



TATOA Newsletter



FALL FUNDING WORKSHOP!

TATOA along with the Office of Congressman
Ciro Rodriguez is pleased to announce:

Workshop for Successful Request of Federal Broadband Technology Opportunities Program Grants and Energy Efficiency and Conservation Block Grants

Host: City of San Antonio
 Location:
 San Antonio Central Library Auditorium
 600 Soledad
 San Antonio, TX 78205
 Phone: (210) 207-2500
 Date: October 30, 2009
 Time: 9:00 am to 5:30 pm
 Cost: \$25.00

Purpose: The purpose of the workshop is to advise local governments on how to maximize their opportunities to obtain federal grants under the

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American Recovery and Reinvestment Act’s (ARRA) Broadband Technology Opportunities Program (BTOP) and Energy Efficiency and Conservation Block Grants (EECBG).

- The BTOP grants may fund up to 80% of projects for local governments to deploy internal fiber networks, expand computer center capabilities at public venues, and adopt training programs to support sustainable broadband services. The workshop will address specific public fiber network designs that will serve to bring broadband services to local governments.
- EECBG grants are available to cities with populations under 35,000 and counties with populations under 200,000. The grants cover a wide variety of energy efficiency project opportunities that can help make your city and county energy efficient and reduce costs.

For more information and to register please visit www.tatoa.org. ★

**Workshop for Successful Request of Federal Broadband Technology Opportunities
Program Grants and Energy Efficiency and Conservation Block Grants
AGENDA**

- 9:30 Welcome, Office of Congressman Ciro Rodriguez
Opening Remarks, Texas Association of Telecommunications Officers and Advisors
- 9:45 Overview of BTOP Grant Application Process and Eligibility
Joanne Hovis, Columbia Telecommunications Corporation, Kensington, MD.
- 10:15 Wireless/Fiber Network Case Studies, Part I –Strategies for filing BTOP grant proposals for wireless/
fiber networks run by local governments.
Joanne Hovis, Columbia Telecommunications Corporation, Kensington, MD
- 11:00 Break
- 11:15 Wireless/Fiber Network Case Studies, Part II
Joanne Hovis, Columbia Telecommunications Corporation, Kensington, MD
- 12:00 Lunch Provided
- 12:15 Right-of-Way Management – ROW expert will address ways to leverage the deployment of internal
fiber networks to encourage job creation, spur economic development, minimize disruption on local
ROW.
Eloy Rosales, City of San Antonio, Right-of-Way Management Office
- 12:45 Legal Restrictions on Municipal Deployment of Fiber Networks – Legal expert will discuss limitations
established by state law on the type of communications networks municipal governments may deploy.
Gabriel Garcia, Assistant City Attorney, San Antonio, Texas
- 1:15 Computer Centers and Broadband Sustainability Case Study – Public interest consultants will discuss
lessons learned from the first round of BTOP grants for expanding computer center capabilities and
support sustainable broadband services.
Joanne Hovis, Columbia Telecommunications Corporation, Kensington, MD
Gene Crick, Texas Telecom & Telecommunity Resource Center, Bastrop, Texas
- 2:15 Break
- 2:30 Overview of EECBG Grant Application Process and Eligibility – State administrators will provide an
overview of the EECBG application process and eligibility criteria.
Lisa Elledge, State Energy Conservation Office, Stimulus Program Manager
- 3:30 EECBG Case Study – Strategies for developing winning EECBG grant proposals. This presentation is
targeted at cities with populations below 35,000 and counties with populations below 200,000.
Paul Smolen & Marilyn Fox, Fox, Smolen and Associates, Austin, Texas
- 5:00 Workshop Adjourned

2009 TATOA FALL WORKSHOP REGISTRATION FORM

(Only one person per form, please.)

Name: _____

Title: _____

Name as it should appear on Badge: _____

City/Organization: _____

Mailing Address: _____

City/State/Zip: _____

Phone: _____ Fax: _____ Email: _____

Special Needs: _____

Workshop Registration \$25.00 _____

Early Registration Deadline: TUESDAY, OCTOBER 27, 2009

For cities/organizations wanting to register more than one person, please fill out one form per participant and enclose all forms together under one cover indicating your total payment amount.

TOTAL PAYMENT ENCLOSED: _____

Payment Type: _____ Check or Money Order

_____ Purchase Order PO# _____

_____ Mastercard/Visa

(available on-line via Paypal at www.tatoa.org. To use Paypal, attach confirmation page when submitting this form.)

Return Completed Form with Payment to:

Jane Reina, Administrative Specialist

TATOA Care of

City of Austin, TARA

PO Box 1088

Austin, TX 78767

or FAX to (512) 974-2416

PRESIDENT'S MESSAGE

I came back from Houston and the 14th annual Conference ENERGIZED. I hope you did too. Thanks to Gabriel Garcia, we had one of the best legal/policy tracks in years. I know the programmers had a great track including a half day storytelling workshop. The board really kicked it up a notch with the speakers and sessions this year. If you missed it, you can purchase the conference materials for \$25.

One of the bittersweet highlights of the conference was the awarding of the Kurt Uglund Programming Impact Award. As you may know, TATOA lost Kurt to a tragic rafting accident last November. Within a minute of meeting Kurt he put you at ease and you knew he was a friend. The last time I saw Kurt was at the NATOA conference in Atlanta last September. He and several other TATOA members were trying to teach me Texas Hold 'Em one night after the sessions. Kurt was there, every hand, to help me along.

Kurt's family and his City family, the City of Plano, were both on hand to help award this year's winner, the City of Austin with their video Tommy's Wish. Kurt is missed by so many people but his memory will live on in our annual award which will show that cable programming can consistently influence viewers' perceptions in a positive way by touching their hearts and minds or by igniting community spirit.

Brooks Bennett with the City of Round Rock offered a great session on social media. For all of you who are twittering or posting statuses on Facebook, this was

a session for you. If you are on Facebook, look for the new TATOA page. Although in its infancy stage, we would love to have comments, more photos and more friends on the page.

TATOA is not done with offering great educational opportunities this year. In October, TATOA will work with Congressman **Ciro Rodriquez's** office to offer a conference on applying for broadband project grants and energy efficiency projects. See the front page of this newsletter for more information.

The board continues to work to offer valuable services to our members. Webinars, the production of public service announcements for government channels and regional conferences are just a few services the board is working on for the upcoming year. The service is only valuable if our members want or need it. Please let the board hear what your City needs. In these tough budgetary times, TATOA is your source for information, guidance, and networking.

Margaret Somereve
TATOA President

Happy Holidays
from your friends
at TATOA!



TATOA

US Broadband Coalition Releases Initial Report on the National Broadband Strategy

On September 24, 2009, the US Broadband Coalition (USBC) held an event at the Federal Communications Commission (FCC) Building in Washington, DC where it released its initial report on the National Broadband Strategy. The report does not make specific recommendations on steps that should be taken. However, it does offer USBC's consensus on some ultimate issues and highlights areas that are important, even if there is disagreement on the best steps going forward. Even though the report does not provide specific numeric goals or target timetables for progress, it does discuss multiple policy options in significant detail.

Blair Levin, the Coordinator of the National Broadband Plan for the FCC, spoke first and stated that, although he had yet to read the report, "[USBC's] work is not done." He stressed the need for additional facts that are not yet on the record and the need for greater clarity going forward. Jim Baller, the President of USBC, and Kenneth Peres, the Vice President of USBC, spoke of the need to continue improving the report and the importance of convincing Congress that the National Broadband Plan should be a top priority.

A number of panel presentations were given by the different working groups that drafted the report. Joanne Hovis, a member of the NATOA Board of Directors and the incoming president-elect of NATOA, discussed the importance of broadband services to local government. Joanne focused her discussion on the multiple roles that local governments have as users, providers, consumer advocates, and more. She also highlighted examples of municipal provision of broadband services around the country.

Although a number of issues remain open to further discussions, the USBC is in consensus on the need to increase public and political awareness of the benefits of broadband.

The FCC is in the process of developing a National Broadband Plan which is targeted for completion by February 17, 2010.

For more information visit USBC's website at www.bb4us.net or contact Matt Johnson, NATOA Legal Fellow, at mjohnson@natoa.org.★



Upcoming E-NATOA Teleconference: City Community Technology Initiatives to provide "Digital Opportunities" to their Communities

Access to technology is critical in this day and age. While in more recent years there may have been less focus on access to computers and Internet resources at the federal level - bridging the digital divide was not forgotten by local governments and communities. Hear how access to computers, technology and telecommunications services are being addressed in new and creative ways.

The seminar will feature TATOA Communications Committee Chair Sheena Harden of Austin, Texas. Sheena manages the Grant for Technology Opportunities Program (GTOPs), a City matching grant that provides funding to local organizations in support of their digital inclusion efforts.

To learn more about E-NATOA and to register visit <http://natoa.org/events/enatoa.html>. ★

Wrap-Up of TATO Conference Legal Track: Strategies for Reducing Expenses and Increasing Revenues

by Gabriel Garcia, Assistant City Attorney
City of San Antonio

This year TATO expanded the scope of issues covered at its annual conference by offering a full Legal Track, in addition to the Programming Track which has become a staple of our annual event. The theme of the Legal Track was focusing on strategies for local governments on how to reduce expenses and increase revenues associated with telecommunications services. We received great feedback from conference attendees concerning the Legal Track. The next few paragraphs will outline some of the highlights of the presentations made by some of the most respected attorneys practicing at the state and federal levels representing municipal governments in communications matters.

Scott Houston, Director of Legal Services for the Texas Municipal League was a keynote speaker and reported that cities fared well at the Texas Legislature this year in terms of unfunded mandates to local governments and restrictions on the authority of local governments to raise revenues. Mr. Houston provided a comprehensive summary of bills passed by the Legislature that affect municipalities. In addition, Georgia Crump with Lloyd Gosselink Rochelle & Townsend of Austin provided an overview of communications and information technology bills affecting local governments passed by the Legislature.

Gabriel Garcia, Assistant City Attorney for the City of San Antonio, explained that telecommunications companies routinely treat government accounts as business accounts. Consequently, it is common for telecommunications invoices to include regulatory fees, surcharges and taxes that local governments are exempt from paying. Mr.

Garcia provided an overview of these applicable legal exemptions that should assist local governments in challenging regulatory charges that are improperly assessed on their accounts. Another step that local government can take to recover overpayments in telecommunications invoices is to conduct an audit of telecommunications bills. Such an audit should be conducted every five years. Carolyn Arnold of CACC, Inc. in Boerne provided an overview of how the audit process works. Her consulting firm conducts these audits on a contingency fee basis, which is the standard in the industry. In these times of tight budgets, conducting an audit of telecommunications bills could result in new found funds at no expense to the local government.

Clarence West, former Houston City Attorney who is now in private practice in Austin, highlighted the importance of auditing cable franchise fees and local access line fees paid by cable providers and telecommunications companies to municipalities. Under deregulation, the burden is on the municipality to verify the accuracy of these payments. Mr. West has represented a number of municipalities in conducting these types of audits.

Another way to reduce expenses on telecommunications services was presented by Sherri Parks, Director of Contracting and Procurement Services at the Texas Department of Information Resources (DIR). Ms. Parks explained that local governments are eligible to purchase telecommunications services and equipment using volume contracts executed by DIR without having to go out for bid. Using DIR contracts can save money and time to local governments.

A very timely and informative panel discussion was presented by Don Knight, Assistant City Attorney for the City of Dallas; and Donald Cheatham, General Counsel Division Chief in the Houston City Attorney's Office, on the subject of relocation of utility facilities on public rights-of-way (ROW). Mr. Knight

explained that the Texas Supreme Court recently reaffirmed that utilities have no vested right in their use of public ROW, and requiring them to relocate utility facilities at their own expense to accommodate a public improvement does not constitute a “taking”. *Southwestern Bell Telephone, L.P. v. Harris County Toll Authority*, 282 S.W.3d 59 (Tex. 2009). This is great news to municipalities who seem to be continually battling utilities to relocate their facilities at their own expense. Mr. Cheatham presented an overview of the Houston Utility Relocation Ordinance, which is consistent with the ruling in this case, and may serve as a model to other municipalities interesting in adopting such an ordinance.

An example of how to leverage municipal infrastructure for maximize revenues was presented by a panel consisting of Veronica Rivera, formerly with the law firm of Akers & Boulware-Wells in Austin,¹ Dan Banks of Alexander Utility Engineering in San Antonio, and Marilyn Fox of Fox & Smolen in Austin. The panel discussed how space on municipal infrastructure may be leased to private entities in order to create a new source of revenue. Ms. Rivera outlined zoning and contractual issues that must be addressed prior to initiating down this path. Mr. Banks presented a case study of how San Antonio is maximizing revenues from the installation and collocation of wireless towers on city-owned property. Ms. Fox discussed a separate case study involving pole attachments rates for the use of poles owned by Austin Energy, a municipally-owned utility.

Rounding up telecommunications and information technology strategies for finding new revenue sources were two presentations on how to access Broadband Technologies Opportunities Program (BTOP) grants presented by Gene Crick of Texas Telecom out of Bastrop, and Joanne Hovis of Columbia Telecommunications Corporation of

¹ Ms. Rivera recently took a new position with the Mexican American Legal Defense Counsel in Washington, D.C.

Kensington, MD.² In addition to providing an overview on the eligibility criteria for filing applications for BTOP grants, the speakers provided a local (Texas) and national perspective on pursuing these grants during round one of grant awards. Mr. Crick presented the local perspective based on his work with the cities of Austin and Houston in filing BTOP applications. Ms. Hovis presented a national perspective based on her work with Congress in the drafting of the stimulus package (which included the BTOP grants program) and the FCC in the drafting of regulations for eligibility criteria for the grants program. The deadline for filing applications for the second round of BTOP grants is expected in late December 2009.

Conference attendees were also privileged to hear from distinguished speakers on federal topics impacting local governments. Gloria Tristani, former FCC Commissioner and now with the law firm of Spiegel & McDiarmid in Washington, D.C., provided an intimate view of the make-up of the FCC management under the new Obama Administration. Joe Van Eaton of Miller & Van Eaton in Washington, D.C., gave a very thoughtful presentation of how deregulation in the telecommunications industry and advances in broadband technology are converging to challenge how the FCC (and Congress) will protect consumers vis-à-vis companies’ control over broadband networks. Finally, Tillman (Tim) Lay also of Spiegel & McDiarmid presented a scholarly article of legal cases making their way through the federal court system, regulations before the FCC, and proposed legislation being considered by Congress; all of which impacts different aspects of local regulatory authority, and continued reform in telecommunications and broadband markets.

In short, the Legal Track in this year’s TATO conference was a great success and a prelude of things to come in coming years. See you at next year’s conference. ★

² Ms. Hovis also serves on the Board of the National Association of Telecommunications Officers and Advisors (NATOA).

www.tatoa.org
Austin, TX 78767
PO Box 1088
c/o City of Austin
Officers and Advisors
Texas Association of Telecommunications



TATO

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