

(2) create a web page on the Department of Commerce website that aggregates relevant information made available to the public by grant recipients, including, where appropriate, hypertext links to any geographic inventory maps created by grant recipients under subsection (e)(10).

**(h) Access to aggregate data**

**(1) In general**

Subject to paragraph (2), the Commission shall provide eligible entities access, in electronic form, to aggregate data collected by the Commission based on the Form 477 submissions of broadband service providers.

**(2) Limitation**

Notwithstanding any provision of Federal or State law to the contrary, an eligible entity shall treat any matter that is a trade secret,

commercial or financial information, or privileged or confidential, as a record not subject to public disclosure except as otherwise mutually agreed to by the broadband service provider and the eligible entity. This paragraph applies only to information submitted by the Commission or a broadband provider to carry out the provisions of this chapter and shall not otherwise limit or affect the rules governing public disclosure of information collected by any Federal or State entity under any other Federal or State law or regulation.

**(i) Definitions**

In this section:

**(1) Commission**

The term “Commission” means the Federal Communications Commission.

**(2) Eligible entity**

The term “eligible entity” means—

(A) an entity that is either—

(i) an agency or instrumentality of a State, or a municipality or other subdivision (or agency or instrumentality of a municipality or other subdivision) of a State;

(ii) a nonprofit organization that is described in section 501(c)(3) of title 26 and that is exempt from taxation under section 501(a) of such title; or

(iii) an independent agency or commission in which an office of a State is a member on behalf of the State; and

(B) is the single eligible entity in the State that has been designated by the State to receive a grant under this section.

**(j) No regulatory authority**

Nothing in this section shall be construed as giving any public or private entity established or affected by this chapter any regulatory jurisdiction or oversight authority over providers of broadband services or information technology.

(Pub. L. 110-385, title I, §106, Oct. 10, 2008, 122 Stat. 4099.)

**§1305. Broadband Technology Opportunities Program**

**(a) Establishment**

The Assistant Secretary of Commerce for Communications and Information (Assistant Secretary), in consultation with the Federal Communications Commission (Commission), shall establish a national broadband service development and expansion program in conjunction with the technology opportunities program, which shall be referred to as the Broadband Technology Opportunities Program. The Assistant Secretary shall ensure that the program complements and enhances and does not conflict with other Federal broadband initiatives and programs.

**(b) Purposes**

The purposes of the program are to—

(1) provide access to broadband service to consumers residing in unserved areas of the United States;

(2) provide improved access to broadband service to consumers residing in underserved areas of the United States;