



## ISSUE UPDATE

July 2, 2009

### NTIA and RUS Release Initial Broadband NOFA

On July 1, 2009, the National Telecommunications and Information Administration (NTIA) and the Rural Utilities Service (RUS) released the first of three anticipated Notice of Funds Availability (NOFA) documents. Totalling 121 pages, this document provides definitions of key statutory terms relating to the broadband initiatives contained in the American Recovery and Reinvestment Act of 2009, and contains detailed instructions for parties seeking to apply for funding.

Funds will be provided by RUS under the Broadband Initiatives Program (BIP), and by NTIA under the Broadband Technology Opportunities Program (BTOP). The NOFA specifies the amount and type of funding that will be available in this round, the specific requirements that parties who wish to apply for this funding must follow, and the criteria by which applications will be judged and the funding awarded. It also describes the reporting requirements that funding recipients will be required to follow.

Applications will be accepted by NTIA and RUS between July 14 and August 14, 2009. Award winners will be announced on or about November 7, 2009.

#### KEY DEFINITIONS

1. **Broadband**  
Minimum of 768 kbps downstream and 200 kbps upstream
2. **Unserved**  
At least 90% of households lack facilities-based terrestrial broadband service at minimum speeds
3. **Underserved**  
Funding area must meet at least one of the following criteria:
  - No more than 50% of households have access to facilities-based terrestrial broadband at greater than the minimum speeds
  - No fixed or mobile provider advertises speeds of 3 mbps
  - The rate of broadband subscribership is 40% or less
4. **Funding Area**  
Defined by applicant, and composed of one or more contiguous Census Blocks
5. **Interconnection and Non-Discrimination Requirements:**  
Applicants must commit to five obligations:

- i. Adhere to the principles in the FCC's *Broadband Policy Statement*
- ii. Not favor any lawful Internet applications or content over others
- iii. Display network management policies on the service provider's web site
- iv. Connect to the public Internet directly or indirectly
- v. Offer interconnection, where technically feasible, on reasonable rates and terms to be negotiated with requesting parties

#### FUNDING PURPOSE AND AMOUNTS

##### **RUS (BIP)**

- **Purpose** – Expands RUS's authority to extend loans, grant/loan combinations, and grants to projects where at least 75% of the funded area is a rural area that lacks sufficient access to high-speed broadband service
- **Total Funding Amount** – \$2.5 billion
- **Funding Available in This Round:**

Last Mile Projects	\$1,200,000,000
Middle Mile Projects	\$800,000,000
National Reserve	<u>\$325,000,000</u>
	\$2,325,000,000

##### **NTIA (BTOP)**

- **Purpose** – Provides grants for broadband initiatives throughout the United States, including unserved and underserved areas
- **Total Funding Amount** – \$4.7 billion
- **Funding Available in This Round**

Broadband Infrastructure	\$1,200,000,000
Public Computer Centers	\$50,000,000
Sustainable Broadband Adoption	\$150,000,000
National Reserve	<u>\$200,000,000</u>
	\$1,600,000,000

##### **Program Requirements**

- Applications to fund broadband infrastructure projects in areas which are at least 75% rural are required to be submitted to RUS for consideration under BIP
- Such applicants may choose to also be considered for BTOP funding
- NTIA may choose to make awards to such applicants under BTOP after RUS has reviewed the application and determined not to fund it

**Table I**

<b>APPLICATION REQUIREMENTS</b>	
<b>REQUIREMENTS FOR BOTH RUS (BIP) AND NTIA (BTOP) APPLICATIONS</b>	
	<ol style="list-style-type: none"><li>1. The identity of the applicant and general application and project information including:<ol style="list-style-type: none"><li>a. A description of the project</li><li>b. The Congressional Districts affected by the project</li><li>c. The estimated dollar amount of the funding request</li></ol></li><li>2. Verification that the application meets certain eligibility factors including:<ol style="list-style-type: none"><li>a. Commitment to substantial completion of the project within two years of award date and completion within three years</li><li>b. Demonstration that the project is technically feasible</li><li>c. Provision of broadband service meeting the minimum speed levels</li><li>d. Agreement to comply with non-discrimination and interconnection requirements</li><li>e. Agreement to comply with last mile coverage obligations</li></ol></li><li>3. An executive summary of the project, including but not limited to:<ol style="list-style-type: none"><li>a. The opportunity the proposed system seeks to address</li><li>b. A description of the proposed funded service area including:<ol style="list-style-type: none"><li>i. Number of households and businesses passed</li><li>ii. Number of community anchor institutions, public safety entities and critical community organizations to be passed and/or involved in the project</li></ol></li><li>c. Proposed service offerings</li><li>d. How non-discrimination and interconnection requirements will be met</li><li>e. The type of broadband system to be deployed</li><li>f. Qualifications of the applicant</li><li>g. Overall infrastructure cost of the broadband system</li><li>h. Subscriber projections</li><li>i. The number of jobs the project is expected to create or save</li></ol></li><li>4. A description of the proposed funded service area, including:<ol style="list-style-type: none"><li>a. A map</li><li>b. Data describing the geography and demographics of the proposed service area, and whether the area is “unserved” or “underserved”</li><li>c. Names of the Census designated communities, and whether such communities are “rural” or “non-rural,” “remote” and “unserved,” “underserved,” or “served”</li><li>d. Whether the applicant is seeking a waiver from providing less than 100% coverage of any Census Block</li></ol></li><li>5. A description of the proposed service offerings including:<ol style="list-style-type: none"><li>a. Pricing plans that the applicant proposes to offer, as well as the advertised prices of service offerings by competitors in the same area</li><li>b. A description of the applicant’s non-discrimination, interconnection and network management plans</li><li>c. An explanation of why the proposed service offerings are affordable</li></ol></li><li>6. The technology type, including a network diagram, whether the applicant is seeking a waiver of the “Buy America” provision, and whether the project allows more than one provider to serve end users</li><li>7. A timeline for the project including:<ol style="list-style-type: none"><li>a. A construction schedule which identifies potential challenges and establishes viability of the project and associated milestones for build-out to Census Blocks, households, businesses, community anchor institutions, and public safety entities</li><li>b. A list of all required licenses and regulatory approvals needed for the project</li><li>c. How much the applicant will rely on contractors and vendors to deploy the network facilities</li></ol></li><li>8. Resumes of key management personnel, a description of the organization’s readiness to manage a broadband service network, and an organizational chart showing any parent organizations and/or subsidiaries and affiliates</li></ol>

**Table I (cont.)**

<b>APPLICATION REQUIREMENTS</b>	
<b>Requirements for both RUS (BIP) and NTIA (BTOP) Applications</b>	
<p>9. A legal opinion that:</p> <ul style="list-style-type: none"> <li>a. Addresses the applicant's ability to enter into the award documents</li> <li>b. Describes all pending litigation matters</li> <li>c. For loan and loan/grant combinations, addresses the applicant's ability to pledge security as required by the award documents</li> </ul> <p>10. Descriptions of partnerships with public, non-profit, and private sector groups and collaboration with other state and federal development programs including other Recovery Act programs</p> <p>11. An itemized budget of the infrastructure costs of the project including:</p> <ul style="list-style-type: none"> <li>a. (If applicable) the ratio of loans to grants</li> <li>b. Any other source of outside funding, especially any other Recovery Act funds under other federal programs</li> <li>c. An explanation of the reasonableness of the unit price and total number of units required for the project</li> </ul> <p>12. Pro Forma financial analysis related to the sustainability of the project, including:</p> <ul style="list-style-type: none"> <li>a. Subscriber estimates and proposed service offerings in addition to broadband</li> <li>b. Annual financial projections, including balance sheets, income statements, and cash flow statements</li> <li>c. Supporting assumptions for a five-year forecast period</li> <li>d. A list of committed sources of capital funding</li> </ul> <p>13. Historical financial statements and audits for the previous two calendar years</p>	
<b>Additional BIP Requirements</b>	<b>Additional BTOP Requirements</b>
<p>14. Verification of additional BIP eligibility factors:</p> <ul style="list-style-type: none"> <li>a. At least 75% of proposed service area is rural</li> <li>b. The project will be fully funded</li> <li>c. The project is financially feasible</li> </ul> <p>15. A self-scoring sheet, analyzing the objective scoring criteria in the NOFA</p> <p>16. The pricing package being offered to critical community facilities, if any</p> <p>17. Supporting evidence if the applicant is a socially and economically disadvantaged entity</p>	<p>14. Demonstration that the project advances at least one of the five statutory purposes of BTOP</p> <p>15. Commitment to, or a waiver application for, the 20% cost matching requirement</p> <p>16. Demonstration that the project could not be completed in the grant period but for federal funding</p> <p>17. A description of how the applicant will enhance services for health care delivery, education and children to the greatest population of users</p> <p>18. Additional verification of the non-discrimination and interconnection obligation in the NOFA</p> <p>19. The percentage of matching funds the applicant will contribute, and the amounts that are cash or in-kind</p> <p>20. Whether the applicant receives any federal support for non-recurring costs in the supported service area</p> <p>21. To the extent applicable, evidence of collaboration with any socially and economically disadvantaged small business concern (SBD)</p>

**APPLICATION PROCESS**

Both BIP and BTOP will use a two-part application, review and selection process. Step one will involve the completion of the application form (which must be submitted electronically for projects over \$1 million) containing the detailed information summarized in Table I. Applications meeting minimum eligibility criteria will be evaluated and rated according to the scoring criteria summarized in Table II. The highest scoring applications will advance to the step two “due diligence” process in which additional information, including more detailed plans and supporting documents will be required. During step two of the BTOP process, states will also have an opportunity to prioritize and recommend qualifying projects in their state.

**SCORING CRITERIA**

The scoring criteria used to review and analyze BIP and BTOP applications are grouped into four categories:

1. Project Purpose
2. Project Benefits
3. Project Viability, and
4. Project Budget and Sustainability

The weightings of these categories and the manner in which they will be applied differ slightly between the BIP and BTOP programs. The NOFA provides more granularity regarding the specific weighting of the sub-categories of each of these criteria and the specific manner in which applications will be scored for the BIP program than is provided for the BTOP. Table II provides a comparison of the BIP and BTOP scoring criteria for last-mile broadband infrastructure projects. Similar criteria are also provided in the NOFA for middle-mile, Public Computer Center, and Sustainable Broadband Adoption applications.

**Table II**

<b>Application Scoring Criteria – Last Mile Projects</b>	
<b>RUS - BIP</b>	<b>NTIA - BTOP</b>
<p><b><u>PROJECT PURPOSE (25 Points)</u></b>  <b>Proportion of Rural Residents in Unserved Areas (5 points)</b>                      One point for each 10,000 unserved rural households that will receive broadband – max. 5  <b>Rural Area Targeting (5 points)</b>                      One point for each 5% increase of rural above the 75% rural area service requirement – max. 5  <b>Remote Area Targeting (5 points)</b>                      One point if at least one funded area is 50 mi. from a non-rural area. One point for each additional 50 mi. – max. 5  <b>Title II Borrowers (5 points)</b>                      Five points for previous Title II borrowers  <b>Recovery Act and Other Govt. Collaboration (5)</b>                      One point for each partnered governmental or Recovery Act program – max. 5</p>	<p><b><u>PROJECT PURPOSE (30 Points)</u></b>  <b>Fit With Statutory Purposes</b>                      Evaluated with respect to each of BTOP’s statutory purposes  <b>Recovery Act and Other Govt. Collaboration</b>                      Evaluated on applicant’s collaboration with Recovery Act and other governmental programs  <b>Enhanced Service for Health Care Delivery, Education, and Children</b>                      Assess the depth and breadth of the project’s ability to enhance broadband service for health, education and children  <b>Socially and Economically Disadvantaged Small Businesses</b>                      Applicants that meet the definition of a socially and economically disadvantaged small business</p>
<p><b><u>PROJECT BENEFITS (25 Points)</u></b>  <b>Performance of the Offered Service (10 points)</b>                      Ten Points if minimum speed is 20 mbps for wireline and 2 mbps for wireless systems  <b>Affordability of Services Offered (5 points)</b>                      Up to five points for demonstration that proposed services are affordable for targeted market  <b>Choice of Provider (5 points)</b>                      Five points for business plan which allows more than one provider to serve end users in funded service area  <b>Critical Community Facilities (5 points)</b>                      Five points for offering discounts of at least 25% to all critical community facilities in funded service area</p>	<p><b><u>PROJECT BENEFITS (25 Points)</u></b>  <b>Cost Effectiveness</b>                      Cost efficiency based on the ratio of the total cost of the project to households passed  <b>Performance of the Offered Service</b>                      The extent to which the advertised speed exceeds the minimum speed requirements  <b>Affordability of Services Offered</b>                      Comparison to existing prices in proposed service area, or demonstration of proper pricing  <b>Nondiscrimination, interconnection, and choice of provider</b>                      Extent to which the applicant commits to exceeding the minimum requirements, commit to offering wholesale access, or commit to binding arbitration of disputes</p>

Table II (cont.)

<b>Application Scoring Criteria – Last Mile Projects</b>	
<b>RUS - BIP</b>	<b>NTIA - BTOP</b>
<p><b><u>PROJECT VIABILITY (25 Points)</u></b></p> <p><b>Applicant’s Organizational Capability (12 points)</b> Up to twelve points based on strength of project’s management team</p> <p><b>Community Support (2 points)</b> Up to two points if letters of support are received from all communities in proposed area</p> <p><b>Ability to Promptly Start Project (10 points)</b> Ten points if all licenses and approvals received, contractors available, equity contributions transferred, and project timelines reasonable</p> <p><b>Disadvantaged Small Business (1 point)</b> One point to applicants that meet definition of a socially and economically disadvantaged small business concern</p>	<p><b><u>PROJECT VIABILITY (25 POINTS)</u></b></p> <p><b>Technical Feasibility of Proposed Project</b> Appropriateness of the technical solution and clarity, level of detail and choice of system designs</p> <p><b>Applicant’s Organizational Capability</b> Years of experience and expertise of management team and past track record on similar projects</p> <p><b>Level of Community Involvement in Project</b> Linkages to unaffiliated organizations in the project area, particularly community anchor institutions and public safety organizations</p> <p><b>Ability to Promptly Start Project</b> Start date, project timeline, securing all licenses and approvals, and preparedness of contractors</p>
<p><b><u>BUDGET AND SUSTAINABILITY (25 POINTS)</u></b></p> <p><b>Reasonableness of the Budget (5 points)</b> Up to five points based on the clarity and reasonableness of the proposed budget</p> <p><b>Leverage of Outside Resources (10 points)</b> Sliding scale ranging from one point if ratio of outside funding to BIP funds is less than 25%, to 10 points if ratio is over 100%</p> <p><b>Extent of Grant Funding (10 points)</b> Sliding scale ranging from zero points if grant funding is 100% or request, to 10 points if no grant funding is requested (i.e., 100% loan)</p>	<p><b><u>BUDGET AND SUSTAINABILITY (20 Points)</u></b></p> <p><b>Reasonableness of Budget</b> Clarity, level of detail, comprehensiveness, appropriateness of solutions, reasonableness of costs, and sufficiency to complete the task</p> <p><b>Sustainability of the Project</b> Ability of the project to be sustained beyond the funding period</p> <p><b>Leverage of Outside resources</b> Ability to provide the 20% matching funds, with additional consideration to proposals that exceed the minimum matching requirement</p>
<b>TOTAL (100 Points)</b>	<b>TOTAL (100 Points)</b>

**REPORTING REQUIREMENTS**

Reporting requirements, as detailed in the NOFA, differ substantially between the BIP and the BTOP.

**BIP Reporting Requirements**

- Quarterly reports containing:
  - Balance sheets
  - Income statements
  - The number of customers taking broadband service on a per community basis
- Annual reports containing:
  - The number of households and businesses subscribing to broadband service
  - The number of households and businesses subscribing to broadband service that receive improved access
  - The number of educational, library, health care, and public safety providers receiving either new or improved access to broadband service
- State the applicable quarter in which the awardee has received 67 percent of the award funds, indicating substantial completion of the project

**BTOP Reporting Requirements**

- All BTOP awardees must submit quarterly reports containing:
  - Progress in achieving the project goals, objectives, and milestones as set forth in its application
  - Expenditure of grant funds and how much of the award remains
  - How much non-federal investment is being added to complete the project
  - Whether the awardee is on schedule to substantially complete its projects within two years of the award date and complete the project within three years
  - The number and type of entities receiving new access to broadband services
  - The number and type of entities receiving improved access to broadband services

- BTOP Awardees receiving Last Mile or Middle Mile Broadband Infrastructure Grants must report quarterly for each specific BTOP project:
  - The terms of any interconnection agreements entered into during the reporting period
  - Traffic exchange relationships and terms
  - Broadband equipment purchases
  - Total and peak utilization access links
  - Total and peak utilization on interconnection links to other networks
  - Internet protocol address utilization and IPv6 implementation
  - Any changes or updates to their network management practices
  - Average end-user and middle mile megabit per second increase
  - Availability of their broadband offering (including the technology used, location of infrastructure, area served, and the number of households passed)
  - The total number of households and businesses subscribing to broadband service
  - The number of households and businesses subscribing to new broadband service
  - The number of households and businesses subscribing to broadband service that receive improved access
  - Advertised and averaged broadband speeds
  - The price of broadband services
- Similar application-specific quarterly reporting requirements are provided in the NOFA for Public Computer Center and Sustainable Broadband Adoption awardees

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