

Webinar  
Stimulus Funding Opportunities  
for Broadband Projects: Round One

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# Disclaimer

This presentation does not constitute legal advice and should not be interpreted as such. For advice on federal, state or local law, please consult legal counsel.

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## American Recovery and Reinvestment Act

- **\$787 Billion** to stimulate economy, create or save jobs
- Includes **\$7.2 Billion** explicitly for broadband
  - **\$4.7 Billion** allocated to National Telecommunications and Information Administration of the U.S. Department of Commerce (“NTIA”)
  - **\$2.5 Billion** allocated to Rural Utility Service of the U.S. Department of Agriculture (“RUS”)
- Many additional programs – health care, energy, public safety, housing, etc.

## RUS-NTIA First-Round Notice of Funding Availability

- RUS “Broadband Initiatives Program” (BIP):
  - Up to \$1.2 B for “Last Mile” projects, including:
    - Up to \$400 M for grants for “Remote” areas
    - Up to \$800 M for grants/loans for “Non-Remote” areas
  - Up to \$800 M for “Middle Mile” loans or loan/grants
  - Repooling + \$325 M “national reserve”
- NTIA “Broadband Technology Opportunities Program” (BTOP)
  - Up to \$1.6 B, all in grants, including:
    - Up to \$1.2 B Broadband Infrastructure projects
    - Up to \$50 M Public Computer Center projects
    - Up to \$150 M Sustainable Broadband Adoption Projects
  - Repooling + \$200 M “national reserve”

## Critical Definitions

- “**Broadband**” – advertised 768 Kbps down / 200 kbps up
- “**Last Mile project**” – infrastructure project whose main purpose is to provide service to end users or devices (including households, businesses, community anchor institutions, public safety entities, critical community facilities)
- “**Middle Mile project**” – infrastructure project whose main purpose is *not* to provide service to end users or devices and may include interoffice transport, backhaul, Internet connectivity, or special access
- “**Public Computer Center**” – a place including, but not limited to a community college, library, school, youth center, employment service center, Native Amer. chapter center, community center, senior center, etc. that provides broadband to the general public or a particular vulnerable population (e.g., low income, unemployed, aged, disabled, children, minorities, etc.)

## Critical Definitions (continued)

- “**Remote Area**” – unserved rural area more than 50 miles from limits of a non-rural area
- “**Rural Area**” – an area that in the last decennial census was not in a city, town, or incorporated area with a population greater than 20,000, or in an urbanized area contiguous and adjacent to a city or town with more than 50,000 residents
- “**Underserved**” – for Last Mile projects, (1) no more than 50% households have access to broadband; or (2) less than 40 % households subscribe; or (3) no fixed or mobile provider advertises at least 3 Mbps downstream; for Middle Mile projects, at least one termination point in an unserved or underserved area
- “**Unserved**” – one or more contiguous census blocks where at last 90% households lack access to facilities-based terrestrial fixed or mobile broadband

## Factors Common to BIP and BTOP

- Applicants must submit complete application
- Must show **67%** project to be **completed w/in 2 years** of grant
- For infrastructure projects, must offer at least **minimum levels** of broadband
- Must show **technical feasibility**, including certification by professional engineer if asking for more than \$1 million
- Must provide **legal opinion** that project will meet all federal, state, local legal requirements; must provide **list of all licenses and regulatory approvals necessary**
- Must meet **non-discrimination** and **interconnection** requirements (**see next slide**)
- For infrastructure projects, must **prove unserved or underserved** (middle mile projects must have at least one termination point in **qualifying area**); incumbents can refute
- Must provide service to **whole area**, unless get exception

## Non-discrimination and Interconnection Requirements

- Must comply with FCC's **Four Principles**
- Can't favor lawful applications or content over others
- Must prominently **display network management policies**, including practices to allocate capacity, differentiate among applications and providers, limit usage, handle illegal or harmful content
- Must connect to public Internet, so not entirely closed
- Must offer **interconnection**, subject to current or reasonably anticipated capacity, at reasonable negotiated rates and terms, subject to FCC enforcement if no agreement w/in 90 days
- Can use generally accepted technical measures
- Can offer some **managed services** (e.g., telemedicine, public safety, distance learning)



## BIP-Specific Factors

- Projects must be in areas that are **at least 75% rural** – if so, **RUS has first priority**; NTIA can fund only after RUS rejection
- RUS will make only **one award per area** – to top project
- Applicant must prove project will be **fully funded**
- **Pure grants** available only for projects in **remote, unserved** areas (up to 80% unless get exception for up to 100%)
- Combination **grants/loans** for projects in **non-remote, underserved** areas BUT
  - Amount of grant can't exceed amount of loan
  - Extra credit for projects with highest % loans vs. grants
- Must show project financially feasible and sustainable

## BTOP-Specific Factors

- **Infrastructure projects**, but not Public Computer Center or Sustainable Broadband Demand projects, must be in **unserved** or **underserved** areas
- Only grants; generally 80%, but can get special exception for greater than 80%; credit available for lower than 80%
- Liberal requirements for **matching funds, in-kind contributions**, based on various long-standing rules
- Must show project would **not have gone forward** during grant period without federal subsidy
- **Budget** must be appropriate to technical and programmatic content, and costs must be reasonable and eligible
- **Eligible costs** identified in applicable OMB circulars

## Proving “Underserved”

- Applicants have **burden of proof** – one page to justify conclusion
- **No clear guidance**; no FCC or other data at census block level
- State broadband maps/data – will rarely be available
- Circumstantial **inferences** (cross-referencing demographic data with proven broadband deployment trends)
- May be room for creativity creative in defining service area and in calculating “underserved”
  - For example, to meet take-rate test, multiply income data from U.S. Census by Pew Foundation average take rates by income.
  - Can also try **sampling** for availability, take rates
- May be possible to average across more than one census block
- **Incumbents** will have opportunity to rebut

## Eligible and Ineligible Expenses for BIP and BTOP Infrastructure Projects

- Eligible expenses include funds to pay for
  - **Construction or improvement** of all facilities used to provide broadband service (and for BIP only, for facilities used to provide **other** services)
  - Awards for **capital leases** under GAAP can't exceed 5 years
  - Reasonable **pre-application expenses** not to exceed **5%** of award, if incurred after 7/1/09
  - Under BTOP only, other expenses for projects NTIA finds consistent with purposes of the BTOP
- **Ineligible expenses** include operating expenses and leases; pre-7/1/09 costs; certain vehicles; corporate acquisitions, mergers, consolidations; and acquisition of spectrum

## Eligible and Ineligible Expenses for Public Computer Centers and Sustainable Broadband Adoption Projects

- Applicants must show how funds in these programs would:
  - Provide broadband **education, awareness, training, access, equipment**, and support to community **anchor institutions** (e.g., schools, libraries, medical and health care facilities, community colleges and institutions of higher education, and other community support organizations) or organizations supporting **vulnerable populations**, or job-creating strategic facilities in state- or federally designated economic development areas
  - Support access to, and use of, broadband by **public safety**
  - Stimulate **demand** for broadband, **economic development**, and **job creation**

## Eligible Costs for Public Computer Centers

- The following expenses are eligible for BTOP funding:
  - Broadband-related equipment, instrumentation, networking capability, hardware and software, digital network technology for broadband services
  - Developing and providing training, education, support and awareness programs or web-based resources
  - Facilitating access to broadband services, including making centers more accessible to the disabled
  - Other projects and activities that NTIA finds to be consistent with the purposes of BTOP

## Eligible Costs for Sustainable Broadband Adoption

- The following expenses are eligible for BTOP funding:
  - Broadband-related equipment, hardware and software, digital network technology for broadband services
  - Developing and providing training, education, support and awareness programs or web-based content
  - Conducting broadband-related public education, outreach, support and awareness campaigns
  - Implementing innovative programs to facilitate greater access to broadband services, devices, and equipment
  - Other projects and activities that NTIA finds to be consistent with the purposes of BTOP

## Use of Program Funds

“For purposes of BIP and BTOP, any **program income** generated by a proposed project during the grant period **shall be retained by the grant recipient and shall be added to the funds committed to the project by RUS or NTIA and the recipient**. The grant recipient should use program income to further eligible project objectives, including reinvestment in project facilities. Program income means gross income earned by the recipient that is either directly generated by a supported activity, or earned as a result of the award during the funding period. Grant recipients shall have no obligation to the federal government regarding program income earned after the end of the project period. However, the federal government retains an interest in property in the event that it is sold, consistent with the guidance outlined in section IX of this NOFA.”



## Review Process

- Step 1 – Applicants file applications (due by 5 p.m. August 14)
  - After threshold review for completeness, review by three independent scorers. Most highly qualified proceed to Step2 (announced no earlier than Sept. 14)
- Step 2– Due diligence review
  - Requests for substantiation of statements in app; must respond within 30 days of request or Oct. 15 (whichever is later); points for consistency with application statements
  - Must complete Environmental Questionnaire, etc.
  - For BTOP, States to receive list of applications under consideration; can comment, prioritize
  - For BTOP, NTIA can then consider other factors, e.g., geographic, technological mix, funding availability, etc.
  - Awards announced on or about November 7, 2009. Award docs available w/in 30 days of award announcement

## Evaluation Criteria – BIP Infrastructure Projects

- **Project Purpose** (25 points)
  - Proportion of residents served in unserved areas (5 pts)  
(1 point per 10,000 unserved households to be served)
  - Rural area targeting (5 pts)  
(1 point per 5% rural above 75%)
  - Remote area targeting (5 pts)  
(1 point per each area at least 50 miles from non-rural area)
  - Title II borrowers (5 pts)  
(current or past borrowers from RUS)
  - Collaboration with other Recovery Act programs (5 pts)  
(1 point per each other Recovery Act program included)

## Evaluation Criteria – BIP Infrastructure Projects (2)

- **Project Benefits** (25 points)
  - Performance of the offered service (10 pts)
    - (Last Mile wireline: 10 points for  $\sum$  20 Mbps (up+down))
    - (Last Mile wireless: 10 points for  $\sum$  2 Mbps (up+down))
    - (Last Mile combined: 10 points if both of above met)
    - (Middle Mile: 10 points if 100 Mbps to all points)
  - Affordability (5 pts)
  - Choice of provider (5 pts)
  - Critical community facilities (5 pts)
    - (For applications proposing to offer to all critical facilities in service area a discount of 25% lower than advertised rate packages)

## Evaluation Criteria – BIP Infrastructure Projects (3)

- **Project Viability** (25 points)
  - Organizational ability / management team (12 pts)
  - Community support (2 pts)
  - Ability to start project promptly (10 pts)  
(All approvals received; contractors prepared to enter into contracts; all equity contributions have been received; project timeline and milestones reasonable)
  - A socially and economically disadvantaged small business under Section 8(a) of Small Business Act involved (1 pt)

## Evaluation Criteria – BIP Infrastructure Projects (4)

- **Project Budget and Sustainability** (25 points)
  - Reasonableness of budget (5 pts)
  - Leverage of outside resources (10 pts)  
(10 pts if ratio of outside resources / total financing > 100%  
(7 pts if ratio 75-100%; 5 pts if ratio 50-75%; 3 pts if ratio 25-50%; 1 pt if ratio less than 25%)
  - Extent of grant funding (10 pts)  
(10 pts if grant funds 0%; 5 points if grant funds <50%; 3 pts if grant funds 50-75%; 1 pt if grant funds 75-100%; 0 pts if grant funds 100%)

## Evaluation Criteria – BTOP Projects

- **Project Purpose** (30 points)
  - Fit with statutory purposes  
(Compelling problem, effective solution, broad significance, replicability; “Additional consideration will be given to projects located partially or wholly [in] unserved or underserved areas ...”)
  - Collaboration with other Recovery Act programs
  - Enhanced service for health care, education, children
  - Socially and economically disadvantaged business part of application

## Evaluation Criteria – BTOP Projects (2)

- Project Benefits (25 points)
  - Last Mile Projects
    - **Cost effectiveness** (total costs/households served)
    - **Performance** of offered services (how much speed over minimum levels? Deductions for high latency)
    - **Affordability** (compared to current market prices)
    - **Nondiscrimination , interconnection, choice of provider** (Extra credit for exceeding minimum requirements, wholesale, binding arbitration, more than one provider)

## Evaluation Criteria – BTOP Projects (3)

- Project Benefits (25 points)
  - Middle Mile Projects
    - **Overall impact** (number of end points, interconnections)  
Socially and economically disadvantaged business part of application
    - **Level of need in area** (how many middle mile providers, speeds, what proportion of endpoints in unserved or underserved areas)
    - **Network capacity** (sufficient to meet needs; scalability)
    - **Affordability** (pricing compared to current rates)
    - **Nondiscrimination, interconnection, choice of provider**



## Evaluation Criteria – BTOP Projects (4)

- Project benefits
  - Public Computer Center projects
    - **Availability to Public** (capacity, hours of availability, fees charged, limitations on use, outreach, accessibility to people with disabilities)
    - **Training and educational programs** (availability, accessibility, quality, fitness for local needs)
    - Availability and qualifications of **consulting and teaching** staff
  - Sustainable Broadband Adoption
    - Number of **new users** (number and percentage)
    - **Cost per new user**
    - **Innovation** (replicable new ideas, approaches, methods)

## Evaluation Criteria – BTOP Projects (5)

- Project Viability (25 points)
  - **Technical Feasibility** (For Infrastructure and Public Computer Center projects, comprehensiveness and appropriateness of technical solution, clarity, level of detail, coherence of design; for Sustainable Broadband Adoption projects, innovativeness a key factor)
  - **Organizational capability**
  - Level of **community involvement** (particularly community anchor institutions and public safety agencies; at least one partner should be small and disadvantaged business)
  - Ability to **start promptly** (similar to BIP criteria)

## Evaluation Criteria – BTOP Projects (6)

- Project Budget and Sustainability (25 points)
  - **Reasonableness of Budget** (Clarity, level of detail, comprehensiveness, appropriateness of technical and programmatic solutions, reasonableness of costs, ability to complete project as outlined)
  - **Sustainability** (For BTOP Infrastructure and Public Computer Center projects, must show sustainability beyond funding period based on business plan, projections, third party funding, etc. For Sustainable Broadband Projects, sustainability beyond funding period and whether growth of subscribers will continue)
  - **Leverage of outside sources** (extra credit for > 20% match)

Questions?

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