

Applications accepted:

July 14, 2009, 8:00 a.m. EDT

through

August 14, 2009, 5:00 p.m. EDT

Awards announced:

Beginning November 7, 2009

BIP

The RUS program is referred to as the Broadband Initiatives Program (BIP). All applicants with projects in a **Rural** area must apply to BIP, and may also apply to BTOP.

BIP Funding Availability:

Last Mile Projects – Up to \$1.2B, including up to \$400M for grants to Remote area projects.

Middle Mile Projects – Up to \$800M

All awards must be made no later than September 30, 2010.

GRANTS

- To be eligible, the project must propose to exclusively serve **Remote** and **Underserved Rural** areas.

LOANS

- Available for **non-Remote** and **Underserved Rural** areas.
- May request 100% loan funding.

LOAN/GRANT COMBINATIONS

- Size of the grant portion may not exceed the amount of the loan portion.

BIP favors projects that:

- Can commence construction promptly
- Demonstrate technical and financial feasibility and organizational capacity
- Comply with other Administration priorities: (namely, projects which give end users a choice of providers; serve the highest proportion of rural residents that lack access to broadband service; are projects of current or former RUS borrowers; and are fully funded and ready to start once funding is received; AND 75% of the funded area “lacks sufficient access to high-speed broadband service to facilitate rural economic development.”

BIP Application Process:

- Step One: Submit information described in Section VI.D.1.a of the NoFA.
 - Applications will be ranked based on scoring criteria (described in Section VIII)
 - Highest scoring (no number established) invited to participate in Step Two
- Step Two - TO BE ANNOUNCED NO EARLIER THAN SEPT. 14, 2009: Submit additional documentation described in Section VI.D.1.b.
 - If additional information does not adequately verify the original application, the application will be rejected.

BTOP

The NTIA program is referred to as Broadband Technologies Opportunity Program (BTOP).

BTOP Funding Availability:

Broadband Infrastructure projects – Up to \$1.2B

Public Computer Center projects – Up to \$50M

Sustainable Broadband Adoption projects – Up to \$150M

All awards must be made no later than September 30, 2010.

BTOP Priorities:

- All projects must advance one of the five statutory priorities:
 1. Provide access to broadband service to consumers residing in Unserved areas;
 2. Provide improved access to broadband service to consumers residing in Underserved areas;

3. Provide broadband access, education, awareness, training, equipment, and support to community anchor institutions, organizations serving vulnerable populations or job-creating strategic facilities located in state/fed-designated economic development areas;
 4. Improve access to, and use of, broadband service by public safety agencies;
 5. Stimulate the demand for broadband, economic growth, and job creation.
- Section 8(a) status (socially and economically disadvantaged small business concern) will be taken into consideration
 - Applicants must adhere to the FCC's broadband policy statement

BTOP funds available through three categories of projects:

1. Broadband Infrastructure to **Unserved** and **Underserved** Areas (further separated into Last Mile and Middle Mile)
2. Public Computer Centers
3. Sustainable Broadband Adoption

BTOP Application Process:

- Step One: If pass initial screening of mandatory threshold requirements (Section V.C.), then applications will proceed to Step One review
 - Panel review consisting of three reviewers, who will work independent of each other. Each reviewer will score the application, but the three scores will be averaged.
 - Highest scoring (no number established) invited to participate in Step Two
 - Applications demonstrating matching funds greater than 20% will be given additional favorable consideration in Step One.
- Step Two – TO BE ANNOUNCED **NO EARLIER THAN SEPT. 14, 2009**: Submit additional documentation.
 - Each application will be assigned a rating based on the consistency of the additional documentation with the representations made in the original application, especially on technical and budget considerations.
 - During Step Two, the Governor's office of each state will receive a list of applications under consideration and will be asked to assign priority rankings.

PUBLIC NOTICE

For both BIP and BTOP applications, RUS and NTIA will post a Public Notice of the proposed funded service areas of each Broadband Infrastructure application for a 30-day period. The Public Notice will provide existing providers an opportunity to submit information regarding their service offerings.

DEFINITIONS

Broadband – means providing two-way data transmission with advertised speeds of at least 768 kbps downstream and at least 200 kbps upstream to end-users, or providing sufficient capacity in a middle-mile project to support the provision of broadband service to end users.

Last Mile project - means any infrastructure project the predominant purpose of which is to provide broadband service to end users or end-user devices (including households, businesses, community anchor institutions, public safety entities, and critical community facilities).

Middle Mile project - means a broadband infrastructure project that does not predominantly provide broadband service to end users or to end-user devices, and may include interoffice transport, backhaul, Internet connectivity, or special access.

Remote area - means an unserved, rural area 50 miles from the limits of a non-rural area.

Rural area - means any area, as confirmed by the latest decennial census of the Bureau of the Census, which is not located within: 1. a city, town, or incorporated area that has a population of greater than 20,000 inhabitants; or 2. an urbanized area contiguous and adjacent to a city or town that has a population of greater than 50,000 inhabitants.

Underserved area - means a proposed funded service area, composed of one or more contiguous census blocks meeting certain criteria that measure the availability of broadband service and the level of advertised broadband speeds. These criteria conform to the two distinct components of the Broadband Infrastructure category of eligible projects—Last Mile and Middle Mile. Specifically, a proposed funded service area **may** qualify as underserved for last-mile projects if at least one of the following factors is met, though the presumption will be that more than one factor is present:

1. no more than 50 percent of the households in the proposed funded service area have access to facilities-based, terrestrial broadband service at greater than the minimum broadband transmission speed (set forth in the definition of broadband above);

2. No fixed or mobile broadband service provider advertises broadband transmission speeds of at least three megabits per second (“mbps”) downstream in the proposed funded service area; or

3. The rate of broadband subscribership for the proposed funded service area is 40 percent of households or less.

A proposed funded service area may qualify as underserved for Middle Mile projects if one interconnection point terminates in a proposed funded service area that qualifies as unserved or underserved for Last Mile projects.

Unserved area means a proposed funded service area, composed of one or more contiguous census blocks, where at least 90 percent of households in the proposed funded service area lack access to facilities-based, terrestrial broadband service, either fixed or mobile, at the minimum broadband

transmission speed (set forth in the definition of broadband above). A household has access to broadband service if the household can readily subscribe to that service upon request.

GENERAL ELIGIBILITY FACTORS

1. Type of Entity

The following entities are eligible to apply for assistance:

- a. States, local governments, or any agency, subdivision, instrumentality, or political subdivision thereof;
- b. The District of Columbia;
- c. A territory or possession of the United States;
- d. An Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 450b));
- e. A native Hawaiian organization
- f. A non-profit foundation, a non-profit corporation, a non-profit institution, or a non-profit association;
- g. Other non-profit entities;
- h. For-profit corporations;
- i. Limited liability companies; and
- j. Cooperative or mutual organizations

2. Fully Completed Application

3. Timely Completion (i.e., the project can be substantially completed within 2 years and fully completed within 3 years of loan/grant issuance)

ADDITIONAL FACTORS APPLICABLE TO BIP AND BTOP

BROADBAND INFRASTRUCTURE APPLICANTS

1. Applicants must propose to offer service meeting the definition of **Broadband** (768 kbps down/200kbps up).
2. Projects must be technically feasible. If requesting more than \$1M, applicants must submit a system design and project timeline certified by a professional engineer.
3. Applicants must commit to the following Nondiscrimination and Interconnection Obligations:
 - a. Adhere to the principles contained in the FCC's Internet Policy Statement;
 - b. Not favor any lawful Internet applications and content over others;
 - c. Display any network management policies in a prominent location on the service provider's web page and provide notice to customers of changes in these policies;
 - d. Connect to the public internet directly or indirectly, such that the project is not an entirely private closed network;
 - e. Offer interconnection, where technically feasible, on reasonable rates and terms to be negotiated with requesting parties (Applicants must disclose their proposed

interconnection, nondiscrimination and network management practices with the application)

4. Last Mile Coverage Obligation – there is a presumption that the applicant will serve the entire census block; waiver of this requirement may be available (for example, if the census block exceeds 100 square miles or is larger than the applicant’s authorized operating territory).

ADDITIONAL FACTORS APPLICABLE TO BIP ONLY

1. **Eligible Service Area** – The applicant must demonstrate that at least 75 percent of the proposed funded service area qualifies as a rural area without sufficient access to broadband service to facilitate rural economic development. “Without sufficient access” means without access to Broadband, as defined in the NoFA. Only **Rural** areas that are **Unserviced** or **Underserved** (as defined in the NoFA) will qualify under this standard.
2. **Overlapping Service Areas** – RUS will not fund more than one project to serve any given geographic area (except *de minimis* overlap).
3. **Fully Funded** – After the approval of the grant, loan or grant/loan combination, all project costs must be fully funded. Application must include documentation to demonstrate this, such as bank account statements or firm letters of commitment from investors or lenders.
4. **Financial Feasibility and Sustainability** – (a) Loans: financially feasible IF the applicant is able to generate sufficient revenues to cover its expenses, has sufficient cash flow to service its debts and obligations as they come due, and meet the minimum TIER requirement of one by the end of the forecast period, as determined by RUS. (b) Grants: financially sustainable IF the applicant is able to generate a minimum current ratio (assets / dividends) of one by the end of the forecast period and can demonstrate a positive cash balance for each year of the forecast period.

ADDITIONAL FACTORS APPLICABLE TO BTOP ONLY

1. **Conformity with Statutory Purposes**. Must advance at least one of the five stated purposes.
2. **Cost Sharing/Matching** – Applicants must document their capacity to providing matching funds equal to 20% of the total eligible project cost. May petition the Asst. Secretary for a waiver by submitting financial documentation including: applicant’s assets, liabilities, operating expenses and revenues from any existing operations, and any other documents that will demonstrate financial need and sustainability, including such items as a denial of funding from a lending institution.
3. **Demonstration that Project Could Not Be Implemented But For Federal Grant Assistance**. This documentation may consist of such items such as a denial of funding from a public or private lending institution, denial of a funding request from RUS, a current fiscal year budget that shows

the lack of available revenue options for funding the project, or a business case that demonstrates the project would not be economically feasible without grant financing.

4. **Reasonableness of Project Budget.**

ELIGIBLE COSTS

Any application that proposes to use any portion of the award funds for any ineligible cost will be rejected.

Funds may be used to pay for the following expenses:

1. To fund the construction or improvement of all facilities required to provide broadband service, and **for BIP only**, including facilities required for providing other services over the same facilities;
2. To fund the cost of leasing facilities required to provide broadband service if such lease qualifies as a capital lease under GAAP. Award funds may be used to fund the cost of the capital lease for no more than the first five years after the date of the first advance of award funds;
3. To fund reasonable pre-application expenses in an amount not to exceed five percent of the award. Pre-application expenses may be reimbursed if they are incurred after the publication date of this NOFA and prior to the date on which the application is submitted to RUS or NTIA; and
4. **For BTOP only** undertaking such other projects and activities as the Assistant Secretary finds to be consistent with the purposes for which the program is established.

INELIGIBLE COSTS

Award funds may not be used for any of the following purposes:

1. To fund operating expenses of the project, including fixed and recurring costs of a project;
2. To fund costs incurred prior to the date on which the application is submitted, with the exception of eligible pre-application expenses (NOTE: pre-application expenses are defined as those incurred AFTER July 1, 2009 – the date of the NoFA);
3. To fund an acquisition, including the acquisition of the stock of an affiliate, or the purchase or acquisition of any facilities or equipment of an affiliate;
4. To fund the purchase or lease of any vehicle other than those used primarily in construction or system improvements;
5. To fund broadband facilities leased under the terms of an operating lease;
6. To fund merger or consolidation of entities; and

7. To fund costs incurred in acquiring spectrum as part of an FCC auction or in a secondary market acquisition.

CONTENTS OF THE APPLICATION FOR STEP ONE

- Project description (that will be made public)
- Congressional Districts affected by the Project
- Estimated dollar amount of the funding request
- Verification that the application meets the relevant eligibility factors
- Executive summary of the Project (service area description, number of households and business passed, number of community anchor institutions passed, how interconnection and non-discrimination requirements will be met, type of broadband system to be deployed, qualifications of the applicant, overall infrastructure cost, subscriber projections, number of jobs the Project is expected to create or save)
- Description of proposed service area in light of Remote, Rural, Unserved and Underserved definitions
- Description of the proposed service offerings and pricing plan(s); and for **BTOP only**, an estimate of the cost of the project per household
- Technology type, description of system design (engineer-certified if > \$1M), whether Applicant is seeking a waiver of the Buy America provision; and whether the project allows more than one provider to serve end users
- Project timeline (engineer-certified if > \$1M) and milestones; list of all required licenses and regulatory approvals; how much the applicant will rely on contractors or vendors to deploy the network facilities;
- Resumes of key management personnel and corporate organizational chart (showing parents/subsidiaries/affiliates)
- Legal opinion that addresses the applicant's ability to enter into the award documents; describes all pending litigation matters; and—for loans only—addresses the applicant's ability to pledge security as required by the award documents
- Any partnerships with public, non-profit and private sector groups and collaboration with other state and federal development programs
- Itemized budget of infrastructure costs of the proposed project and explanation of the reasonableness of the unit price and total units required for the project
- Pro forma financial analysis related to the sustainability of the project, including subscriber estimates and proposed service offerings in addition to broadband internet access, annual financial projections including balance sheets, income statements and cash flow statements for 5-year forecast period; list of committed sources of capital funding
- Historical financial statements, CPA audits if applicable, for previous two calendar years
- CERTIFICATIONS REQUIRED IN THE APPLICATION:
 - For BIP only:
 - Self-scoring sheet
 - Pricing package being offered to critical community facilities, if any
 - Evidence that the applicant is a Section 8(a) socially and economically disadvantaged small business concern

- For BTOP only:
 - Description of how the Applicant will advance the objectives of the Recovery Act and specific objectives of BTOP
 - Demonstration of need for grant funding (project unfeasible but for grant)
 - Description of how the applicant will enhance services for health care delivery, education and children to the greatest population of users in the area;
 - Additional verification related to the non-discrimination and interconnection obligations set forth in the NoFA;
 - Percentage of matching funds the applicant will contribute, as well as specific amounts that are in cash or in-kind;
 - Whether the applicant receives any federal support for non-recurring costs in the proposed funded service area;
 - Evidence of any collaboration with a Section 8(a) organization; and the source and amount of any federal or state funding, including USF funds, that the applicant has received, or requested, for the activities or projects to which the application relates.

CONTENTS OF THE APPLICATION FOR STEP TWO

(Due the later of October 15, 2009 or 30 days after the applicant has received a request from RUS or NTIA)

- A list of all outstanding and contingent obligations, including copies of existing notes, loan and security agreements, and guarantees;
- A detailed description of working capital requirements and the source of these funds;
- A detailed description of the proposed technology that will be used to provide service at the proposed broadband speed – must clearly demonstrate that all households and businesses in the proposed service area will be offered service at the proposed speed;
- A detailed construction build-out schedule that includes a description of the necessary work force, a timeline demonstrating project completion within the required timeframe, a depreciation schedule for the proposed facilities;
- A completed Environmental Questionnaire, other document requests, and required environmental authorizations and permits;
- For BIP only, a description of the measurable service metrics and target service level objectives (install interval, service availability, response time, etc.) that will be provided to the customer, and a description of the approach and methodology for monitoring ongoing service delivery and service quality for the services being employed.

SCORING CRITERIA FOR BIP

- General priority for projects which: (1) give end users a choice of service providers; (2) serve the highest proportion of rural residents that lack access to broadband service; (3) are projects of current or former RUS borrowers; and (4) are fully funded and ready to start once Recovery Act funding is received.

- Project Purpose (25 points)
 - Proportion of Rural Residents Served in Unserved Areas (5 points)
 - Rural Area Targeting (5 points)
 - Remote Area Targeting (5 points)
 - Title II Borrowers (5 points)
 - Recovery Act and other government collaboration (5 points)

- Project Benefits (25 points)
 - Performance of the offered service (10 points)
 - Affordability of services offered (5 points)
 - Choice of provider (5 points)
 - Critical community facilities (5 points)

- Project Viability (25 points)
 - Applicant's organizational capability (12 points)
 - Community support (2 points)
 - Ability to promptly start project (10 points)
 - Disadvantaged small business (1 point)

- Project Budget and Sustainability (25 points)
 - Reasonableness of the budget (5 points)
 - Leverage of outside resources (10 points)
 - Extent of grant funding (10 points) [loan/grant ratio]

SCORING CRITERIA FOR BTOP

- Project Purpose (30 points)
 - Fit with statutory purposes
 - Recovery Act and other governmental collaboration
 - Enhanced service for health care delivery, education and children
 - Socially and economically disadvantaged small businesses

- Project Benefits (25 points)
 - Last-Mile Projects:
 - Cost-effectiveness
 - Performance of the offered service
 - Affordability of services offered
 - Nondiscrimination, interconnection and choice of provider
 - Middle-Mile Projects:
 - Impact on the area
 - Level of need in the area
 - Network capacity
 - Affordability of services offered
 - Nondiscrimination, interconnection and choice of provider

- Project Viability (25 points)
 - Technical feasibility
 - Applicant's organizational capacity
 - Level of community involvement in the Project
 - Ability to promptly start project

- Project Budget and Sustainability (20 points)
 - Reasonableness of budget
 - Sustainability (financial) of the project
 - Leverage of outside resources

DISTRIBUTION OF FUNDS

RUS and NTIA intend to announce awards starting on or about November 7, 2009.

RUS and NTIA intend to provide documents within 30 days of award announcement, with closing scheduled within 60 days of award announcement.

No funds will be disbursed until all other sources of funding have been obtained and any other pre-award conditions have been met. Failure to obtain sources of funding committed in the application within 30 days of the award announcement will result in withdrawal of the award. BTOP awards must also comply with the Department of Commerce Pre-Award Requirements for Grants and Cooperative Agreements (FR 2/11/08).

The sale or lease of any portion of the award-funded broadband facilities during their life is prohibited, unless approved by RUS/NTIA. "Lease" as used here does not include leasing facilities to another service provider for the provision of broadband facilities.

CONFIDENTIALITY

Applicants are encouraged to identify and label any confidential and proprietary information contained in their applications. Information will be protected to the fullest extent authorized by applicable law, including the Freedom of Information Act. That said, the Recovery Act requires substantial transparency. For example, RUS and NTIA are required to make publicly available on the Internet a list of each entity that has applied for a grant, a description of each application, the status of each application, the name of each entity receiving funds, the purpose for which the entity is receiving the funds, each quarterly report, among other information.