

**Broadband Initiatives Program (BIP)**  
**Quarterly Program Status Report**

**and**

**Submitted to the**  
**Committee on Appropriations**  
**United States Senate**

**the**  
**Committee on Appropriations**  
**United States House of Representatives**

**August 17, 2009**

**USDA Rural Development**  
**Rural Utilities Service**

## **Executive Summary**

The Rural Utilities Service (RUS) provides this quarterly status report on the Broadband Initiatives Program (BIP) established under the American Recovery and Reinvestment Act of 2009 (Recovery Act or Act). The Recovery Act establishes authority for RUS to make grants and loans for the deployment and construction of broadband systems under the Broadband Initiatives Program (BIP).

This report focuses on key steps RUS has taken to advance the directives established by Congress in the Recovery Act, including the release of the first Notice of Funds Availability (NOFA); public outreach to increase participation by eligible entities; preparations to accept and evaluate applications; and addresses organizational readiness.

As requested by Congress and the White House, RUS, the National Telecommunications and Information Administration (NTIA), and the Federal Communications Commission (FCC), are working to leverage authorities and resources to develop and implement a coordinated federal approach to expand access and improve the quality of broadband services nationwide. RUS intends that America's rural residents be the ultimate beneficiaries of these efforts.

Consistent with this coordinated effort, RUS and NTIA streamlined program requirements and provided applicants with one portal, <http://www.broadbandusa.gov>, to apply for funds and access information about both programs.

Approximately \$4 billion of program level funding was allocated to the initial round of funding by RUS and NTIA. The remaining funds will be made available under subsequent NOFA(s). Up to \$2.4 billion of the estimated \$7 to \$9 billion that will be available in BIP program funds will be awarded through the first funding round.

The NOFA established a window for BIP and BTOP applications from July 14 through August 14, 2009. As a consequence of latency issues associated with the intake system, the agencies chose to extend the deadline until August 20, for those entities that had begun the application process by the original deadline.

RUS adopted a two-phase application process. Step one requires the submission of the information described in the NOFA. This information will be evaluated for completeness and eligibility. Eligible applications will be ranked based on the scoring criteria described in the NOFA. Those with the highest scores will be invited to participate in the second step.

To date, completed BIP milestones include program design and implementation, publication of the NOFA, development of outreach and guidance, and conclusion of the initial phase of the application process. RUS and NTIA plan to begin funding application awards in November 2009.

RUS anticipates releasing another Request for Information (RFI), in collaboration with NTIA, in which we will solicit public comment on suggested modifications for the next NOFA. We anticipate that this process will begin in the near future.

## **I. Introduction and Background**

The Rural Utilities Service (RUS) provides this quarterly report on the status of the Broadband Initiatives Program (BIP) established under the American Recovery and Reinvestment Act of 2009 (Recovery Act or Act).

Section 6001 of the Recovery Act requires the National Telecommunications and Information Administration (NTIA) to establish the Broadband Technology Opportunities Program (BTOP). The Recovery Act further establishes authority for RUS to make grants and loans for the deployment and construction of broadband systems under the Broadband Initiatives Program (BIP).

BIP establishes a loan, loan guarantee, and grant program designed to increase broadband penetration and adoption primarily in rural areas to foster rural economic development. In addition to providing greater availability of broadband services, the \$2.5 billion in budget authority funding provided under the Act is also intended to create jobs and stimulate economic growth.

This status report reviews developments since RUS's first quarterly report. Informal briefings of Congress, as well as appearances at Congressional hearings, will complement these quarterly reports.

## **II. Summary**

Since the passage of the Recovery Act, RUS has worked expeditiously to ensure that BIP funds are distributed quickly, efficiently, and in accordance with the provisions of the Act. In the first quarterly report, RUS outlined the initial procedural and administrative steps taken to launch BIP. More specifically, it covered program kickoff in cooperation with other Federal agencies and the States, public outreach and participation, and the enhancement of transparency and accountability. This report focuses on additional key steps RUS has taken to effectively advance the directives established by Congress in the Recovery Act, including: 1) the release of the first Notice of Funds Availability (NOFA); 2) public outreach to increase participation by eligible entities; 3) preparations to accept and evaluate applications; and 4) steps to improve organizational readiness.

## **III. Notice of Funds Availability**

On July 1, 2009, Vice President Joseph Biden, Secretary of Agriculture Thomas Vilsack, and Secretary of Commerce Gary Locke announced the release of the first Notice of Funds Availability (NOFA) describing the availability of funds and application requirements for BIP and the NTIA's BTOP. The NOFA, published in the Federal Register on July 9, 2009, provides detailed information regarding eligibility, definitions, award terms, application submission, evaluation and selection, and award administration that will guide the disbursement of BIP funding in the first round. RUS and NTIA also unveiled a shared Web site— <http://www.broadbandusa.gov>—to provide all of the

relevant information regarding BIP and BTOP funds to the public and to accept applications.

Approximately \$4 billion of program level funding was allocated to the initial round of funding by RUS and NTIA. The remaining funds will be made available under subsequent NOFA(s). The requirements for subsequent NOFA(s) may differ from the current notice to address public and industry comments received as part of the Recovery Act assessment process and to focus the funding opportunities to areas where the needs are the greatest. Up to \$2.4 billion of the estimated \$7 to \$9 billion that will be available in BIP program funds will be awarded through the first funding round. The size of the grant portion of any loan/grant combination award is determined by review of information provided by the applicant, but cannot exceed the amount of the loan portion except, generally, for awards that fund remote, unserved areas. In general, RUS favors applications that propose a higher percentage of loan than grant funds in order to provide service to the largest number of potential broadband customers; however, RUS also believes that in some cases to reach the most remote areas, grant-only awards are necessary. Throughout the implementation of BIP, RUS will strive to balance these two concerns.

The Recovery Act establishes the rapid disbursement of the funds as a priority for BIP. However, the program also must be properly administered to ensure responsible use of public funds. To balance these objectives RUS staff will favor the funding of projects that can be started promptly and demonstrate technical and financial feasibility, organizational capacity, and alignment with other Administration priorities. A commitment to transparency in the award process and rigorous reporting requirements will help ensure accountability.

Of the approximately \$2.4 billion in program level funding made available for the first round of funding, the July NOFA subdivided the funding as follows:

- (a) Up to \$1.2 billion was available for Last Mile projects, of which up to \$400 million was made available for grants for Remote Area projects and up to \$800 million was made available for loans or loan and grant combinations for Non-Remote projects.
- (b) Up to \$800 million was available for loans or loan and grant combinations for Middle Mile projects.
- (c) Up to \$325 million was allocated to a national reserve which could be applied to any other category of funding if, after evaluating the applications, RUS believes it is necessary. Any funds not used in the first round will be rolled into future NOFA(s).

RUS anticipates releasing another Request for Information (RFI), in collaboration with NTIA, in which we will solicit public comments on any suggested modifications before the next NOFA. We anticipate that this process will begin in the near future.

On July 1, 2009, Secretary of Agriculture Vilsack published in the Federal Register a limited waiver of Buy American provisions of the Recovery Act with respect to certain broadband electronic equipment that will be used in projects funded under BIP. In granting the waiver the Secretary made a public interest determination, pursuant to section 1605(b)(1) of the Act, that application of the Buy American provision for certain electronic equipment would be inconsistent with the public interest. These categories include: broadband switching equipment, broadband routing equipment, broadband transport equipment, broadband access equipment, broadband customer premises equipment, and end-user devices and billing/operations systems. Some of the electronics for the broadband infrastructure are not currently manufactured in the United States (US). In addition, it is anticipated that the country of origin for this equipment will remain dynamic so it will be difficult to anticipate whether there will be appropriate U.S. sources of this equipment to meet the buildout needs of these projects. Further, the manufactured goods covered by this waiver are likely to represent a relatively small portion of the budgets for these projects. As a result, the Secretary determined that a very targeted and limited waiver of the Buy American requirement would encourage participation in the program, facilitate the construction of modern broadband networks, thus stimulating job growth, and generally fulfill the objectives of Congress in establishing BIP in the Recovery Act.

#### **IV. Collaboration**

As requested by Congress and the White House, RUS, NTIA, and the Federal Communications Commission (FCC) are working together to leverage authorities and resources to develop and implement a coordinated Federal government approach to address the challenge of expanding the access and quality of broadband services across the country. The development of coordinated grant and loan programs that make up the Federal broadband initiatives reflects a unique and significant level of coordination between these agencies. RUS intends that America's rural residents be the ultimate beneficiaries of these efforts.

Consistent with this coordinated approach, RUS and NTIA have streamlined the programs to the maximum extent possible by sharing definitions, minimizing redundancy, and providing applicants with one portal through which they can apply for funds and access information about the programs. The agencies have also taken into account over 1,500 comments from the public, industry, and stakeholder groups. Pursuant to the July NOFA, applications to fund broadband infrastructure projects in areas that are at least 75 percent rural must first be submitted to RUS. If an applicant intends to serve an area that meets this test and chooses also to have an application considered for BTOP grant funding, the applicant must complete the additional elements required of BTOP infrastructure applicants. NTIA may determine such applications to be meritorious and make grant awards if RUS staff has decided not to fund it. All other Broadband Infrastructure applications—i.e., those projects with proposed service areas that are less than 75 percent rural—are to be submitted directly to NTIA for consideration under BTOP. This approach reflects Congress' intent that RUS focus its activities on rural areas and that RUS funding could not be applied in the same area funded by NTIA

under the Recovery Act. It will also help leverage Federal funds in the effort to expand broadband service to a greater number of unserved and underserved areas.

## **V. Public Outreach**

In July 2009, RUS and NTIA jointly conducted ten public outreach workshops in locations throughout the country, including: Washington, DC area; Boston, MA area; Charleston, WV; Birmingham, AL; Memphis, TN; Lonoke, AR; Billings, MT; Minneapolis-St. Paul, MN; Albuquerque, NM; and Los Angeles, CA. The workshops were attended by more than 2,500 individuals and included participation by members of Congress, governors, mayors, and representatives from numerous federal agencies (including the FCC, the Department of Housing and Urban Development, and the Delta Regional Authority). To assist potential applicants who were unable to attend these workshops the presentations, application guidelines, fact sheets, and answers to frequently-asked-questions have been made available on the Web site <http://www.broadbandusa.gov>.

## **VI. Application Intake and Evaluation**

The July NOFA established a window for BIP and BTOP applications from July 14, , at 8 a.m. through August 14, 2009, at 5 p.m. Eastern time. RUS and NTIA asked all applicants to submit their forms electronically and required that certain applications be filed through an online application system, which became available July 31, 2009. In the days leading up to the application deadline, the online application system (Easygrants® System) experienced service delays due to the volume of activity from applicants and the size of the files they submitted. The agencies added additional servers to address these capacity issues, as well as continued to closely monitor the application process.

As a result of the overwhelming response to the NOFA late in the application process, on August 13, 2009, RUS and NTIA announced a modification to the filing deadline so that prospective awardees with applications pending in the Easygrants® System as of 5 p.m. Eastern time on August 14, were given until 5 p.m. Eastern time on August 20, 2009, to complete the electronic submission of their applications. All other requirements for electronic submissions set forth in the NOFA remained unchanged, and there were no changes to the filing instructions, requirements, or application deadline for paper submissions. As a result of this extension of time, RUS and NTIA received another burst of applications. This made it difficult for some applicants to submit several key attachments to their applications. On August 19, applicants with pending applications were also provided with the opportunity to submit their application attachments via electronic media, such as DVDs or USB drives, mailed to RUS or NTIA by August 24. In the end, RUS and NTIA believe that applicants who desired to file an application under the July NOFA received every opportunity to do so. While RUS and NTIA were very pleased with the overwhelming response to the July NOFA, the two agencies are reviewing the performance of the electronic application intake system and the application itself and will make changes to ensure that applicants will be able to timely file their applications in future submission window(s).

RUS has adopted a two-phase application process. Step one requires the submission of the information described in the NOFA. This information will be evaluated for completeness and eligibility. Eligible complete applications will be evaluated and ranked based on the applicable scoring criteria described in the NOFA. Those applications with the highest scores based on our objective scoring criteria will be invited to participate in step two of the application process by submitting the additional documentation, which must further support representations made in step one of the application process. If the additional documentation does not adequately verify information provided in the first submission, the application will be rejected.

## **VII. Environmental Compliance**

RUS has taken a number of steps to ensure that BIP complies with relevant environmental and historic preservation requirements. The Agency is working with NTIA and the Advisory Council on Historic Preservation to ensure that projects comply with the National Historic Preservation Act (NHPA). We are working to streamline and expedite the NHPA Section 106 consultation process with State and Tribal Historic Preservation Officers as it relates to tower construction and fiber-optic cable installation. RUS also worked in close collaboration with NTIA and the Council of Environmental Quality to create a uniform, efficient, and streamlined environmental review process for BIP and BTOP applicants.

## **VIII. Organizational Readiness**

RUS is authorized to spend up to \$75 million for BIP administrative expenses through September 30, 2010. The Agency is in the process of hiring the temporary Federal staff required to administer and review awards granted under the program. On July 31, 2009, RUS issued a contract to ICF International (ICF) for program development and administrative services. The contractor will assist RUS staff in awarding Recovery Act funds in the most effective, efficient, equitable, and accountable manner possible. ICF will assist RUS with tasks including program administration, application processing, communications and outreach, loan and grants administration and post-award monitoring, technical assistance, and management support. All loan and grant award decisions will be made exclusively by RUS staff.

## IX. Program Milestones

Below is a chart depicting past and upcoming tentative milestones for the BIP. Dates and activities may change based upon future developments or circumstances.

### LOAN/GRANT PROGRAM PHASES AND ANTICIPATED MILESTONES

Statutory deadlines are in *italics*

<b>Phase 1: Program Design [COMPLETE]</b>	<b>February – June 2009</b>
<b>Phase 2: Program Implementation</b>	<b>June 2009 – September 2012</b>
Notice of Funds Availability	Published July 9, 2009
Outreach and Funding Guidance Workshops	Conducted July 2009
Submission of Funding Applications	July 31, 2009 – August 20, 2009
Initial Funding Awards	November 2009
Completion of Funding Awards	September 30, 2010
<b>Phase 3: Final Program Audits and Shut-down</b>	<b>September 30, 2014</b>

### NEXT REPORT

The next quarterly report will be submitted by November 16, 2009.